Seventeenth Annual Report

of the

Securities and Exchange Commission

Fiscal Year Ended June 30, 1951

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON : 1952

For sale by the Superintendent of Documents, U. S. Government Printing Office
Washington 25, D. C. - Price 75 cents (Paper Cover)

SECURITIES AND EXCHANGE COMMISSION

Headquarters Office

425 Second Street NW.

Washington 25, D. C.

COMMISSIONERS

HARRY A. MCDONALD, *Chairman*
DONALD C. COOK, *Vice Chairman*
RICHARD B. MCENTIRE
PAUL R. ROWEN
ROBERT I. MILLONZI
ORVAL L. DUBOIS, *Secretary*

LETTER OF TRANSMITTAL

SECURITIES AND EXCHANGE COMMISSION,
Washington, D. C., January 11, 1952.

SIR: I have the honor to transmit to you the Seventeenth Annual Report of the Securities and Exchange Commission, in accordance with the provisions of section 23 (b) of the Securities Exchange Act of 1934, approved June 6, 1934; section 23 of the Public Utility Holding Company Act of 1935, approved August 26, 1935; section 46 (a) of the Investment Company Act of 1940, approved August 22, 1940, section 216 of the Investment Advisers Act of 1940, approved August 22, 1940, and section 3 of the act of April 25, 1949, amending the Bretton Woods Agreement Act.

Respectfully,

HARRY A. MCDONALD,
Chairman.

THE PRESIDENT OF THE SENATE,
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

TABLE OF CONTENTS

FOREWORD

This is the seventeenth annual report to the Congress of the Securities and Exchange Commission, summarizing the work of the Commission during the fiscal year July 1, 1950, to June 30, 1951.

The year has been an extremely active one for the Commission. The raising of new capital by industry, particularly for use in connection with the defense effort, has continued at a high rate. In all, approximately $6,400,000,000 of securities were registered during the year. The processing of registration statements and other documents filed by various companies in connection with their financing programs constitutes a major work load of the Commission. This large amount of work, the volume and timing of which is entirely beyond the control of the Commission, requires thorough and prompt attention for the protection of investors and the accommodation of the issuing companies in their efforts toward successful financing.

In addition, the Commission, under the statutes which it administers, is charged with many other important duties, such as the surveillance of the securities markets, the regulation of the activities of brokers and dealers, and the direction and supervision of the integration and simplification of public utility holding company systems. The report discusses these and the other activities of the Commission. In connection with the discussion of the Commission's activities under the Public Utility Holding Company Act of 1935, the report contains a cumulative tabulation of all companies and properties divested by registered public utility holding company systems since December 1, 1935, the effective date of that Act.

The Commission has endeavored to maintain a high standard of accomplishment in connection with its major work notwithstanding successive drastic reductions in its staff in recent years made necessary by budget limitations. The number of employees of the Commission today is about one-half of the number employed in 1941. Since the end of the fiscal year the over-all staff was reduced by 12 percent, from 1027 to 904, up to December 31, 1951, and because of the unavailability of funds a further decrease to about 875 is likely by July 1, 1952. Despite the streamlining of procedures and the deferment and elimination of various routine activities, the reduction in staff has reached a point of being a serious threat to the Commission's ability to carry out its essential duties under the statutes which it has the responsibility of administering and to cooperate promptly and fully in the financing of the defense effort.

COMMISSIONERS AND STAFF OFFICERS

(as of December 31, 1951)

Commissioners

	Term expires June 5
HARRY A. MCDONALD, of Michigan, Chairman	1956
DONALD C. COOK, of Michigan, Vice Chairman	1954
RICHARD B. MCENTIRE, of Kansas	1953
PAUL R. ROWEN, of Massachusetts	1955
ROBERT I. MILLONZI, of New York[1]	1952

Secretary: ORVAL L. DUBOIS

Staff Officers

BALDWIN B. BANE, Director, Division of Corporation Finance. ANDREW JACKSON, Associate Director.

MORTON E. YOHALEM, Director, Division of Public Utilities. JEROME S. KATZIN, Associate Director.

ANTHON H. LUND, Director, Division of Trading and Exchanges. SHERRY T. MCADAM, Jr., Associate Director.

ROGER S. FOSTER, General Counsel. LOUIS LOSS, Associate General Counsel.

EARLE C. KING, Chief Accountant.

LEONARD HELFENSTEIN, Director, Division of Opinion Writing.

ALFRED HILL, Executive Assistant to the Chairman.

WALTER C. LOUCHHEIM, Jr., Foreign Economic Adviser to the Commission.

HASTINGS P. AVERY, Director, Division of Administrative Services.

WILLIAM E. BECKER, Director, Division of Personnel.

JAMES J. RIORDAN, Director, Division of Budget and Finance.

---

[1] Appointed June 21, 1951, to fill the vacancy created by the resignation of Edward T. McCormick, effective March 31, 1951.

REGIONAL AND BRANCH OFFICES

Regional Administrators

Zone 1—Peter T. Byrne,[1] Equitable Building (Room 2006), 120 Broadway, New York 4, N. Y.
Zone 2—Philip E. Kendrick, Post Office Square Building (Room 501) 79 Milk Street, Boston 9, Mass.
Zone 3—William Green, Peachtree Seventh Building (Room 350), Atlanta 5, Georgia.
Zone 4—Charles J. Odenweller, Jr., Standard Building (Room 1608), 1370 Ontario Street, Cleveland 13, Ohio.
Zone 5—Thomas B. Hart, Bankers Building (Room 630), 105 West Adams Street, Chicago 3, Ill.
Zone 6—Oran H. Allred, United States Courthouse (Room 103), Tenth and Lamar Streets, Fort Worth 2, Tex.
Zone 7—William L. Cohn,[2] Midland Savings Building (Room 822), 444 Seventeenth Street, Denver 2, Colo.
Zone 8—Howard A. Judy, Appraisers Building (Room 308), 630 Sansome Street, San Francisco 11, Calif.
Zone 9—James E. Newton, 1411 Fourth Avenue Building (Room 810), Seattle 1, Wash.
Zone 10—E. Russel Kelly, 425 Second Street NW., Washington 25, D. C.

Branch Offices

Federal Building (Room 1074), Detroit 26, Mich.
United States Post Office and Courthouse (Room 1737), 312 North Spring Street, Los Angeles 12, Calif.
Pioneer Building (Room 400), Fourth and Roberts Streets, St. Paul, Minn.

[1] Scheduled for move to 42 Broadway, New York 4, N. Y., in February 1952.
[2] Appointed December 18, 1951, to fill the vacancy created by the death of John L. Geraghty on November 27, 1951.

COMMISSIONERS APPOINTED DURING FISCAL YEAR

Robert I. Millonzi

Mr. Millonzi was born in Buffalo, N. Y., on July 12, 1910. He received an A. B. degree in 1932 and an LL. B. degree in 1935 from the University of Buffalo. He was admitted to practice before the New York State Supreme Court in 1935, and subsequently admitted to practice before the Federal Courts and the Tax Court of the United States. Until his appointment as a member of the Securities and Exchange Commission in 1951, he was engaged in private practice in New York, associated with the firm of Diebold and Millonzi. From 1940 to 1943 he was Counsel to the New York State Department of Agriculture and Markets. On June 21, 1951, he was appointed a member of the Securities and Exchange Commission for a term of office ending June 5, 1952.

PART I

ADMINISTRATION OF THE SECURITIES ACT OF 1933

The Securities Act of 1933 is designed to provide investors with the protection of full and fair disclosure, by means of registration statements and prospectuses, of pertinent information regarding securities publicly offered for sale through the mails or other instrumentalities of interstate commerce, and to prevent misrepresentation, deceit, and other fraudulent practices in the sale of securities. The Act requires in general that every security which is to be offered for sale by the use of the mails or other instrumentalities of interstate commerce must first be registered with this Commission unless it is entitled to one of the exemptions from registration provided in the statute. Securities so exempted consist, in general, of United States government and municipal securities and issues of banks, railroads, cooperatives and other organizations and associations specified in section 3 (a) of the Act or covered by exemptions in rules and regulations adopted by the Commission, as discussed elsewhere in this report, pursuant to section 3 (b) thereof. The registration provisions also do not apply to certain transactions specifically exempted by section 4 of the Act. However the anti-fraud provisions of both Acts apply to exempted securities and transactions. The fact that a registration statement has been filed under the Act, or that it has been examined by the Commission's staff, or that it is in effect, does not imply any approval or disapproval by the Commission of the merits of the security as an investment, and the statute makes any representation to the contrary a criminal offense. While registration, therefore, does not insulate investors against risk, the requirement that registrants must furnish investors at or before a sale with a full disclosure of material facts essential to the formation of an intelligent investment judgment makes available to them information with which to gage the risk.

THE REGISTRATION PROCESS

The Registration Statement and Prospectus

Any security may be registered with the Commission by filing a registration statement under the terms and conditions specified in the Act, and it is one of the Commission's most important functions to examine these statements for their compliance with the statutory requirements. An integral part of each statement is the prospectus, consisting of pertinent information from the registration statement proper. Unless a registration statement is in effect as to a security, the Act makes it unlawful to sell or offer to buy the security through the mails or in interstate commerce, and it is also made unlawful to sell or deliver any security unless accompanied or preceded by a prospectus meeting the requirements of the Act.

While as a practical matter it is the prospectus that brings all the pertinent information contained in the registration statement directly to the attention of the investor, it should be pointed out that the event of filing any registration statement, which is immediately made public by the Commission pursuant to the statute, gives rise to widespread publicity released by financial news services, financial writers, and newspapers generally, covering various items of information selected by them from the registration statement.

Effective Date of Registration Statement

In order to permit the information contained in a registration statement to become known to the investing public, the Act provides a 20-day waiting period after the filing of the registration statement before the registration statement becomes effective and the security may be offered for sale. If the registration statement is amended after it is filed but before it has become effective, the 20-day waiting period starts anew from the time of the amendment, unless the amendment is filed with the consent of or by order of the Commission. The Commission is empowered at its discretion to accelerate the effective date of a registration statement, in cases where the facts justify such acceleration, so that a full 20-day period need not expire before the securities may be offered for sale. The Act directs that, in the exercise of this power, the Commission must give due regard to the adequacy of the information about the security already available to the public, to the complexity of the particular financing, and to the public interest and the protection of investors.

Examination Procedure

The Commission's work of examining registration statements and prospectuses filed in connection with public offerings of securities under the Securities Act of 1933 is conducted by the examining sections of the Division of Corporation Finance. If a registration statement presents problems of an oil and gas, mining, or engineering nature, appropriate technical experts on the staff cooperate with the examiner, accountant and attorney of the examining section in processing that document. Not infrequently the staff may have occasion to consult with other departments or agencies of the Government in completing the examination of a particular filing.

In order to simplify the preparation of registration statements calculated to meet the requirements of the statute and the rules, the Commission has continued to make available to the registrant the assistance of a prefiling conference with its staff of expert analysts, accountants and lawyers. The prefiling conference is employed most usually to advise the prospective registrant concerning appropriate methods of simplifying any material required to be filed in a registration statement or other document, or to help solve any other problem—whether legal, statistical, or accounting—anticipated in connection therewith. A large number of these prefiling conferences deal mainly with methods of simplifying the presentation of required financial data. Failure to take advantage of the latitude permitted by the Commission's rules to omit duplicate material or to substitute comparable material in more compact form may result in a confusing mass of financial statements particularly when dealing with complicated cases such as those involving mergers, reorganizations and the acquisi-

tion of other companies and businesses. In such situations the pre-filing conference may result in avoiding the delay, inconvenience and expense that would otherwise be caused by the need of furnishing substantial revisions or amendments of material after the original filing. Thus in one recent case the number of pages of financial statements proposed to be included in a prospectus of a company operating a chain of hotels was reduced by half mainly by adopting a suggestion of eliminating unnecessary financial statements and repetitious financial footnotes. In another case, involving a new company formed to take over the businesses of several other companies, the number of pages of financial statements included in the prospectus was reduced to less than half the number originally proposed by adopting a suggestion to arrange several similar financial statements on the same page in columnar form and eliminate certain duplicate financial footnotes.

Where examination discloses any omission or incomplete statement of material fact or inaccuracy in the registration statement, the staff relies for enforcement mainly upon another informal procedure, that of sending the registrant a "letter of comment," which points out the inadequacies found upon examination. Such letter is sent as soon as possible after the statement is filed and affords an opportunity for the filing of a correcting amendment before the indicated effective date of registration. This device avoids the necessity for the Commission to exercise its little-used authority under section 8 of the Act to institute formal proceedings against the registration statement. While the statute does not specifically authorize such a procedure, perhaps no other device adopted in connection with the registration process has equal capacity to accomplish a common-sense administration of the Act in a manner calculated to afford fair treatment to registrants and cause a minimum of interference with financing plans.

Time Required for Registration

While the Commission makes every effort to complete the registration process within the statutory 20-day waiting period, accomplishment of this objective is often impeded by a number of variable factors largely beyond its control. For example, experience has shown that the time required by the staff to complete examination of the registration statement and send out the letter of comment regarding indicated deficiencies to the registrant cannot generally be reduced in the average case below a recently achieved low of 10 calendar days. In the 1949 fiscal year the actual time required for this step averaged such 10 days in each month of the year. However, in the 1950 fiscal year, while for two of the early months of the period this average was bettered with a showing of 9 days each, in two of the later months the average rose to 11 days and in the closing month reached 12 days. During the 1951 fiscal year, as may be seen from the table below, this average rose to 11 days in four separate months of the year. Another important variable factor in the time required to complete the registration process is the time elapsing between the date of the letter of comment and the date the registrant's correcting amendment is filed, which of course is wholly beyond the control of the Commission. Then follows the necessarily variable factor of time required by the staff to examine such amendment in the same manner as the original filing. The

975942—52——2

average time required in each month of the 1951 fiscal year for each of these principal stages as well as for all steps combined in the registration process is shown in the accompanying table. The total elapsed time, which was as high for the average case as 30½ days for the whole of the year 1947, and which had dropped to an all-time low of 21 1/12 days for 1950, showed the same low figure of 21 1/12 days for 1951.

Time elapsed in registration process—1951 fiscal year

	1950						1951					
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June
Total registration statements effective during month (number)	22	32	36	33	47	28	31	31	61	66	38	66
Elapsed time (median number of days):												
From date of filing registration statement to first letter of comment	10	10	10	11	10	10	10	11	11	11	10	10
From date of letter of comment to first amendment by registrant	7	10	8	5	7	6	6	7	6	7	5	5
From date of first amendment to the effective date of registration	6	7	4	4	4	3	4	5	4	4	4	4
Total median elapsed time (days)	23	27	22	20	21	19	20	23	21	22	19	1

VOLUME OF SECURITIES REGISTERED

The amount of securities effectively registered during the 1951 fiscal year was $6,459,333,000, making the sixth consecutive period of registrations in excess of $5,000,000,000 each and averaging over $6,200,000,000 per fiscal year. This average is more than three times the approximate annual average of $2,000,000,000 for the previous six fiscal years. More than three-quarters of the effective registrations are for cash sale for account of issuers, and the comparatively high current registration rate is equally apparent in this principal item and its components.

Effective registrations [1]

Fiscal year ended June 30	All registrations	For cash sale for account of issuers			
		Total	Bonds	Preferred	Common
1951	$6,459	$5,169	$2,838	$427	$1,904
1950	5,307	4,381	2,127	468	1,786
1949	5,333	4,204	2,795	326	1,083
1948	6,405	5,032	2,817	537	1,678
1947	6,732	4,874	2,937	787	1,150
1946	7,073	5,424	3,102	991	1,331
	37,309	29,084	16,616	3,536	8,932
1945	3,225	2,715	1,851	407	456
1944	1,760	1,347	732	343	272
1943	659	486	316	32	137
1942	2,003	1,465	1,041	162	263
1941	2,611	2,081	1,721	164	196
1940	1,787	1,433	1,112	110	210
	12,045	9,527	6,774	1,219	1,534
Average:					
1946–51	6,218	4,847	2,769	589	1,489
1940–45	2,008	1,588	1,129	203	256

[1] Figures in millions of dollars, rounded to even millions. Bonds include face-amount certificates. Common stock includes certificates of participation and all other equity securities except preferred stock. Earlier years are shown on page 5 of the Sixteenth Annual Report.

Number of Statements

The amount registered in the 1951 fiscal year was distributed over 487 statements covering 702 issues, compared with the same number (487) of statements covering 647 issues during the previous fiscal year. The number differs slightly from that shown under "Registration Statements Filed" on a subsequent page, as explained in footnote 2 of appendix table 1.

Type of Registration

About 80 percent of the amount registered in the 1951 fiscal year was for cash sale for account of issuers, 2.3 percent was for cash sale for account of others than issuers, and 17.7 percent was for other than cash sale as itemized in part 3 of appendix table 1. Comparative figures are as follows:

Registered for	*1951*	*1950*
Cash sale for account of issuers	$5, 169, 092, 000	$4, 381, 314, 000
Cash sale for others than issuers	146, 912, 000	304, 736, 000
Other than cash sale	1, 143, 330, 000	621, 027, 000
Total	6, 459, 333, 000	5, 307, 077, 000

Type of Industry

The industries represented by the securities registered for cash sale for account of issuers were as follows:

	1951	*1950*
Electric, gas, and water	$1, 692, 604, 000	$2, 038, 227, 000
Financial and investment	1, 319, 707, 000	1, 067, 692, 000
Manufacturing	680, 950, 000	506, 304, 000
Foreign government	678, 484, 000	175, 950, 000
Transportation and communication	667, 351, 000	522, 753, 000
Merchandising	64, 239, 000	25, 370, 000
Extractive	57, 076, 000	33, 027, 000
Real estate	5, 700, 000	4, 409, 000
Service	2, 980, 000	7, 582, 000
Total	5, 169, 092, 000	4, 381, 314, 000

From similar tables in recent annual reports, it can be ascertained that of approximately $29.1 billion effective registrations for cash sale for account of issuers during the past six fiscal years, $10.0 billion were electric, gas, and water, $5.85 billion were transportation and communication, $5.75 billion were manufacturing, $5.47 billion were financial and investment, $1.13 billion were foreign government, and all others were less than $1.0 billion. "Transportation" does not include issues subject to Interstate Commerce Commission filings and therefore exempt from registration.

Recent trends have been for electric, gas and water issues to head the list, for financial and investment issues to rise into second place, and for manufacturing issues to drop from first place in 1946 and 1947 to third place in 1951 fiscal year. Foreign government registrations for 1951 are unusually large by reason of inclusion of the $500,000,000 State of Israel bonds.

Type of Security

Bonds amounted to 54.9 percent of the total registered in the 1951 fiscal year for cash sale for account of issuers, preferred stocks to 8.3

percent, and all other equity securities to 36.8 percent, as shown by the following figures:

	1951	1950
Bonds [1]	$2, 838, 001, 000	$2, 127, 330, 000
Preferred stock	426, 649, 000	467, 929, 000
All other equity securities	1, 904, 441, 000	1, 786, 056, 000
Total	5, 169, 092, 000	4, 381, 314, 000

[1] Bonds include face-amount certificates.

Type of Offering

Over 49 percent of the securities registered for cash sale for account of issuers in the 1951 fiscal year were to be sold through investment bankers pursuant to agreements to purchase for resale. About 34 percent (including $0.84 billion open-end investment company issues) were to be sold on a "best-efforts" basis. The term "best-efforts" as used here means all offerings through investment bankers other than those pursuant to agreements to purchase for resale. The remaining 17 percent were to be sold direct by issuers to investors. Comparative figures follow:

	1951	1950
Through investment bankers:		
Under agreements to purchase for resale	$2, 547, 477, 000	$2, 927, 787, 000
On "best-efforts" basis	1, 744, 573, 000	962, 830, 000
By issuers to investors	877, 041, 000	490, 698, 000
Total	5, 169, 092, 000	4, 381, 314, 000

Purpose of Issue

Nearly 51 percent of the net proceeds of the securities registered for cash sale for account of issuers in the 1951 fiscal year were for new money purposes including plant, equipment, working capital, etc. About 12 percent were for the retirement of debt and preferred stock. About 25 percent were for the purchase of securities, principally by investment companies. The remaining 12 percent were for use of foreign governments. The figures are shown in detail in part 3 of appendix table 1.

Cost of Flotation

Commissions and discounts to investment bankers, in the case of new issues effectively registered for cash sale through them to the general public, have amounted to approximately the following percents of gross proceeds:

Fiscal year to June 30	Bonds	Preferred	Common	Fiscal year to June 30	Bonds	Preferred	Common
1942	1.5	4.1	10.1	1947	0.9	2.8	9.3
1943	1.7	3.6	9.7	1948	.6	4.5	10.2
1944	1.5	3.1	8.1	1949	.8	3.8	7.1
1945	1.3	3.1	9.3	1950	.6	2.7	6.4
1946	.9	3.1	8.0	1951	.8	3.6	6.1

The above showing is exclusive of investment company securities, offerings through rights to existing stockholders, securities sold to special groups such as officers and employees, and securities registered for other than cash sale. The commissions and discounts shown on bonds in the above table are broken down by quality and size of issue in appendix table 2 of this report and its predecessors.

Early in 1951, the Commission published a report entitled "Cost of Flotation, 1945–49" covering all secuirties effectively registered under the Securities Act of 1933 during those five calendar years. The total was nearly $30 billion and represented nearly 3,500 issues. The primary purpose was to present basic factual data on a matter of public interest which had been regarded as a trade secret prior to 1933, and to provide more complete coverage and detail on cost of flotation than can as yet be found elsewhere. The cost of flotation of the approximately $30 billion securities aggregated a figure equal to $2.64 for every $100 of gross proceeds, including $2.12 commissions and discounts to investment bankers and $0.52 other expenses. New issues of securities for cash sale through investment bankers to the general public, not including issues of investment companies, came to about half of the $30 billion, and produced the following aggregate costs in percent of gross proceeds:

Calendar years 1945–49	Number of issues	Commission and discount	Other expenses	Total cost of flotation
Bonds	360	0.78	0.52	1.30
Preferred	236	3.46	.75	4.21
Common	257	8.47	1.14	9.61
Combination	182	2.52	.73	3.24

New issues of securities for cash sale through subscription rights to stockholders constituted the second largest group, about 13 percent of the total, and produced the following aggregate costs in percent of subscription prices and without taking into consideration as an element of cost the discount from market prices at which the subscriptions were invited:

Calendar years 1945–49	Number of issues	Commission and discount	Other expenses	Total cost of flotation
Through investment bankers:				
Bonds	6	0.38	1.20	1.58
Preferred	41	1.56	.92	2.48
Common	112	2.48	1.25	3.72
Combination	7	1.36	1.68	3.04
Direct by issuers:				
Bonds	6	None	.51	.51
Preferred	8	None	1.25	1.25
Common	80	None	.69	.69
Combination	1	None	.38	.38

Securities of investment companies amounted to about 11 percent of the total dollar amount of securities effectively registered for cash sale during the five-year period 1945–49. About 70 percent of this amount was of open-end companies, 4 percent of closed-end companies, and 26 percent of fixed trusts, face-amount certificates and investment plans. The cost of marketing securities of open-end companies is called the "sales load" and averaged 7.88 percent of the gross proceeds of 246 flotations over the five years.

The publication referred to shows comparable figures for the remaining groups: new issues for cash sale directly to the general public, to special groups such as officers and directors, and in exchange for outstanding securities, secondary distributions registered for ac-

PAUL GONSON
SECURITIES AND EXCHANGE COMM'N
WASHINGTON, DC 20549

count of selling security holders, and securities for future issuance in conversions and other purposes. It is implemented by another quarterly publication of the Commission styled "Cost of Flotation" which, commencing with the first quarter of 1950, presents data on the cash cost of marketing individual issues of securities registered during each period, including details of offering, underwriting compensation, other expenses of flotation divided into (1) cost of professional services, (2) taxes and fees, and (3) printing and other expenses, and supplementary data reported by registrants on the outcome of issues involving subscription rights or offers of exchange. Current copies of the quarterly "Cost of Flotation" may be obtained from the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

ALL NEW SECURITIES OFFERED FOR CASH SALE

Registered Securities

Securities effectively registered under the Securities Act of 1933 which were offered for cash sale for account of issuers during the 1951 fiscal year amounted to $3,135,000,000, approximately the same amount as for the preceding fiscal year. Three-fourths of these offerings of registered securities during the fiscal year took place in the first six months of 1951. The amounts of such offerings in the last two years, valued at actual offering prices, were as follows:

	1951	*1950*
Corporate	$2, 957, 000, 000	$2, 987, 000, 000
Foreign government	178, 000, 000	176, 000, 000
Total	3, 135, 000, 000	3, 163, 000, 000

These totals exclude securities sold through continuous offering, such as issues of open-end investment companies, employee purchase plans, and the $500,000,000 State of Israel bonds in process of sale at the close of the fiscal year.

Unregistered Securities

CORPORATE

During the 1951 fiscal year, $3,953,000,000 of unregistered corporate securities are known to have been offered for cash sale for account of issuers, including a record volume of securities placed privately. The basis for exemption of these securities from registration is as follows:

Basis for exemption from registration

	1951	*1950*
Privately placed issues	$3, 373, 000, 000	$2, 177, 000, 000
Issues of railroads and other common carriers	328, 000, 000	557, 000, 000
Commercial bank issues	125, 000, 000	110, 000, 000
Offerings between $100,000 and $300,000 in size under regulation A	121, 000, 000	107, 000, 000
Intrastate offerings	6, 000, 000	4, 000, 000
Other exemptions	0	6, 000, 000
Total	3, 953, 000, 000	2, 961, 000, 000

NONCORPORATE

Unregistered government and eleemosynary securities offered for cash sale in the United States for account of issuers during the 1951

fiscal year amounted to $13,318,000,000 as compared with $15,678,000,000 in the 1950 fiscal year. These totals consisted of the following:

Issuer:	1951	1950
United States Government	$10, 284, 000, 000	$12, 068, 000, 000
State and local governments	2, 902, 000, 000	3, 492, 000, 000
Foreign governments (privately placed)	49, 000, 000	0
International Bank	50, 000, 000	101, 000, 000
Miscellaneous nonprofit organizations	33, 000, 000	17, 000, 000
Total	13, 318, 000, 000	15, 678, 000, 000

Use of Net Proceeds of Corporate Securities

Proceeds from corporate securities flotations for cash sale for account of issuers, both registered and unregistered, were mainly to be used for expansion of fixed and working capital, approximately $5,263,000,000 being raised for these purposes. This amount was considerably higher than the $3,843,000,000 for new money purposes during the 1950 fiscal year, but was approximately $500,000,000 less than in the 1949 and 1948 fiscal years. Electric and gas companies accounted for 34 percent of the new money financing, manufacturing for 32 percent, communication for 10 percent, real estate and financial for 9 percent, railroad and other transportation for 8 percent, and commercial and miscellaneous companies for 7 percent. Corporate securities offered for cash sale for retirement of outstanding securities and bank debt totaled only $1,204,000,000 as compared with $1,651,000,000 in the 1950 fiscal year.

Appendix tables 3, 4, and 5 give a detailed statistical breakdown of all securities offered for cash sale in the United States for account of issuers.

REGISTRATION STATEMENTS FILED

A considerable increase occurred last year in the number and dollar amount of new financing involved in registration statements. Thus, as set forth in the table below, there were filed and examined in the 1951 fiscal year 544 registration statements covering proposed offerings in the aggregate of $6,371,827,423, compared with figures of 496 registration statements and proposed offerings in the aggregate of $5,220,654,010 in the 1950 fiscal year.

Number and disposition of registration statements filed

	Prior to July 1, 1950	July 1, 1950, to June 30, 1951	Total as of June 30, 1951
Registration statements:			
Filed	8, 539	544	9, 083
Effective—net	7, 144	[1] 490	[2] 7, 629
Under stop or refusal order—net	182	1	183
Withdrawn	1, 168	34	1, 202
Pending at June 30, 1950	45	----	----
Pending at June 30, 1951	----	----	69
Total	8, 539	----	9, 083
Aggregate dollar amount:			
As filed	$63, 183, 325, 159	$6, 371, 827, 423	$69, 555, 152, 582
As effective	59, 440, 775, 254	6, 459, 333, 000	65, 900, 108, 254

[1] Excludes 4 registration statements which became effective and were subsequently withdrawn.
[2] 5 registration statements which became effective prior to July 1, 1950, were withdrawn and are counted in the number withdrawn.

Additional documents filed in the 1951 fiscal year under the Act

Nature of document:	*Number*
Material amendments to registration statements filed before the effective date of registration	777
Formal amendments filed before the effective date of registration for the purpose of delaying the effective date	476
Material amendments filed after the effective date of registration	642
Total amendments to registration statements	1,895
Supplemental prospectus material, not classified as to amendments to registration statements	1,074
Reports filed under section 15 (d) of the Securities Exchange Act of 1934 pursuant to undertakings contained in registration statements under the Securities Act of 1933:	
Annual reports	735
Current reports	2,996

EXEMPTION FROM REGISTRATION UNDER THE ACT

The Commission is authorized by section 3 (b) of the Act to adopt rules and regulations granting exemptions from the registration requirements for security offerings not exceeding $300,000 in aggregate offering price to the public. The most important of the regulations adopted under this section are Regulation A, which provides a general exemption for small issues up to the statutory maximum permissible amount of $300,000, and Regulation B, which affords an exemption for fractional undivided interests in oil or gas rights and is limited to a maximum aggregate offering price of $100,000.[1]

These regulations granting exemption from registration pursuant to section 3 (b) carry no exemption from the civil liabilities for misstatements or omissions imposed by section 12 or from the criminal liabilities for fraud imposed by section 17. They simply permit the making of a small offering on the basis of less complete disclosure than in the case of a registered security and require the filing of certain minimum information with the nearest regional office of the Commission a certain number of days before the offering may be made.[2] If any sales literature is to be used, it must be filed in advance of its use.

Exempt Offerings Under Regulation A

After three successive years had shown a slight decrease in the amount of small financing undertaken pursuant to Regulation A, the 1951 fiscal year shows a slight increase therein and reflects at least a halt to any such previous trend.

Fiscal year	Number of letters of notification filed	Aggregate offering price
1947	1,513	$210,791,114
1948	1,610	209,485,794
1949	1,392	186,782,661
1950	1,357	171,743,472
1951	1,358	174,277,762

[1] Under another such exemption, that provided by Regulation A–M for assessable shares of stock of mining companies, the Commission received and examined 8 prospectuses covering securities having an aggregate offering price of $475,688 during the 1951 fiscal year.

[2] An offering may be made under Regulation A five business days after the letter of notification is filed with the Commission. An offering sheet complying with the requirements of Regulation B becomes effective on the eighth calendar day after it is filed with the Commission.

Included in the 1951 fiscal year totals are 141 letters of notification covering stock offerings filed by companies engaged in some phase of the oil and gas business.

In addition to the total of 1,358 letters of notification, there were received and examined during the past fiscal year 1,212 amendments to these letters of notification and also 1,741 filings of sales literature to be used in connection with such offerings.

Information available as to 1,351 of these offerings in the 1951 fiscal year shows that 751 covered proposed offerings of $100,000 or less; 251 more than $100,000 and less than $200,000; and 349 more than $200,000 but not more than $300,000. Issuing companies made 1,122 of these offerings; stockholders 215; and issuers and stockholders jointly, the remaining 14. Less than half, or 588 of them, were underwritten, 452 by commercial underwriters and 136 by officers and directors and other persons not regularly engaged in the underwriting business.

Regulation A provides a means whereby small businessmen may seek from public investors the relatively small amounts of venture capital which they ordinarily require; and it may be of interest to note, from the filings made in the 1951 fiscal year as distributed by regional offices, how this regulation is used by issuers located in every part of the nation.

Regional office	Number of letters of notification filed	Aggregate offering price
Atlanta	75	$11,526,403
Boston	89	10,844,052
Chicago	132	18,590,277
Cleveland	89	12,026,985
Denver	102	12,650,509
Fort Worth	80	11,751,293
New York	372	45,669,680
San Francisco	208	25,846,180
Seattle	117	15,649,244
Washington	94	9,723,139
Total	1,358	174,277,762

Exempt Offerings Under Regulation B

The exemption from registration provided by Regulation B for fractional undivided interests in oil or gas rights is limited, as previously indicated, to a maximum offering price of $100,000. A person intending to sell securities under this regulation must file with the nearest regional office of the Commission an offering sheet which calls for a brief summary of pertinent information regarding the security being offered.

During the 1951 fiscal year, the Commission received and examined 96 offering sheets together with 76 amendments to such offering sheets. These filings are in addition to the 141 offerings under Regulation A

which covered oil and gas securities. The following actions were taken on these Regulation B filings:

Action taken on filings under Regulation B

Temporary suspension orders (rule 340 (a))	18
Orders terminating proceedings after amendment	12
Orders consenting to withdrawal of offering sheet and terminating proceeding	5
Orders terminating effectiveness of offering sheet	3
Orders consenting to withdrawal of offering sheet (no proceeding pending)	3
Orders accepting amendment of offering sheet (no proceeding pending)	44
Total orders	85

Of the 76 amendments received during the year, approximately 44 were filed as a result of informal letters of comment sent by the staff rather than of formal suspension orders. The Commission maintains a specialized oil and gas unit in the Division of Corporation Finance at its headquarters to administer Regulation B and to advise and assist with technical phases of all offerings of oil and gas securities arising under various provisions of the Securities Act and other statutes administered by the Commission. For example, during the year this unit participated in the examination of 78 registration statements, and 57 amendments thereto, filed under the Securities Act, and reviewed 47 broker-dealer inspection reports made pursuant to the Securities Exchange Act, which involved securities of oil producing, natural gas, or refining companies. Petroleum geologists conduct field investigations of tracts and wells and furnish advisory reports thereon in connection with investigations made by the Commission and its regional offices. Development activity in the Rocky Mountains which was noted in the 1950 fiscal year has been extremely marked during the 1951 fiscal year.

Confidential written reports of sales under Regulation B.—The Commission received and examined under rules 320 (a) and 320 (c) and (d) during the 1951 fiscal year 1,922 confidential written reports on Forms 1–G and 2–G relating to actual sales made pursuant to Regulation B in the aggregate amount of $1,127,226. This total may be compared with $829,875 during the preceding year. These reports are of assistance to the Commission in determining whether violations of law occur in sales of oil and gas securities exempted from registration.

Oil and gas investigations.—The Commission conducts a considerable number of oil and gas investigations, arising largely out of complaints received from the public, to determine whether there has been any violation of any other provision of law in the sale of securities exempted under Regulation B, with particular attention to the registration requirements of section 5 and the fraud prohibitions contained in section 17 of the Securities Act. Not infrequently in such an investigation it may be necessary to conduct extensive field trips in the ascertainment of certain material facts. Depending upon the circumstances of the particular case, a field trip may involve an inspection of well locations, a study of the productive history or oil possibilities of the areas under consideration, interviewing and taking

depositions of persons who worked on the wells, getting affidavits from the purchasers of oil where there has been actual production, obtaining authenticated statements by State officials of well logs, plugging records, tax records and production records that have been filed pursuant to the statutes of the States in which the operations took place, the preparation of maps and similar activities.

Often investigation is directed to highly objectionable sales literature which greatly overemphasizes the possibilities of success from the proposed security purchase. So it was in the case of Oil Prospectors, Inc. and Ralph Malone, which offerors had made a number of filings under Regulation A, and in virtually all instances used such literature. In this situation the Commission made a field examination of a lease and well in Texas and filed a complaint in the United States District Court, Northern District of Texas, against the offerors, charging violation of the anti-fraud provisions of section 17 (a) in the sale of capital stock of Oil Prospectors, Inc. A temporary restraining order was issued immediately after the close of the fiscal year, on July 2, 1951, and a hearing was expected on the Commission's motion for a permanent injunction shortly thereafter.

As suggested above, a substantial number of these oil and gas investigations grow out of violations of the registration requirements of section 5. In one such case, J. Stacey Henderson, and others, sold fractional working interests in test wells located in Caddo Parish, Louisiana, without making any attempt to comply with the registration provisions of section 5. A Commission engineer visited the immediate location of the test wells and Shreveport where he gathered necessary geological and production data. At the separate trial of Henderson which ensued, where the Commission engineer gave expert testimony as to the geological conditions and productive possibilities of the area, Henderson was found guilty on one count of an indictment charging violation of the Mail Fraud Statute in connection with the sale of fractional undivided interests in oil and gas rights and was sentenced to serve five years in prison and to pay a fine of $1,000 and costs.

An additional case illustrates the fact that often an oil and gas investigation is of important assistance to other regulatory work of the Commission. As discussed elsewhere in this annual report, the Commission issued during the 1951 fiscal year a stop order under section 8 (d) against the grossly inaccurate, misleading and incomplete registration statement of Ralph A. Blanchard and George P. Simons doing business as Northwest Petroleum. Eight days after the filing of that registration statement the Commission obtained an injunction from the United States District Court for the District of Oregon against these registrants from selling the shares or interests they proposed offering the public until such time as a registration statement with respect thereto became effective. Contributing largely to the facts upon which this injunction was granted was a technical report resulting from an investigation made by the oil and gas staff, especially regarding the productive capacity and other technical characteristics of the oil wells involved in the offering.

FORMAL ACTION UNDER SECTION 8

In almost all instances the Commission's informal examination procedures, such as the prefiling conference and the letter of comment,

are sufficient to insure that the registration statement meets the standards of fair disclosure prescribed by the statute. However, there are infrequent instances when it becomes necessary to exercise its powers under section 8 in order to prevent a registration statement from becoming effective in deficient, misleading or inaccurate form or to suspend the effectiveness of one which has already become effective.

Under section 8 (b) the Commission may institute proceedings to determine whether it should issue an order to prevent a registration statement from becoming effective. Such proceedings are authorized if the registration statement as filed is on its face inaccurate or incomplete in any material respect. Under section 8 (d) proceedings may be instituted at any time to determine whether the Commission should issue a stop order to suspend the effectiveness of a registration statement if it appears to the Commission that the registration statement includes any untrue statement of a material fact or omits to state any material fact required to be stated or otherwise necessary to make the statements included not misleading. Under section 8 (e) the Commission may make an examination to determine whether to issue a stop order under section 8 (d).

Stop-order Proceedings Under Section 8 (d)

One stop order was issued during the year and another stop-order proceeding was instituted just before the close of the year (where the hearing was scheduled after such close) pursuant to section 8 (d). The former case is described below.

Ralph A. Blanchard and George P. Simons—doing business as Northwest Petroleum—File No. 2-8243.—This case was completed during the 1951 fiscal year although instituted previously.

Prior to the filing of the registration statement about $300,000 had been raised by sales of shares to public investors, of which about $30,000 was retained by the promoters and about $270,000 was turned over to Mon-O-Co Oil Corporation for drilling operations. With the exception of one well, which had a rated capacity of 20 barrels per day, the wells which were drilled were completely unproductive.

In the registration statement as originally filed it was represented that 350 shares were being offered; as amended during the course of the proceedings, the registration statement recited that 447 shares, of which 330 were "company shares" and 117 shares were "personal shares," were being offered at $500 a share, or an aggregate of $223,500. However, the amendment did not specify the order in which company shares or personal shares would be sold. The Commission, in its disposition of this case, found that the failure of the registrants to include a definite undertaking with respect to the order in which the company and personal shares were to be sold, in order adequately to inform prospective purchasers of the order in which proceeds of a sale of less than all of the shares were to be applied, rendered the registration statement as amended materially misleading.

The Commission also found that, in view of the extensive experience of Mon-O-Co and the promoters in attempting to exploit the tracts in question, the registrants knew that in all probability further drilling operations would not result in a return sufficient to warrant the investment of funds by the public on the basis contemplated by registrants, and that the failure of the registrants to make the disclosures neces-

sary to a full understanding by prospective shareholders of the actual prospects of return rendered the registration statement misleading.

The Commission concluded that the registration statement was grossly inaccurate, misleading and incomplete, and issued a stop order suspending its effectiveness. At the close of the 1951 fiscal year the registrants had not attempted to correct the deficiencies found in the registration statement and the stop order was still in effect.

DISCLOSURES RESULTING FROM EXAMINATION OF REGISTRATION STATEMENTS

The result of the Commission's work in the examination of registration statements may be illustrated by the cases described below.

Misleading security description revised—Dividend rights and earnings prospects clarified—Position of promoters and new investors contrasted.—A company operating a life, health and accident insurance business filed its first registration statement under the Securities Act of 1933 purporting to cover an issue of "Special Stock Debentures" to be offered in units of $500 each. It appeared to the staff upon examination of the statement that these securities were not debentures at all, as the term is commonly understood, but were essentially contracts for the purchase of capital stock. Thus, the purchaser of the "debenture" agreed to pay $500 (all at one time or in installments) and the company agreed in consideration thereof to deliver at the end of five years 25 shares of common capital stock. In each of these five years the purchaser was entitled to receive the equivalent of such dividends as would be paid on 25 shares of stock were such shares already issued; and he was entitled to an additional distribution based upon a percentage of the amount of life insurance renewal premiums paid to the company by its policy holders in each such year. The company referred to this latter distribution as a "bonus." Apart from making use of such misleading nomenclature as "debentures" and "bonus," the prospectus as originally filed was so prepared as to make it virtually impossible for even a skilled analyst to form a reasonable judgment of the investment merits of the securities.

In the ensuing examination process the prospectus and the security instrument itself were amended to substitute the term "Special Investment Contract" for "Special Stock Debenture"; and the term "bonus," which ordinarily means something given beyond what is strictly due, and which did not appear to be applicable to any feature of these securities, was dropped.

To provide investors with some indication of what the purchaser's right to dividend equivalents might be worth, the amended prospectus also pointed out that earnings per share during the past four years had amounted to 30 cents, 62 cents, 12 cents, and 13 cents, respectively, and, to provide them with an indication of what the right to distributions based on the life insurance renewal premium business done by the company might be worth, it was furthermore pointed out in the amended prospectus that, if the amount of such business done in 1950 were applied, total distributions over the five-year period would amount to some $28.14. It thus becomes apparent that, notwithstanding the specification in the investment contract that $25 of the $500 purchase price was to be attributed to the 25 shares of stock which the

contract called for, and the remaining $475 was to be attributed to the rights to dividend equivalents and distributions based on life insurance renewal business, the cost of the stock should properly be regarded as very much greater than $25 ($1 per share). In this connection the amended prospectus states: "It should be noted, therefore, that very substantial increases in earnings will be necessary if purchasers of the investment contracts are to enjoy a satisfactory return on the stock they will receive at the price they are paying."

The amended prospectus also introduces an explanation that, assuming eventual issuance of all of the stock called for by the investment contracts in accordance with the terms of the contracts, the original incorporators will hold some 72 percent of the outstanding stock for which they paid approximately $37,500, in contrast to the position of incoming investors who will receive only an 18 percent interest in the company in exchange for a total contribution of $1,200,000.

In addition, the amended prospectus discloses that one of the company's two largest stockholders has repeatedly borrowed substantial sums from the company and that a presently outstanding loan (originally $600,000 but at the date of the prospectus reduced to $378,000) admittedly was under-collateralized by about 50 percent. This stockholder, the amended prospectus further discloses, profited to the extent of some $59,000, on a $500 investment, in the sale of property to the company, and to the extent of some $15,000 in connection with the purchase by the company of the business of another insurance company.

Besides, this registrant was called upon to file very substantial amendments to the financial statements included in the registration statement proper which were deemed by the staff to be necessary in order to meet the standards of disclosure imposed by the Act. The more significant of the deficiencies in these financial statements as originally filed involved the inclusion in income of (1) proceeds from the sale of the securities, (2) amounts received as contributed surplus, (3) borrowed money received and repaid, and (4) payments and adjustments for retirement of outstanding bonds. Following discussions with the staff, the company filed financial statements which were appropriately amended to reflect generally accepted accounting principles, resulting in a reduction of 1950 reported net income from $124,000 to $33,000 (approximately), and a reduction of earned surplus as of December 31, 1950, from $231,000 to $102,000 (approximately).

Events after date of financial statements recognized.—When a utility company filed its registration statement for an offer of common stock in March 1951, the 1949 and 1950 income statements included approximately $125,000 and $415,000 ($75,000 and $228,000 after taxes), respectively, and the balance sheet included a deferred credit for contingent revenues of approximately $412,000 (equivalent to $227,000 after taxes) for revenues billed by the registrant pursuant to a rate increase granted by the local regulatory commission. At the time of filing the statement the United States Court of Appeals had affirmed the action of the United States District Court in vacating the regulatory commission's order and had ordered amounts collected after a certain date impounded. The court had ordered that the registrant refund to its customers all monies collected under the increased

rates but had granted a stay of its judgment pending appeal to the Supreme Court.

The above situation was fully disclosed in the financial statements and matters requiring amendment had been corrected to put the statement in final form. However, at about the time the registration statement was to become effective the Supreme Court of the United States refused to review the appellate court's findings that the order of the local regulatory commission be vacated. The registrant and its accountants then proposed to expand the footnote describing the litigation to explain the effect of the Supreme Court's action but without eliminating from the income statements the revenues then to be refunded or correcting the balance sheet to show the liability for the ordered refund. However, the registrant was requested by the staff to adjust the income statements and balance sheet in respect of the refundable amounts, since, under the circumstances, no accounting justification then existed for including in the income statements amounts which clearly were not proper revenue items and for failing to show the proper current liabilities.

The statements were amended to remove the amounts in question from the income statements and to show them in the balance sheet, together with the $412,000 originally shown as a deferred credit, as a current liability ($614,000) after deducting impounded funds of $336,000. The effect of the change on earnings and earned surplus was as follows:

	As originally filed	*As amended*
1949 net income	$1, 471, 000	$1, 398, 000
1950 net income	2, 489, 000	2, 261, 000
Earned surplus	7, 434, 000	7, 133, 000

Earnings restated to reflect taxes and loss carry-over.—A registrant's prospectus as originally filed included a summary of earnings showing a net loss of $142,000 for the first fiscal year of its operations (certified by independent public accountants) and net profits of $110,000 and $216,000 for the succeeding two months (unaudited). No franchise, income and excess profits taxes had been deducted and the registrant was therefore asked to make appropriate provision for such taxes. The summary, as then amended, showed the net loss of $142,000 for the company's first full year, and set forth net profit for the succeeding three months combined of $168,000, after deducting a provision of $218,000 for franchise, income and excess profits taxes. However, the staff discovered that, in computing the income and excess profits taxes for the three-month period, the company had deducted the full amount, rather than one-quarter of the amount, of allowable net operating loss carry-over from the first fiscal year. Pursuant to the request of the staff, the summary was again revised, on the presumption of continuing profitable operations which the registrant did not disclaim, to show the taxes for the first quarter of the second year computed on the basis of deducting only one-quarter of the first year's allowable net operating loss carry-over. As finally revised, the summary showed net profit (after taxes) of $116,000 for the quarter—compared with the profit figure of $168,000 for the same period as shown in the first revision and that of $326,000 for two months only of such period as set forth in the original filing.

Restatement of balance sheet to eliminate unearned rents and roy-

alties as assets.—In the course of an examination of an amendment to an effective registration statement of a machine manufacturer it was noted that the proportion of rental income to sales of products had increased materially and that the items of "Trade Receivables with Extended Maturities" and "Deferred Rental Income" had become major elements in the balance sheet. In response to a request that the method of accounting be explained, a representative of the company disclosed to the Commission that the former account represented payments not due within the ensuing year on notes and contracts receivable covering rentals of leased machines and that the leases normally called for payment of rentals over a period of forty-eight months. Further explanation revealed that it was the practice of the company to record the full amount of rent receivable upon execution of the leases and to credit an equal amount to deferred income from which transfers were made to profit and loss on a straight-line basis over the useful life of the machines, then estimated at five years.

Since this method of accounting appeared to be unique among companies doing business on a similar basis, the staff requested that the financial statements be amended to eliminate from the accounts the rents and royalties not earned at the balance sheet date except to the extent that collections had been made in advance of the due dates. Further discussions with representatives of the registrant and its independent accountants brought concurrence with the staff's views and resulted in an amendment the significance of which may be seen from the following figures. "Rentals and Royalties Receivable under Machinery Lease Agreements" listed under current assets were reduced from $3,500,000 to $800,000 and "Trade Receivables with Extended Maturities" were reduced from $4,730,000 to $24,000, accounting for a total of $7,400,000 applied as a contra reduction of "Deferred Rental Income" from $9,100,000 to $1,700,000. The above adjustments reduced total current assets from $17,300,000 to $14,600,000, with a resulting reduction in the current ratio from 1.61-to-1 to 1.34-to-1, and reduced the balance sheet totals from $40,900,000 to $33,500,000. Since the statements on the former basis had been published, the change in presentation was referred to in the "Accountants' Report" and explained in the following "Supplemental Note" added to the financial statements by way of amendment to the registration statement:

> Since the closing of the accounts for the fiscal year ended November 30, 1950, and the issuance of the annual report to stockholders, the company has revised its procedure with respect to accounting for rentals on leased machines. Heretofore, the full amount of such rentals was recorded as receivable at the time of execution of the leases, with a corresponding credit to deferred income which was transferred to profit and loss over a period of five years, the estimated life of the machines. Under the revised procedure, rentals are recorded only as they become due for payment and are credited initially to deferred income, thereafter being transferred to profit and loss as earned over the life of the machines. This change in policy has been given effect in the accompanying balance sheet with the result that $7,385,000 has been eliminated from asset classifications and from deferred income; the balance of deferred income as stated under the revised procedure represents that portion of rentals received or now due, not yet transferred to profit and loss. Of the aggregate amount of unrecorded rentals yet to be received under the terms of existing machine lease agreements $7,385,000, approximately $2,600,000 is scheduled for payment within the ensuing year.

Failure to disclose history of the enterprise, its principal promoter, and the denial of a patent application under which an allegedly valuable license was granted registrant.—An Ohio company organized in the latter part of 1949 filed a registration statement in June 1950 covering a proposed public offering of 30,000 shares of its Class A stock at $100 per share. The registrant indicated that it was formed for the purpose of manufacturing, selling, leasing, and operating apparatus to be used particularly in connection with steel refining and in production of steel ingots for mills in the district in which its plant might be established. An exhibit in the registration statement set forth that for each Class A share sold to the public, a share of Class B stock would be given to another Ohio corporation in consideration of the latter's grant to the former of an exclusive license to manufacture, sell, lease and operate equipment developed by it, but such information was omitted from the prospectus. Both classes of stock had equal voting rights. Investigation by the staff developed that the Ohio corporation which granted the license to the registrant had only one patent and that it related to an emulsion process of no apparent commercial value which would expire in about three years. It was also ascertained that the principal promoter had filed a patent application covering a combustion chamber or "unit" employing a special fuel which was to be used in various furnace applications such as the steel open hearth. Apparently this patent was to be transferred to the corporate holder of the Class B stock which was to grant registrant a license thereon. The registration statement failed to disclose either the facts regarding its emulsion process or that the claims in the patent application relating to the "combustion chamber" it proposed to manufacture had been disallowed in full by the United States Patent Office. In addition the prospectus failed to disclose that the Ohio corporation which purported to grant licenses was under the control of the registrant's principal promoter. Furthermore the prospectus omitted to state that it appeared from an examination of the latter's books by the Ohio authorities that $60,000 of its funds had been transferred to the principal promoter of the registrant and was unaccounted for. The registration statement also failed to state that the principal promoter had been indicted in 1948 for violating the Ohio Securities Act in the sale of promissory notes, that he had been a fugitive from justice during 1949 and that he was awaiting trial after having been released on bail. After the registrant had become aware that the investigation had been instituted it withdrew its registration statement in July 1950.

Failure to make material disclosures including the possible effect on enterprise of the Defense Production Act of 1950 and the mobilization of the national economy.—A company in the electronics field recently discharged in bankruptcy proceedings pursuant to Chapter XI of the National Bankruptcy Act filed a registration statement covering 400,000 shares of convertible Class A stock to be offered to the public at $2.50 per share. The prospectus failed to disclose adequately that one of the principal purposes of the offering was to repay a substantial loan made to the registrant by a principal and possibly controlling stockholder. In addition, the prospectus failed to set forth adequately the use which would be made of the proceeds in the event that a smaller amount than 400,000 shares was sold and to indicate

the position in which purchasers of the shares might find themselves in such event. The prospectus also failed to disclose clearly that the cost of financing would represent at least thirty-one percent of the gross proceeds if all the shares were sold. Moreover, the registrant failed to indicate its relatively poor competitive position and failed to point out the effect of the mobilization of the national economy and the impact of the Defense Production Act of 1950 upon its ability to obtain materials and components needed for the manufacture of its proposed product. Finally, the registrant omitted to set forth a substantial contingent liability to the United States Government and to make adequate provision therefor in the balance sheet. After these failures in disclosure were directed to the registrant's attention, it withdrew its registration statement.

CHANGES IN RULES, REGULATIONS AND FORMS

Rules 171, X-6, and U-105—Disclosure detrimental to the national security.—The Commission adopted during the past year rules providing for the omission or confidential treatment of informationf, if publication of the information would, in the opinion of the Commission, acting in consultation with other executive departments or agencies of the United States, be detrimental to the national security.[3] Such rules are applicable to all filings under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Public Utility Holding Company Act of 1935.

Procedure has been established whereby the Commission, upon request, will render advance, informal opinions in cases where issuers, underwriters, or other persons are in doubt as to the extent to which, or the manner in which, particular information may be disclosed in a registration statement, prospectus, application for registration, report, proxy statement, notification, or other document filed with the Commission or an exchange pursuant to any of those Acts.

The general types of information which will be treated confidentially under the new rules are as follows:

(1) The number, size, character, and location of ships in construction, or advance information as to the date of launchings or commissionings; or the physical set-up or technical details of shipyards.

(2) Specific information about war contracts, such as the exact type of production, production schedules, dates of delivery, or progress of production; estimated supplies of strategic and critical material available; or nationwide "round-ups" of locally published procurement data except when such composite information is officially approved for publication.

(3) Specific information about the location of, or other information about, sites and factories already in existence, which would aid saboteurs in gaining access to them; information other than that readily gained through observation by the general public disclosing the location of sites and factories yet to be established, or the nature of their production.

(4) Any information about new or secret military designs, or new factory designs for war production.

(5) Any information of a classified nature dealing with any atomic project, construction or product.

[3] Securities Act release no. 3409.

Amendment of Rules 220 and 222 of Regulation A.—On September 8, 1950, the Commission invited comments on proposed amendments to rules 220 and 222, which are a part of Regulation A under the Securities Act of 1933. After considering the comments received the Commission amended those rules, effective January 8, 1951, to provide a new method for determining public offering price in connection with certain offerings through rights and warrants under Regulation A.[4]

In the past there has been some difficulty in determining in advance how the price limitations of Regulation A apply to certain rights offerings by issuers, which may be accompanied by sales of the rights and of the offered securities made at varied prices by underwriters and controlling persons. In order to minimize these difficulties, the Commission added a new paragraph (i) to rule 220. This paragraph provides generally that, for the purposes of Regulation A, the offering price of securities offered through rights or warrants shall be either (1) their market value as determined prior to the filing of the letter of notification or (2) the price to be received by the offeror, whichever is higher, and that no separate consideration shall be given to any sale of the rights or warrants by any person. In addition, rule 222 is amended to provide that the letter of notification filed in such cases shall state the market value, as well as the take-down price, of the securities.

Where additional shares of an outstanding class are to be offered through rights, it will normally be appropriate for the person preparing the letter of notification simply to set forth the current market value of the oustanding shares of the class to be offered. However, if it can be demonstrated that the offering will result in a dilution of the value of the outstanding shares, it will be permissible for the person filing the letter of notification to compute the dilution and to base the computation of market value of the offered securities on the diluted value.

Where the market value of securities to be offered through rights or warrants cannot be determined prior to the offering, the new provisions that have been added to the rule will not be applicable. In such cases, the application of the price limitations of paragraphs (a), (b), and (d) will turn on the take-down price, the amount received by controlling persons who sell their rights, and, if there are any underwriters, any amounts received from the public by such underwriters.

Amendment to Rule 240 of Regulation A–M.—During the year the Commission also adopted certain amendments to rule 240 under Regulation A–M.[5] That regulation exempts certain offerings of assessable mining securities from registration under the Act. The amendments, by deletion of paragraph (c) of the rule, removed the restriction which prevented issuers from commencing more than one offering under the regulation each year; and, by revision of paragraph (f), require the reporting to the Commission of assessments received by an issuer. However, the regulation as amended continues to limit the aggregate of unregistered offerings and assessments received to not more than $100,000 in each yearly period.

[4] Securities Act release no. 3399.
[5] Securities Act release no. 3384.

Proposed revision of Form S–1 designed to shorten and improve prospectus.—The Commission had under consideration at the end of the year a proposed revision of Form S–1, which is one of the forms for registration of securities under the Securities Act of 1933. The purpose of this revision is mainly to shorten and improve the prospectus and thereby facilitate its distribution and make it more useful to investors. Notice of the proposal was published in detail and the Commission also invited comments and suggestions from all interested persons.[6] Some of the items of information currently required to be shown in the prospectus would be omitted from the prospectus under this proposal but would be otherwise filed with the registration statement. For example, the prospectus would include very limited information as to the nature of the underwriting commitment. Details of the underwriting arrangements would be omitted from the prospectus but would be otherwise filed as a part of the registration statement. Certain other items of information would be similarly treated. The Commission's experience has been that, to a considerable extent, detailed items and instructions result in unnecessarily detailed answers in the prospectus. Accordingly, the revised items and instructions of the proposed form have been somewhat streamlined for the purpose of producing more concise statements in the prospectus without sacrificing essential information. A revised form was adopted after the end of the fiscal year.

LITIGATION UNDER THE SECURITIES ACT

It is sometimes necessary to obtain compliance with the Securities Act by resort to the courts. Where continued violation of the Act and consequent damage to the public is threatened, the Commission acts promptly to safeguard the public interest by instituting injunctions.

Several of the actions in which the Commission has obtained injunctions during the last fiscal year involved the sale of mining securities. In *SEC* v. *Francis D. Graves and Earl E. Brown*,[7] the defendants were enjoined from further violations of the registration and fraud provisions of the Act in the sale of undivided participating interests in two mining leases, one of which they did not own. The Commission's complaint alleged that they had told investors, among other things, that samples taken from the properties contained monazite, thorium, gold and other minerals in commercial quantities when no sampling had been conducted, that monazite would be produced in the near future when they had made no arrangements to exploit the properties, and that they had invested $30,000 in the enterprise when their total investment was approximately $1,500. *SEC* v. *Carl I. Addison and Joe W. Black* [8] is another action in which the Commission obtained an injunction against further violations of the registration and fraud provisions of the Act in the sale of mining securities. This case involved the sale of stock in a Canadian company organized for the purpose of producing uranium ore. *SEC* v. *Marvin C. Meddock*,[9] *SEC* v. *Yankee Mines Inc. et al.*[10] and *SEC* v. *Alhambra Gold Mines Corporation* [11] are other cases in which sales of securities of mining

[6] Securities Act release no. 3406.
[7] Civil Action No. 548, E. D. Wash.
[8] Civil Action No. 1251, E. D. Tex.
[9] Civil Action No. 913, E. D. Wash.
[10] Civil Action No. 2755, D. Idaho.
[11] Civil Action No. 11820, S. D. Calif.

companies in violation of the Act were enjoined. The *Meddock* case involved violation of the fraud provisions; the last two cases charged violation of the registration provisions.

A number of the cases in which the Commission successfully sought injunctions against violations of the Act involved the sale of securities in oil and gas companies. In *SEC* v. *Penner Oil and Gas, Inc., et al.*,[12] a permanent injunction was entered against all defendants. Criminal proceedings were also brought in connection with this promotion, which involved a widespread solicitation by mail campaign. A description of the fraud involved is contained elsewhere in this report.[13] In *SEC* v. *Gold Creek Mining Company*,[14] the company and two individual defendants consented to the entry of an injunction against further violations by them of the fraud and registration provisions of the Act in the sale of various types of securities in oil properties located in Oklahoma. Among the misrepresentations alleged to have been made in the sale of the securities were statements that the proceeds of the sales of stock would accrue to the company when in fact the shares being offered were personally-owned shares of one of the individual defendants and the proceeds from the sales were largely used by him, and that the company's leases were surrounded by producing oil wells when in fact most of the surrounding wells had been abandoned.

Injunctions were also obtained during the last fiscal year in the following cases which involved the sale of securities in oil and gas companies or interests in oil and gas leases: *SEC* v. *Western Osage Oil Company*,[15] *SEC* v. *Avonwold Oil Corporation*,[16] *SEC* v. *William R. Justice and Adrian J. Belisle*,[17] and *SEC* v. *Western Oil Fields, Inc., et al.*[18] The first three cases charged violation of the registration provisions; the last violation of the fraud provisions. Violations of the registration provisions were also charged in *SEC* v. *Sierra Nevada Oil Company*.[19] In that case, after the court had orally announced that it was prepared to issue a preliminary injunction, a voluntary petition under Chapter X of the Bankruptcy Act was filed by the defendant corporation in another jurisdiction and defendants argued that the stay of proceedings in the order approving the petition prohibited entry of an injunction order. After the close of the fiscal year, the Chapter X court, on motion of the Commission, clarified its order, and a preliminary injunction was thereafter entered. A complaint filed against *Spearow Company Inc., et al.*[20] charging noncompliance with the Act's registration provisions is still pending.

During the year, the Commission obtained injunctions against further violations of the Act in many cases involving sales of securities of other types of businesses. One such case was *SEC* v. *Co-op Insurance Company et al.*,[21] where the Commission charged, *inter alia*, that the defendants had obtained an option to purchase certain of the stock of the insurance company at $1.00 per share and had then proceeded to make a public offering of these securities at successively higher

[12] Civil Action No. 2841, N. D. Okla.
[13] See discussion of *U. S.* v. *S. E. J. Cox et al.* at page 151, *infra*.
[14] Civil Action No. 1888, D. Utah.
[15] Civil Action No. 12986, S. D. Calif.
[16] Civil Action No. 67–191, S. D. N. Y.
[17] Civil Action No. 71–50, D. Neb.
[18] Civil Action No. 3463, D. Colorado.
[19] Civil Action No. 13056, S. D. Calif.
[20] Civil Action No. 6070, D. Oregon.
[21] Civil Action No. 1496, D. Ariz.

prices of $2.50, $3.50, and $5.00 per share without disclosing to purchasers the fact of the option agreement or that the price at which the stock was being sold had been arbitrarily established by the defendants.

In *SEC* v. *Patrick F. Cusick, First Guardian Securities Corporation and Leonard S. Baum*,[22] it was alleged that First Guardian, a registered broker-dealer, acting through Vice President Baum, bought for resale a substantial amount of Mr. Cusick's personally owned shares of Standard Brewing stock and thereafter offered the stock to the public. No registration statement with respect to the Standard Brewing shares was in effect with the Commission. After obtaining a temporary restraining order, the Commission discovered evidence which indicated additional violations of its Acts by First Guardian and instituted action to revoke its registration as a broker-dealer. Inasmuch as First Guardian consented to the revocation of its license and proceeded to liquidate, the Commission subsequently agreed to a dismissal of the injunction action.

The defendant in *SEC* v. *Robert J. Cottle* [23] consented to the entry of a permanent injunction against further violations of the fraud provisions of the Act. The Commission alleged that Cottle sold securities by falsely representing, among other things, that he was a member of the New York and Boston Stock Exchanges, that he was operating a successful trading account with a large brokerage firm in Boston, that he was earning and paying large profits to investors, and that a prominent Boston banker was associated with him in connection with such account. Actually Cottle was using the money received from investors to bet on horse and dog races and for other personal purposes. Later he was convicted and sentenced to a term of three years for violations of the Act and the Mail Fraud Statute.

In *SEC* v. *Mercer Hicks Corporation*,[24] the defendants consented to the entry of a permanent injunction against further violations by them of the fraud provisions of the Act on the basis of a complaint filed against them during the previous fiscal year. While this action was pending, proceedings were instituted which concluded in the revocation of the broker-dealer registration of the corporation.[25]

An injunction against violation of the registration and fraud provisions of the Act was obtained in *SEC* v. *Northwest Acceptance Corporation and Robert M. Hawley*.[26] The alleged representations included a statement that the company had substantial earnings when, in fact, severe losses had been suffered and the company showed a net loss for the year ending September 30, 1950. It was also alleged that defendants stressed the company's past dividend record without disclosing that a dividend paid during the promotion was, in fact, a return of capital and that they assured investors that the company would repurchase the stock at any time without loss to them when, in fact, such repurchase would impair the corporation's capital in violation of the law of the State of Washington where it was incorporated.

In *SEC* v. *Atlas Tack Corporation*,[27] an injunction was entered directing the defendant, its officers and directors to file reports as re-

[22] Civil Action No. 59–354, S. D. N. Y.
[23] Civil Action No. 913, E. D. Wash.
[24] Civil Action No. 5896, S. D. N. Y.
[25] See page 51, *infra*.
[26] Civil Action No. 2774, W. D. Wash.
[27] Civil Action No. 50–143, D. Mass.

quired by the statute and to correct the deficiencies contained in the reports which had been filed.

In *SEC* v. *Evergreen Memorial Park Association, et al.*,[28] the Commission's original complaint charged defendants with selling unregistered securities in the nature of "investment contracts" in violation of Section 5 of the Securities Act of 1933. After the close of the fiscal year, the Commission sought leave to amend the complaint in order to charge, in addition, violations of the antifraud provisions of Section 17 (a). The "investment contracts" allegedly involved sales of cemetery lots in wholesale quantities coupled with representations and agreements that investors would obtain large profits within stated periods from the resale of these lots at retail, that the defendant vendors would improve the cemetery as a whole and also lots of particular investors to facilitate their resalability, and that said defendants would resell the lots for investors within stated periods at specified profits.

The Commission participated as *amicus curiae* during the past fiscal year in only one case involving the proper interpretation of the Securities Act of 1933. In *Crummer* v. *Crumley*[29] the plaintiff instituted an action under sections 12 (1), 12 (2) and 17 (a), charging that defendants sold him unregistered stock in violation of the Act, and that he had been induced to buy this stock by fraudulent misrepresentations and statements of half-truths. In January 1951, the court denied a motion of defendants to dismiss the complaint with respect to the section 12 (1) cause of action and reserved judgment on the motion with respect to the remaining causes of action. Subsequently, the Commission filed a brief as *amicus curiae* expressing the following views: (1) that jurisdiction of the section 12 (2) cause of action was not dependent upon a showing, as defendants contended, that the alleged misrepresentations and half-truths were communicated by use of the mails or instruments of interstate commerce, but that it would suffice if either the mails or interstate facilities were used in the sale of the stock; and (2) that the federal jurisdictional requirements of sections 12 (2) and 17 (a) would be satisfied if it were shown, as plaintiffs alleged, that the mails were used to effect collection of plaintiff's check in partial payment for the stock, to demand completion of the purchase agreement, and to deliver the stock. The Commission expressed the opinion that it was unnecessary for the court to decide whether plaintiff could also base his private action on the alleged violation of section 17 (a), since it believed that any wrong which plaintiff suffered could be redressed under section 12. The case was pending at the close of the fiscal year.

PART II

ADMINISTRATION OF THE SECURITIES EXCHANGE ACT OF 1934

The Securities Exchange Act of 1934 is designed to insure the maintenance of fair and honest markets in securities transactions both on the organized exchanges and in the over-the-counter markets, which together constitute the Nation's facilities for trading in securities.

[28] Civil Action No. 1821, E. D. Pa.
[29] D. Nev., Civil Action No. 900.

Accordingly the Act provides in general for the regulation and control of transactions in such markets and of practices and matters related thereto, including solicitations of proxies of stockholders and transactions by officers, directors, and principal stockholders. It requires specifically that information as to the condition of corporations whose securities are listed on any national securities exchange shall be made available to the public; and provides for the registration of such securities, such exchanges, brokers and dealers in securities, and associations of brokers and dealers. It also regulates the use of the Nation's credit in securities trading. While the authority to issue rules on such credit use is lodged in the Board of Governors of the Federal Reserve System, the administration of these rules and of the other provisions of the Act is vested in the Commission.

REGULATION OF EXCHANGES AND EXCHANGE TRADING

Registration and Exemption of Exchanges

Section 5 of the Act requires each securities exchange within the United States or subject to its jurisdiction to register with the Commission as a national securities exchange or to apply for exemption from such registration. Exemption from registration may be granted to an exchange which has such a limited volume of transactions effected thereon that, in the opinion of the Commission, it is not practicable and not necessary or appropriate in the public interest or for the protection of investors to require its registration. During the fiscal year no change occurred in the number of exchanges registered as national securities exchanges or in the number granted exemption from such registration.

At the close of the 1951 fiscal year the following 16 exchanges were registered as national securities exchanges:

Boston Stock Exchange
Chicago Board of Trade
Cincinnati Stock Exchange
Detroit Stock Exchange
Los Angeles Stock Exchange
Midwest Stock Exchange
New Orleans Stock Exchange
New York Curb Exchange
New York Stock Exchange
Philadelphia-Baltimore Stock Exchange
Pittsburgh Stock Exchange
Salt Lake Stock Exchange
San Francisco Mining Exchange
San Francisco Stock Exchange
Spokane Stock Exchange
Washington Stock Exchange

Four exchanges were exempted from registration at the close of the 1951 fiscal year. These were:

Colorado Springs Stock Exchange
Honolulu Stock Exchange
Richmond Stock Exchange
Wheeling Stock Exchange

Information pertinent to the organization, rules of procedure, trading practices, membership requirements and related matters of each exchange is contained in its registration or exemption statement, and any changes which are effected in such information are required to be reported promptly by the exchanges. During the year numerous changes in their rules and trading practices were reported by the various exchanges, each of which was reviewed to ascertain whether the change effected was in the public interest and complied with the provisions of the Act. The nature of these changes varied considerably; some of the more significant which occurred are briefly outlined below:

Boston Stock Exchange amended its rules relating to commissions for the purpose of making it clear that the rates of commission pre-

scribed by the Constitution of the exchange are minimum rates and that, so far as the Constitution and rules of the exchange are concerned, members are free to charge greater commissions if the conditions and circumstances warrant, provided that if the commission being charged exceeds the minimum rate, that fact must be disclosed in writing to the customer.

Cincinnati Stock Exchange amended its rules to prohibit the selling of a lot of stock (all or none) at a lower price than the best bid on the Exchange, which may be for a smaller lot. Likewise the amendment also prohibits the purchase of a larger lot of stock at a higher price without taking small lots offered at lower prices. The revised rule does not, however, prevent a buyer or seller from going around smaller lots at the same price but having precedence as to the time the order was received.

San Francisco Mining Exchange increased its schedule of commission rates on stocks selling up to 29 cents per share.

San Francisco Stock Exchange adopted a rule which provides that when a member firm holds securities for customers which have been fully paid for, or holds securities for customers the market value of which is in excess of the amount required under the Exchange's margin maintenance rules, such securities are to be segregated and marked in such a manner as to clearly identify the owners of such securities.

Disciplinary Actions by Exchanges against Members

Each national securities exchange, pursuant to a request of the Commission, reports to the Commission any action of a disciplinary nature taken by it against any of its members, or against any partner or employee of a member, for violation of the Securities Exchange Act of 1934, of any rule or regulation thereunder, or of any exchange rule. During the year four exchanges reported taking disciplinary action against 16 members, member firms, and partners and employees of member firms.

The nature of the actions reported included fines ranging from $100 to $5,000 in 8 cases with total fines aggregating $8,850; suspension of an individual member from exchange membership for a period of three months; censure of individuals or firms for infractions of the rules, and warnings against further violations. The disciplinary actions resulted from violations of exchange rules, principally those pertaining to handling of customers' accounts, capital requirements, floor trading, commission rates, and conduct inconsistent with just and equitable principles of trade.

REGISTRATION OF SECURITIES ON EXCHANGES

Nature and Purpose of Registration

An issuer may register a security on a national securities exchange by filing with the Commission and the exchange an application for registration which sets forth on a prescribed form reliable and comprehensive information about the affairs of the issuer and its securities which is available for public inspection. The law also requires the registrant to file annual, quarterly, and other periodic reports in order to keep this information up to date. The statute makes it unlawful to trade in a security on the exchange unless it is so registered (except

where it has been admitted to unlisted trading privileges, or is exempt).

Examination of Applications and Reports

The work of examining applications and reports filed under the Securities Exchange Act is integrated with the examination work arising under the Securities Act and certain other statutes administered by the Commission. All applications and reports are examined to determine whether accurate and adequate disclosure has been made of the specific types of information required by the Act and the rules and regulations promulgated thereunder. Where such disclosure has not been made, necessary correcting amendments are obtained from the registrant. The result of this examination work may be illustrated by a description of a few actual cases arising during the 1951 fiscal year.

Loss from currency devaluation charged to profit and loss instead of surplus.—The annual report required of a company with wide foreign operations must include financial statements not only with respect to the registrant separately and the registrant and its domestic subsidiaries combined but also with respect to the foreign subsidiaries of such company. During the 1951 fiscal year the staff noted from the annual report filed by one such registrant—a large manufacturer of specialized machinery—that a charge had been made to surplus of $4,911,325.31 in the combined statements of its foreign subsidiaries as a result of devaluation of foreign currencies and of the translation of working capital and reserves of foreign subsidiaries into United States dollars at current exchange rates.

The Division of Corporation Finance took the position that this amount represented the loss from the devaluation of foreign currencies during the year and should be reflected in the profit and loss statement. The Division also called the attention of this company to the reports to stockholders which had been published by other large corporations with substantial foreign activities and which had applied the method of accounting for such loss suggested by the staff in this instance. The combined profit and loss statement of foreign subsidiaries was thereupon amended, changing the final credit figure of $3,126,335.98 net income to a final debit figure of $1,784,989.33 which was, pursuant to the Commission's recently amended Regulation S–X, captioned "Net income less Special charge (net charge)."

Losses of subsidiaries and adjustments of depreciation transferred from surplus to income statement.—At the beginning of its 1949 fiscal year a registrant, engaged in the manufacture of aircraft parts, owned 71 percent of the voting stock of one subsidiary, and 100 percent of the common stock along with approximately 61.5 percent of the preferred stock (which had voting rights) of another subsidiary. Through the year 1948 its consolidated financial statements had included these companies. A merger agreement between the two subsidiaries subsequently became effective in the latter part of 1949 and under its terms the registrant early in 1950 received 75,000 shares of new second preferred stock of the surviving company for its investment in the two companies. The surviving company ceased to be a subsidiary as a result of the exchange of stock.

The investment in the new preferred stock was thereafter in the registrant's annual report shown in the balance sheet at the cost of the

investments surrendered in exchange therefor, and the sum of $1,400,000 was provided from earned surplus as a reserve for the revaluation of the new stock to approximately its par value. The financial statements also reflected adjustments of accumulated depreciation for prior years (less applicable additional income taxes) as a credit to earned surplus in the amount of $62,346.78. For 1949 the merged subsidiaries sustained losses of $741,164.61 and of $230,394.88, respectively, or a combined loss of the two companies (consolidated with the parent in the previous year) of $971,559.49, no portion of which was reflected in the statement of income of the parent. However, the above-mentioned reserve against the combined investment created by a charge to earned surplus appeared to reflect the management's opinion as to the loss in the investment.

It was the opinion of the staff that in this situation the losses sustained by the subsidiary companies, to the extent of the registrant's equity therein, were an incident of the year 1949, and that the losses as well as the adjustment relating to depreciation should be reflected in the statement of income. The statement of income as it was subsequently amended to reflect these views showed a loss of $589,560.76 for 1949 as compared to the statement as originally filed which showed a net income of $428,199.91.

Change made in method of computing depletion.—For many years, including the year 1949, a large copper mining company had followed the practice of computing unit depletion of metal mines at separate rates per pound of copper from individual properties, charging such depletion direct to surplus. The following note was appended to the statement of surplus: "... The unit rates used are based on the mine values included in the balance sheets . . . and the ore reserves of the respective mines as estimated as of March 1, 1913, or at the date of acquisition, or in the case of a subsidiary company at a subsequent date . . . Part of the depletion charge is based on United States Treasury Department valuations as of March 1, 1913, determined for depletion purposes in connection with Federal income taxes." The reason given in a note and in the certificate of the independent certified public accountants for using this method of treatment of depletion read: "While it is recognized that charges made for the amortization of cost of fixed assets are generally shown as deductions in profit and loss statements, the difficulty of determining the extent of ore reserves and of allocating the depletion charges between cost and appreciation. the variance in the amount of the charge during the different periods depending upon the particular properties operated, and other uncertainties and variables, have caused the registrant to follow consistently the practice above mentioned. . . ."

Inasmuch as some years had passed and distinct progress had been made in the method of preparing financial statements since this matter was first discussed with the registrant, a suggestion was made by the staff during the 1951 fiscal year that the problem be reexamined. Accordingly in February 1951 representatives of the registrant and its independent certified public accountants met with members of the staff and reviewed the question of accounting for depletion and other matters in order to secure an over-all improvement in the presentation of the company's financial statements for the benefit of investors. As a result of these co-operative prefiling discussions, in its annual report for the year 1950, filed on April 27, 1951, the registrant changed its

practice with respect to depletion so that the deduction was computed on the basis of an over-all unit rate applied to the pounds of copper sold from the registrant's own production except that depletion of a consolidated subsidiary was computed separately as heretofore. The over-all rate is deemed by the company to be sufficient in amount to provide for the amortization of the net book value of mines on or before the exhaustion of the mines. The charge for depletion of mines as thus calculated was shown as a deduction in the profit and loss statement for the year 1950. The company added this note to its 1950 financial statements: "The registrant makes no representation that the deduction represents the depletion actually sustained or the decline, if any, in mine values attributable to the year's operations (which amounts are not susceptible of determination), or that it represents anything other than a general provision for the amortization of the remaining book value of mines. Depletion used in estimating United States taxes on income has been computed on a statutory basis and differs from the amount shown in these accounts."

The accountants made appropriate reference in their certificate to the change in procedure and hereafter will be able to omit a cumbersome explanation from the company's financial accounts.

Statistics of Securities Registered on Exchanges

At the close of the 1951 fiscal year, 2,188 issuers had 3,523 security issues listed and registered on national securities exchanges. These securities consisted of 2,581 stock issues aggregating 3,477,564,645 shares, and 942 bond issues aggregating $20,896,324,569 in principal amount. This represents an increase of 329,880,327 shares and a decrease of $2,394,222 principal amount of bonds, respectively, over the aggregate amounts listed and registered at the close of the 1950 fiscal year.

The following table shows the number of applications and reports filed during the fiscal year in connection with the registration of securities on national securities exchanges:

Applications for registration of securities on national securities exchanges	559
Applications for registration of unissued securities for "when issued" trading on national securities exchanges	83
Exemption statements for trading subscription rights on national securities exchanges	88
Annual reports	2,148
Current reports	8,792
Amendments to applications, annual and current reports	1,139

During the fiscal year ended June 30, 1951, 58 new issuers registered securities on national securities exchanges, and the registration of all securities of 52 issuers was terminated, principally by reason of retirement and redemption and through mergers and consolidations.

The annual and current reports listed above are in addition to the corresponding reports filed under section 15 (d) of the Securities Exchange Act pursuant to undertakings contained in registration statements, reported in the preceding chapter. The total of both classes of such reports is 2,883 annual reports and 11,788 current reports.

Additional statistical information concerning securities registered on national securities exchanges is contained in the appendix tables.

Temporary Exemption of Substituted or Additional Securities

Rule X–12A–5 provides a temporary exemption from the registration requirements of section 12 (a) of the Act for securities issued in substitution for, or in addition to, securities previously listed or admitted to unlisted trading privileges on a national securities exchange. The purpose of this exemption is to enable transactions to be lawfully effected on an exchange in such substituted or additional securities pending their registration or admission to unlisted trading privileges on an exchange.

The exchanges filed notifications of admission to trading under this rule with respect to 165 issues during the year. In some instances, the same issue was admitted to trading on more than one exchange, so that the total admissions to such trading, including duplications, numbered 317.

Formal Action Under Section 19 (a) (2)

In case any issuer of a security listed and registered on an exchange fails to comply with any provision of the Act or the rules and regulations, the Commission is empowered under section 19 (a) (2) to institute formal proceedings looking to the termination of such registration. Specifically, the Commission may, after giving appropriate notice and opportunity for hearing, deny, suspend the effective date of, suspend for a period of not exceeding 12 months, or withdraw, the registration of such security.

Pursuant to this authority during the 1951 fiscal year the Commission after a public hearing ordered withdrawn from registration on the San Francisco Mining Exchange the common stock of New Sutherland Divide Mining Company. This company had failed to file its annual report for 1949, the exchange had consequently suspended trading in the stock of the company, and officers of the company had stated to representatives of the Commission that the company had no assets or funds with which to file such report or with which to file a petition in bankruptcy or effect dissolution of the company.

MARKET VALUE OF SECURITIES TRADED ON EXCHANGES

The unduplicated total market value on December 31, 1950, of all securities admitted to trading on one or more of the twenty stock exchanges in the United States was $228,087,813,000:

	Market value
Stocks:	
New York Stock Exchange	$93,807,269,000
New York Curb Exchange	13,874,294,000
All other exchanges	3,314,772,000
	110,996,335,000
Bonds:	
New York Stock Exchange	115,951,939,000
New York Curb Exchange	957,839,000
All other exchanges	181,700,000
	117,091,478,000
Total stocks and bonds	228,087,813,000

New York Stock Exchange and Curb figures are as set forth by those exchanges. There is no duplication of issues between those two exchanges, but many of the issues traded on them are also admitted to trading on one or more of the eighteen other exchanges and are not included in the amounts shown above for such other exchanges only. The market value of bonds on New York Stock Exchange includes $96,899,382,000 of United States Government and subdivision issues.

SPECIAL OFFERINGS ON EXCHANGES

Rule X–10B–2 under the Securities Exchange Act permits special offerings of large blocks of securities to be made on a national securities exchange provided such offerings are effected pursuant to a plan which has been filed with and approved by the Commission. A security may be the subject of a special offering when it has been determined that the auction market on the floor of the exchange cannot absorb a particular block within a reasonable period of time without unduly disturbing the current price of the security. A special offering of a security is made at a fixed price consistent with the existing auction market price of the security, and members acting as brokers for public buyers are paid a special commission by the seller which ordinarily exceeds the regular brokerage commission. Buyers of the security are not charged any commission on their purchases and obtain the security at the net price of the offering.

Since February 6, 1942, the date on which rule X–10B–2 was amended to permit special offerings, the Commission has declared effective special offering plans of the following nine exchanges on the date shown opposite each:

New York Stock Exchange	Feb. 14, 1942
San Francisco Stock Exchange	Apr. 17, 1942
New York Curb Exchange	May 15, 1942
Philadelphia-Baltimore Stock Exchange	Sept. 23, 1943
Detroit Stock Exchange	Nov. 18, 1943
Midwest Stock Exchange	Mar. 27, 1944
Cincinnati Stock Exchange	June 26, 1944
Los Angeles Stock Exchange	May 28, 1948
Boston Stock Exchange	Sept. 15, 1948

On June 30, 1951, the Commission declared effective for an indefinite period of time the amended special offering plans of the Midwest Stock Exchange, New York Curb Exchange, New York Stock Exchange, and San Francisco Stock Exchange. These are the same special offering plans which the Commission previously declared effective for an experimental period expiring on June 30, 1951. These amended special offering plans were discussed in last year's annual report.[1]

Each exchange with a special offering plan in effect has been requested to report certain information to the Commission on each offering effected on the exchange under the plan. Such reports showed a total of 19 offerings effected on the Midwest Stock Exchange, New York Stock Exchange and San Francisco Stock Exchange during the

[1] See 16th SEC Annual Report 29–30. The amended special offering plans of the New York Stock Exchange, New York Curb Exchange and San Francisco Stock Exchange were initially declared effective for an experimental period on August 24, August 25 and November 7, 1949, respectively; similar action was taken on November 1, 1950, with respect to the amended plan filed by the Midwest Stock Exchange. The experimental period for all four exchanges was subsequently extended. See Securities Exchange Act releases nos. 4299, 4309, 4343, 4410, 4437, 4457, 4510, 4535, and 4622.

fiscal year ended June 30, 1951. These offerings involved the sale of 160,384 shares of stock with an aggregate market value of $5,073,000 and ranging in market value from $41,200 to $1,601,200. Special commissions paid to brokers participating in these 19 offerings totaled $99,000. By comparison, in the preceding fiscal year a total of 29 offerings involving 430,955 shares of stock having a market value of $11,129,000 were effected on two exchanges with special commissions paid to brokers totaling $266,000. Further details of special offerings during the year are given in appendix table 9.

During the period February 19, 1942, through June 30, 1951, a total of 454 offerings have been effected. These offerings totaled 5,507,239 shares with a market value of $160,537,000 and brokers have been paid special commissions totaling $3,180,800.

SECONDARY DISTRIBUTIONS APPROVED BY EXCHANGES

A "secondary distribution," as the term is used in this section, is a distribution over the counter by a dealer or group of dealers of a comparatively large block of a previously issued and outstanding security listed or admitted to trading on an exchange. Such distributions take place when it has been determined that it would not be in the best interest of the various parties involved to sell the shares on the exchange in the regular way or by special offering. The distributions generally take place after the close of exchange trading. As in the case of special offerings, buyers obtain the security from the dealer at the net price of the offering, which usually is at or below the most recent price registered on the exchange. It is generally the practice of exchanges to require members to obtain the approval of the exchange before participating in such secondary distributions.

During the fiscal year ended June 30, 1951, 5 exchanges reported having approved a total of 80 secondary distributions under which 4,664,187 shares of stock with a market value of $128,017,000 were sold. Further details of secondary distributions of exchange stocks are given in appendix table 10.

UNLISTED TRADING PRIVILEGES ON EXCHANGES

The number of stocks available for trading on an unlisted basis on each of the stock exchanges can be visualized and compared with the number available for trading on a listed basis by reference to the table on the following page.

Clause 1 of section 12 (f) of the Securities Exchange Act of 1934 provides for continuance of unlisted trading privileges to which a security had been admitted on an exchange prior to March 1, 1934. Historically, admission of securities to trading on stock exchanges upon application of members—the so-called "unlisted trading" on exchanges—came first. Any member could have any security added to the roster. As the stock exchanges grew in importance and public interest in them increased, it became necessary to require reports and disclosures from the issuers along with various other actions for protection of the security holders, and it also became possible to charge issuers a fee for listing. Consequently, listing by agreement between the issuers and the exchanges, stipulating what data and actions were required of the issuers, gradually succeeded the process of adding issues to the trading roster upon members' requests. Thus,

Status on each stock exchange June 30, 1951	Number of stocks available for trading [1]				
	On a listed basis	On an unlisted basis pursuant to the following clauses of section 12 (f) of the Securities Exchange Act of 1934.			
		Clause 1		Clause 2	Clause 3
	(3)	*Listed* (4)	*Unlisted* (5)	(4)	(6)
Boston	110	162	2	122	0
Chicago Board of Trade	14	2	3	0	0
Cincinnati	61	0	0	45	0
Colorado Springs [2]	15	0	0	0	0
Detroit	118	14	0	79	0
Honolulu [2]	57	1	34	0	0
Los Angeles	147	40	1	97	0
Midwest	397	0	0	75	0
New Orleans	4	4	10	2	0
New York Curb	434	61	265	2	3
New York Stock	1,495	0	0	0	0
Philadelphia-Baltimore	108	267	5	109	0
Pittsburgh	54	17	0	54	0
Richmond [2]	29	0	0	0	0
Salt Lake	96	0	3	0	1
San Francisco Mining	41	0	0	0	0
San Francisco Stock	193	71	38	55	0
Spokane	25	1	7	0	0
Washington, D. C.	39	0	0	2	0
Wheeling [2]	16	0	0	3	0
	3,453	640	368	645	4

[1] Duplication of issues among exchanges increases the total of each but the last column to more than the actual number of issues involved.
[2] Exempted from registration as a national securities exchange.
[3] Includes registered issues, issues temporarily exempted from registration, and issues listed on the 4 exempted exchanges.
[4] In addition to the unlisted status as shown, these issues are listed on one or more of the registered exchanges.
[5] None of these issues has any listed status on any domestic stock exchange, except that 9 of the 38 San Francisco Stock Exchange issues are also listed on an exempted exchange.
[6] One of the New York Curb issues and the Salt Lake issue have also become listed on a registered exchange, leaving only 2 issues with only an unlisted status.

New York Stock Exchange abolished unlisted trading in 1910. Other leading exchanges such as Boston and Philadelphia continued to allow unlisted trading on their floors in issues listed on some other principal exchange, on the ground that listing on such other exchange afforded the necessary background of reports and actions by issuers. A few exchanges continued to extend unlisted trading privileges to issues not covered by listing agreements between issuers and any domestic stock exchange. New York Curb Exchange is the principal surviving representative of this group and continues to have most of the "clause 1" issues which have no domestic listed status. As anticipated by Congress, when it amended section 12 (f) on May 27, 1936, to provide for limited continuance of unlisted trading on exchanges, there has been a considerable shrinkage in number of "clause 1" issues over the years, as they became listed or were retired, refunded, exchanged for other issues, or otherwise disappeared from exchange trading.

Clause 2 of section 12 (f) provides for the extension of unlisted trading privileges to securities already listed on some other national securities exchange. Most of the trading privileges pursuant to this clause have been applied for and obtained with respect to stock issues by 8 leading regional stock exchanges. Most of the stocks involved are listed on New York Stock Exchange. The total reported volume in "clause 2" stocks during 1950 was about 13,000,000 shares, an important figure to the regional exchanges but equivalent to less than

2% of the share volume on New York Stock Exchange during that year. Admissions of bond issues pursuant to clause 2 have been 8, of which only 2 are extant.

Clause 3 of section 12 (f) provides for the further extension of unlisted trading privileges to unlisted securities. In these cases, information substantially equivalent to that filed in respect of an issue listed on a national securities exchange must be available. Applications covering stocks have been approved by the Commission in 11 instances and with respect to 9 issues, 2 of which were admitted to trading on several exchanges. Only 4 stock issues continue their status under clause 3, and 2 of these have become listed on another exchange leaving only 2 with dependence for status on clause 3. Bond admissions have been 45, but all the issues except 13 have been retired or listed.

The status of stock and bond issues admitted to unlisted trading pursuant to clauses 2 and 3, and the reported volumes of trading therein for the calendar year 1950, are shown in appendix table 17.

The unduplicated number of stock issues admitted to unlisted trading on the exchanges, and which are not listed on some national securities exchange as well, was 354 as of June 30, 1951, aggregating 342,084,643 shares or less than 9 percent of all shares on the 20 exchanges. Reported exchange volumes therein for the calendar year 1950 came to 34,310,513 shares or less than 4 percent of the total reported exchange volumes for that year. New York Curb Exchange alone accounted for 32,054,348 or 93.4 percent of the 34,310,513 share volume. In considering these figures, it should be recalled that reported ticker volume of New York Curb Exchange is less than 90 percent of the true total, and that volume of trading in stocks removed during the year is not included.

Bond issues admitted to unlisted trading on the exchanges have become reduced over the years to a very small number. As of June 30, 1951, there were 59 pursuant to clause 1, 2 pursuant to clause 2, and 13 pursuant to clause 3. All but 3 of the issues were on New York Curb Exchange. Of the total 74 issues, 6 were listed on another national securities exchange and 68 were not so listed.

Applications for Unlisted Trading Privileges

As a result of applications filed pursuant to clause 2 of section 12 (f) and approved by the Commission during the 1951 fiscal year, unlisted trading privileges were extended as follows:

Stock exchange applying:	*Number of stocks*
Boston	18
Cincinnati	1
Detroit	3
Los Angeles	23
Midwest	2
New Orleans	2
New York Curb	1
Philadelphia-Baltimore	8
Pittsburgh	1
San Francisco	8
	67

975942—52——4

The actual number of issues involved is less than 67 since applications by different exchanges are often with respect to the same issue, resulting in duplication.

No applications were made or approved during the fiscal year for unlisted trading privileges in bond issues pursuant to clause 2, nor for unlisted trading privileges in either stock or bond issues pursuant to clause 3 of section 12 (f).

Changes in Securities Admitted to Unlisted Trading Privileges

The usual considerable number of notifications of minor changes in securities admitted to unlisted trading was received during the year from the stock exchanges pursuant to paragraph (a) of rule X–12F–2.

Applications for continuance of trading in unlisted issues after more important changes than those contemplated under paragraph (a) of rule X–12F–2 are made under paragraph (b) of that rule, and were limited during the last fiscal year to one by New York Curb Exchange in the case of Nippon Electric Power Company, Ltd., 6½ percent bonds due 1953 which was withdrawn when the Curb obtained a listing of the bonds, and one by Boston Stock Exchange in the case of Chicago, Milwaukee, St. Paul & Pacific Railroad Company common stock which was withdrawn upon approval of unlisted trading in that issue pursuant to clause 2 of section 12 (f). Accordingly, no denials and no grants of applications pursuant to paragraph (b) of rule X–12F–2 were made during the last fiscal year. The Commission prefers that application for trading be made pursuant to clause 2 of section 12 (f) rather than paragraph (b) of rule X–12F–2 whenever this course is possible.

DELISTING OF SECURITIES FROM EXCHANGES

Securities Delisted by Application

The granting of applications filed by New York Stock Exchange pursuant to rule X–12D2–1 (b) resulted in the delisting of 3 bond and 2 stock issues from that exchange during the fiscal year. The applications covering the bonds and 1 of the stocks declared the amounts in public hands were no longer sufficient to warrant exchange trading,[2] and the application covering the remaining stock was based on bankruptcy and termination of transfer facilities.[3]

The granting of applications filed by issuers pursuant to rule X–12D2–1 (b) resulted in the delisting of 9 stock issues of 6 issuers during the fiscal year. Inactivity on the exchange was given as a reason for delisting 4 stock issues of 3 issuers on the Chicago Board of Trade[4] and 3 stock issues of an issuer on Cincinnati Stock Ex-

[2] Illinois Central R. R. Co., 4 percent Leased Line Stock, Securities Exchange Act release no. 4507 (1950). Adriatic Electric Co., 7 percent bonds due 1952, Securities Exchange Act release no. 4511 (1950). Illinois Central R. R. Co., sterling 3 percent bonds due 1951, Securities Exchange Act release no. 4554 (1951). Ernesto Breda Co., 7 percent bonds due 1954, Securities Exchange Act release no. 4554 (1951).

[3] Norwalk Tire & Rubber Co., common stock, Securities Exchange Act release no. 4496 (1950).

[4] Knickerbocker Fund for the Diversification, Supervision and Safekeeping of Investments, shares of beneficial interest, Securities Exchange Act release no. 4496 (1950). Corn Products Refining Co., preferred and common, Securities Exchange Act release no. 4587 (1951). Allied Mills, Inc., common stock, Securities Exchange Act release no. 4595 (1951). Corn Products Refining Co. preferred and common and Allied Mills, Inc. common stock remain listed on New York Stock Exchange.

change.[5] Concentrated ownership was the basis of application with respect to an issue on Midwest Stock Exchange,[6] and acceptance of an offer to exchange into stock of another company except for a small residue was the basis with respect to an issue on San Francisco Stock Exchange.[7]

Securities Delisted by Certification

Securities which have been paid at maturity, redeemed, or retired in full, or which have become exchangeable for other securities in substitution therefor, may be removed from listing and registration on a national securities exchange if the exchange files a certification with the Commission to the effect that such retirement has occurred. The removal of the security becomes effective automatically after the interval of time prescribed by rule X–12D2–2 (a). The exchanges filed certifications under this rule effecting the removal of 183 separate issues. In some instances the same issue was removed from more than one exchange, so that the total number of removals, including duplications, was 226. Successor issues to those removed became listed and registered on exchanges in many cases.

In accordance with the provisions of rule X–12D2–1 (d), New York Curb Exchange removed 3 issues from listing and registration when they became listed and registered on New York Stock Exchange. This rule permits a national securities exchange to remove a security from listing and registration in the event trading therein has been terminated pursuant to a rule of the exchange which requires such termination if the security becomes listed and registered and admitted to trading on another exchange. Removal under this rule is automatic, the exchange being required merely to notify the Commission of the removal.

Securities Removed from Listing on Exempted Exchanges

A security may be removed from listing on an exempted exchange merely upon notification by such an exchange to the Commission setting forth the reasons for such removal. Honolulu Stock Exchange removed five issues from listing thereon during the year due in one case to the call of the security for redemption and in two cases due to the liquidation of the issuers. In the remaining two cases the securities became exchangeable for other securities which subsequently became listed on the same exchange.

MANIPULATION AND STABILIZATION

One of the evils which the Securities Exchange Act of 1934 was primarily designed to prevent is the manipulation of security markets by practices which are deceptive or otherwise improper. Sections 9, 10, and 15 of the Act prohibit certain specifically described forms of manipulative activity such as wash sales, if effected for the purpose of creating a false or misleading appearance of the market and matched orders, if entered for a like purpose; effecting a series of transactions in which the price of a security is raised or depressed,

[5] Carthage Mills Incorporated, Preferred "A", Preferred "B" and common stock, Securities Exchange Act release no. 4558 (1951).
[6] W. H. Barber Co., common stock, Securities Exchange Act release no. 4486 (1950).
[7] Hale Bros. Stores, Inc., common stock, Securities Exchange Act release no. 4566 (1951).

or in which the appearance of active trading is created, for the purpose of inducing purchases and sales by others; circulation by a broker, dealer, seller or buyer, or by a person who receives a consideration from a broker, dealer, seller or buyer, of information concerning market operations conducted for a rise or a decline; and the making of material false and misleading statements by brokers, dealers, sellers and buyers, or the omission of material information regarding such securities, for the purpose of inducing purchases or sales.

Pursuant to its statutory authority, the Commission has adopted rules and regulations to aid it in carrying out the expressed will of Congress. Sections 9, 10, and 15 as augmented by the Commission's rules and regulations are aimed at freeing our securities markets from artificial influence and maintaining fair and honest markets, where prices are established by supply and demand and are uninfluenced by manipulative activity.

Manipulation

The manipulation of security prices in years prior to the enactment of the Securities Exchange Act took millions of dollars annually from the public and was one of the principal reasons for the adoption of the Act. In the early days of the Commission's existence, some market operators attempted to continue their manipulative activities. The Commission uncovered these activities and caused the imposition of various penalties upon certain operators, including expulsions from exchanges, revocation of broker-dealer registrations, fines and jail sentences.

As a result of the administration of the Act, manipulation has been reduced to a point where it is no longer an appreciable factor in our markets. However, sporadic attempts artificially to raise or depress the prices of securities are still encountered, and it is evident that any relaxation of market surveillance on the part of the Commission would create a danger of reestablishment of many of the manipulative practices the Act was designed to prevent.

The staff regularly scrutinizes price movements in approximately 8,200 securities, including about 3,600 issues traded on exchanges and about 4,600 of the most active over-the-counter issues. The volume of transactions of listed securities and the number of dealers making a market in over-the-counter issues are also closely observed. An observation is made on a daily basis of all listed securities as they appear in such publications as the Wall Street Journal and of over-the-counter issues as they appear in The National Daily Quotation Service. Complete records are kept on a weekly basis (with the exception of about 600 inactive issues which are kept on a monthly basis) of all of the above-mentioned securities. In addition unusual activity in stock transactions on the New York Stock Exchange and the New York Curb Exchange is observed from the ticker as soon as it occurs.

Information maintained concerning all these securities includes not only data reflecting the market action but also includes the latest news items, earnings figures, dividends, options and other facts which might explain price and volume changes. Trained analysts daily scan the Wall Street Journal, Standard and Poor's, Moody's and other financial publications and record any items that might be reflected in the market price of these securities. Reports required by

the Securities Acts from corporations or their officers, directors and 10 percent stockholders and from registered broker-dealers are studied. Important information contained in these reports is recorded on the securities' weekly price and volume record. All possible known information regarding a security is maintained on a current basis. Dates of public releases of any news regarding a company are carefully recorded. At the inception of any unusual volume of trading or price fluctuations in a security, all this information is reexamined. The market action of the security is compared with the action of other securities in the same industry group and with the action of the general market and a conclusion drawn as to the necessity for an investigation.

The markets for securities about to be sold to the public are watched very closely. In this connection the markets for 1,370 issues in the amount of $173,209,739 offered under Regulation A, were carefully checked for improper pricing or market grooming. Over 500 other securities were kept under special daily observation during the 1951 fiscal year for periods from 10 to 90 days, largely because a public offering under a registration statement was proposed with the right to stabilize reserved by the underwriter or issuer. Issues actually offered during the fiscal year had a public offering price in excess of $3,380,000,000.

In administering the anti-manipulative provisions of the Act there is a premium on prompt action to prevent harm before it occurs, and at the same time to avoid interference with the legitimate functioning of the markets. To accomplish this the Commission has continuously modified and sought to improve its procedures for the systematic surveillance of trading in securities. Methods used to detect manipulation have necessarily been flexible, since techniques employed by manipulators change constantly, increasing in subtlety and complexity.

The Commission operates on the premise that manipulation should be, and in most cases can be, suppressed at its inception. Losses suffered by the public are seldom recoverable, even though the perpetrator of a fraud is brought to justice. Therefore, it is believed that it is more important to prevent a possible manipulation than to allow unlawful market operations to continue until it appears that sufficient evidence for a successful prosecution is available.

It has been found that many would-be violators of the regulations prohibiting manipulation have been halted by prompt inquiries by the Commission. The fact that trading in a given security is under investigation is kept confidential by the Commission, as public knowledge of the existence of such investigations may unduly affect the market or reflect unfairly upon individuals whose activities are being investigated. As a result, the Commission occasionally receives criticism for failure to investigate certain cases when in fact it is actually engaged in an investigation. However, while the general public is unaware that an inquiry is being made, any person or group of persons conducting unusual market activity in a security will be made aware by questions asked either their brokers or themselves after the brokers have supplied the names of their principals. In this connection the Commission receives excellent cooperation from the stock exchanges and from brokers and dealers.

The Commission's surveillance of unusual market activity may

take the form of a simple inquiry, addressed to an exchange or broker by our nearest Regional Office, asking for an explanation or the names of the buyers and sellers. This type of inquiry is used when the market activity is limited to a brief period during a day's trading or at most a single day's transactions. If the explanation is logical and devoid of manipulative features, no further investigation is made. If the explanation is considered unsatisfactory, an investigation is initiated and conducted by our Regional Office located nearest the exchange or market on which the transactions were made.

Investigations take two forms. The "quiz" or preliminary investigation is designed to detect and discourage incipient manipulation by a prompt determination of the reasons for unusual market behavior. Often the quiz discloses no violations of the anti-manipulative provisions of the Securities Acts. The quiz is then closed. If possible violations of other sections of the Securities Acts or violations of other statutes are revealed, the information obtained in the "quiz" is made available to the proper division of the Commission or to the appropriate agency for any action that they might consider necessary. When facts are uncovered which require more intensive investigation, formal orders are issued by the Commission. In a formal investigation, members of the Commission staff are empowered to subpena pertinent material and to take testimony under oath. In the course of such investigations, data on purchases and sales over substantial periods of time are compiled and trading operations involving considerable quantities of securities are often scrutinized.

Trading investigations

	"Quizzes"	Formal investigations
Pending June 30, 1950	77	11
Initiated in period July 1, 1950–June 30, 1951	144	2
Total to be accounted for	221	13
Closed or completed during fiscal year	105	3
Changed to formal during fiscal year [1]	3	
Total disposed of	108	3
Pending at end of fiscal year	113	10

[1] During the fiscal year 2 "quizzes" were combined into 1 Formal.

Stabilization

In administering those provisions of the Securities Exchange Act prohibiting manipulation of securities prices certain stabilizing transactions are permitted. Stabilizing is a word which is frequently misunderstood. The law prohibits injection of artificial activity into the market. One exception is stabilization. But stabilizing is permissible only when it is used to prevent or retard a price change, usually a decline. No moving around of the market under the label of stabilizing is permitted. Stabilization means maintenance of a price independently reached in the market.

Prudent regulation by this Commission has permitted the investment industry to change its methods with changing conditions and to achieve its primary function—which is to supply industry with the

capital it needs. For this purpose formal Commission rules dealing with stabilization relate only to offerings "at the market" or at prices related to a changing market price. The practice applicable to fixed price offerings is embodied in a wealth of interpretative material. It is the Commission's experience that issuers and underwriters place great value on the immediate service which the Commission is able to render them by being at all times available to give them responsible advice as to the proper stabilizing techniques in the offerings of securities. Also the same policy of the Commission extends to both manipulation and stabilization in that it seeks to prevent violations of the law rather than to allow them to develop to the point where monetary losses occur. The investor naturally wants to see a violator of the law brought to justice, but this does not insure the return of any financial loss that he may have suffered.

The law requires that all issuers or underwriters must file with the Commission a notice of intent to stabilize if an issue is to be stabilized. Thus the staff is able to observe and assist the registrant before and during an offering.

Of 554 registration statements filed during the fiscal year, 231 contained a statement of intention to stabilize to facilitate the offerings covered by such registration statements. Each of these latter filings was examined critically as to the propriety of the proposed method of distribution, market support and the full disclosure thereof.

Stabilizing operations were conducted in offerings of stock issues aggregating 19,461,164 shares with an aggregate public offering price of $402,878,038. Bonds stabilized had a total face amount of $64,500,000. In connection with these stabilizing operations over 350 conferences were held with representatives of issuers and underwriters. Many more written and telephone requests were answered to assist them to avoid violations of the rules. 9,210 reports from these representatives were received, listed, examined and filed.

SECURITY TRANSACTIONS OF CORPORATION INSIDERS

Purpose of Regulation

In the Congressional hearings which led to the passage of the Securities Exchange Act of 1934, a common practice among some officers, directors, and large stockholders of engaging in short-term speculation in the listed stocks of their companies was revealed. For example, four of the officers and directors of a company were participants in a pool which made a profit of some $200,000 in less than 3 months in 1933 through trading in the company's common stock. In another instance the president of a company together with his brothers controlled the company through ownership of a little more than 10 percent of its stock. They sold their holdings for upward of $16,000,000 shortly before the company passed a dividend and later repurchased the stock for about $7,000,000, making a profit of approximately $9,000,000 on the transaction. In these instances not only were the insiders profiting by transactions based on information available to them solely because of their privileged position and not available to the public, but the stockholders and the investing public were unaware and had no way of knowing that they were trading in their companies' stocks. Such abuses as these and others led to the in-

clusion of the provisions of section 16 in the Securities Exchange Act. The basic Congressional objectives sought in the provisions of section 16 are twofold: (1) to provide public stockholders with information as to the prospects of their company which may be implicit in the security transactions of the insiders; and (2) to prevent corporation insiders from using inside information to unfair advantage in security trading.

Reports of Transactions and Holdings

For the purpose of affording to the public information as to the transactions and holdings of insiders, section 16 (a) provides that every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security which is listed and registered on a national securities exchange, or who is an officer or director of the issuer of such a security, shall file with the exchange and the Commission, at the time of the registration of such security or within 10 days after the time he becomes such beneficial owner, officer or director, a statement of the amount of all equity securities of such issuer of which he is directly or indirectly the beneficial owner, and within 10 days after the close of each month thereafter in which there has been any change in his beneficial ownership a statement indicating such changes and his holdings at the close of the month. Similar provisions are contained in section 17 (a) of the Public Utility Holding Company Act of 1935 covering officers and directors of registered public utility holding companies and in section 30 (f) of the Investment Company Act of 1940 covering officers, directors, principal security holders, members of advisory boards, investment advisers, and affiliated persons of investment advisers of registered closed-end investment companies.

Publication of Data Reported

The originals of these reports are available for public inspection from the moment they are filed. Recognizing, however, that a relatively limited number of investors have the opportunity to inspect the reports at the Commission's central office or at exchanges where additional copies of section 16 (a) reports must also be filed, the Commission condenses and publishes the information contained in the reports in a monthly Official Summary of Security Transactions and Holdings for distribution to investors, newspaper correspondents, press services and other interested members of the public. The elimination of certain items of nonessential data and slight changes in the format of the Summary have made it possible during the 1951 fiscal year to reduce the size of the Summary more than a third, with a corresponding reduction in printing and related costs.

Volume of Reports Filed and Examined

The number of reports filed during the 1951 fiscal year, as shown in the following table, represents an increase of more than 11 percent over the number filed during the preceding year. In fact, it is the largest number of such reports filed in any fiscal year since 1938.

Number of security ownership reports of officers, directors, principal security holders, and certain other affiliated persons filed and examined during the fiscal year ended June 30, 1951

Description of report [1]	Original reports	Amended reports	Total
Securities Exchange Act of 1934:			
Form 4	16,784	908	17,692
Form 5	618	10	628
Form 6	2,401	55	2,456
Public Utility Holding Company Act of 1935:			
Form U-17-1	86	0	86
Form U-17-2	408	15	423
Investment Company Act of 1940:			
Form N-30F-1	125	7	132
Form N-30F-2	656	45	701
Total	21,078	1,040	22,118

[1] Form 4 is used to report changes in ownership; Form 5, to report ownership at the time any equity security is first listed and registered on a national securities exchange; and Form 6, to report ownership of persons who subsequently become officers, directors, or principal stockholders of the issuer of such a listed and registered equity security, under sec. 16 (a) of the Securities Exchange Act of 1934. Form U-17-1 is used for initial reports and Form U-17-2 for reports of changes in ownership of securities under sec. 17 (a) of the Public Utility Holding Company Act of 1935. Form N-30F-1 is used for initial reports and Form N-30F-2 for reports of changes in ownership of securities under sec. 30 (f) of the Investment Company Act of 1940.

Preventing Unfair Use of Inside Information

For the purpose of preventing the unfair use of information which may have been obtained by an insider by reason of his relationship to his company, section 16 (b) of the Securities Exchange Act of 1934 provides for the recoverability by or in behalf of the issuer of any profit he may realize from any purchase and sale, or any sale and purchase, of any equity security of the company within any period of less than six months. Corresponding provisions are contained in section 17 (b) of the Public Utility Holding Company Act of 1935 and section 30 (f) of the Investment Company Act of 1940. While the Commission is not charged with the enforcement of the civil remedies created by these provisions, which are matters for determination by the courts in actions brought by the proper parties, it is interested in seeing that information with respect to possible profits by insiders is made available to issuers and public stockholders.

SOLICITATION OF PROXIES, CONSENTS, AND AUTHORIZATIONS

Pursuant to sections 14 (a) of the Securities Exchange Act of 1934, 12 (e) of the Public Utility Holding Company Act of 1935 and 20 (a) of the Investment Company Act of 1940 the Commission has adopted Regulation X–14 which is designed to regulate the solicitation of proxies, consents and authorizations in connection with securities of companies subject to those statutes in order to protect investors by requiring the disclosure of certain information to them at the time their proxies are solicited. The information prescribed for such disclosure is calculated to enable the investor to act intelligently upon each separate matter with respect to which his vote or consent is sought. The regulation also contains provisions enabling security holders who are not allied with the company's management to communicate with other security holders when management is soliciting proxies, either by arranging for the distribution of their own proxy statements or through the inclusion of their proposals in the proxy statements of management.

Statistics Relating to Proxy Statements

A slight increase occurred in the number of proxy solicitations made pursuant to Regulation X–14 during the 1950 calendar year when the staff of the Division of Corporation Finance received and examined material relating to 1,737 proxy solicitations including "follow-up" material in 185 instances, compared with 1,653 solicitations made in the preceding calendar year.[8]

The number of solicitations made by management during the 1950 calendar year accounted for 1,713 or nearly 99 percent of all proxy statements filed that year; nevertheless, there were 24 solicitations made during the same period by non-management groups. Besides, 57 of the 1,713 proxy statements filed by management contained 97 proposals of 24 different stockholders. Certain of these stockholders arranged for the inclusion of their proposals in the proxy statements of more than one company. The number of management proxy statements including such stockholder proposals has increased from 19 in 1946 to 57 in 1950, while such stockholder proposals have grown from 34 to 97 and the number of different stockholders making these proposals has correspondingly risen from 9 to 24.

The election of directors overshadows in its frequency all other items of business combined for which proxies are sought. Thus in 1950 there were proxy statements covering 1,523 stockholders' meetings at which the election of directors was one of the items of business, and 191 meetings not involving the election of directors, along with 23 remaining solicitations seeking assents and authorizations which did not involve any meeting or any voting upon directors.

The items of business other than that of election of directors for which stockholders' action was sought in the 1950 calendar year covered many specific proposals, the wide range and frequency of which may be noted in the following tabulation.

Item of business other than election of directors	Number of proxy statements
Mergers, consolidations, acquisitions of businesses, and purchases and sales of properties	33
Issuance of new securities, modification of existing securities, recapitalization plans other than mergers or consolidations	229
Employees pension plans	152
Bonus and profit-sharing plans, including stock options	52
Indemnification of officers and directors	8
Change in date of annual meeting	18
Miscellaneous amendments to bylaws and other matters	187
Approval of independent auditors	385

A remarkable increase is reflected above in the number of proxies submitting employees pension plans to the vote of stockholders. Thus, the 152 such proxies filed in the 1950 calendar year may be compared with 49 in 1949; 59 in 1948; 66 in 1947; and 75 in 1946. This increase is due largely to the negotiation of a number of plans recently on an industry-wide basis.

Examination of Proxy Material

Copies of proposed proxy material must be filed in preliminary form with the Commission, for its information and processing only,

[8] On a fiscal year basis 1,788 solicitations were made in 1951 as compared with 1,668 in 1950. "Follow-up material was used in 192 instances during the 1951 fiscal year.

at least 10 days prior to the date the definitive copies are first sent or given to security holders; and copies of the statement in definitive form must be filed at the time proxy material is furnished to security holders. The Commission's proxy examination work must be completed during this comparatively brief interval between the filing of the material in its preliminary and definitive forms. Where a preliminary proxy statement fails to set forth information meeting the disclosure standards of the statute and the regulation, the parties concerned are notified immediately to that effect and given an opportunity to correct any such discrepancy before the definitive proxy statement is prepared. Illustrations of changes made in proxy material as a result of the Commission's examination procedure arising in actual cases during the 1951 fiscal year are given below.

Consolidated financial statements required.—Under the regulation a proxy statement may incorporate by reference any financial statements contained in an annual report sent to security holders in connection with the same meeting as that to which the proxy statement relates, provided such financial statements substantially meet the requirements of the Commission's regulations governing the form and content of financial statements. A large grocery chain-store corporation, as a part of the preliminary proxy material relating to a proposal to increase its authorized preferred stock, included the financial statements that had been used in its annual report to stockholders for the preceding year. However, the accounts of three major subsidiaries, one financing fixture and equipment purchases, the second purchasing merchandise for the registrant, and the third operating a chain in Canada, were not included in the consolidated financial statements in that annual report, the accounts of the parent and certain other subsidiaries having been consolidated in those statements. The effect was that neither a substantial amount of property and other assets used in the registrant's business nor senior securities of the unconsolidated subsidiaries were shown in the consolidated balance sheet proposed to be submitted to stockholders with the proxy solicitation.

The staff took the position that in view of the importance of the three unconsolidated subsidiaries to the integrated operations of the registrant the financial statements to be made part of the proxy material to be furnished stockholders should be on a complete consolidated basis. As a result the definitive proxy material as sent to stockholders contained financial statements on that basis.

Certain problems solved in accounting for acquisition of business and assets.—Proxy statements prepared in connection with plans for acquisition, merger or recapitalization of corporations frequently raise special problems as to what financial statements will adequately reveal the proposed action. For example, a steel manufacturing company in its offer to acquire the business and assets of another company in a related business proposed to pay for the net assets to be acquired with additional issues of its senior and junior capital shares in an aggregate amount which the acquiring company considered represented fair value for the acquisition. These securities were to be distributed to the holders of the senior and junior securities of the company being acquired according to a fixed pro rata basis, thereby effecting the dissolution of the company. The purchase price of the assets being acquired, paid by the issuance of capital stock, was substantially in excess of the book value of the assets. This excess was

allocated to fixed assets since the amount was approximately equivalent to the difference between independent currently appraised values and book values.

In the preliminary proxy material proposed to be submitted to the stockholders of the respective companies, statements of earnings and of assets, liabilities and capital of the respective companies were furnished in conventional form. However, the proposed data did not readily demonstrate the impact of the acquisition upon the acquiring company as affected (1) by the new capital structure and (2) by the new valuation placed upon the fixed assets to be acquired. Specifically, the stockholders would be unable to determine readily (1) the coverages of liquidating values and of dividend requirements of the preferred shares as increased, and (2) the earnings per share of the common stock as increased and as affected by the increased amount of the preferred stock. Accordingly, the respective companies were requested by the staff to furnish in the proxy statements a pro forma consolidating balance sheet giving effect to the recapitalization and acquisition, together with a pro forma statement of profit and loss for the year 1950 of both companies combined, calculating the income and excess profits taxes under the Revenue Act of 1950 for the entire year, and calculating depreciation charges upon the basis of the increase in valuation of the fixed assets. Also upon such request the pro forma net income, applicable to common stock in the aggregate and in per share amounts after provision for preferred stock dividends, was stated and accompanied by an explanation that this information was not necessarily indicative of the results of future operations or the availability of net income for dividend purposes.

Complete financial statements required in order to show results of significant corporate proposals.—A registrant engaged in real estate operations submitted preliminary draft copies of proxy solicitation material, without complete financial statements, seeking among other matters authorization of stockholders to amend the company's certificate of incorporation so as to reduce the par value of capital stock by a split-up from $10 per share to $1 per share; to reduce correspondingly the capital of the company from $4,255,690 to $425,569; to execute eighteen separate mortgages, together covering all of the company's real properties and aggregating $5,000,000 in principal amount to mature in 10 years, with interest at the rate of 4 percent per annum; to distribute forthwith to stockholders the $5,000,000 of mortgage proceeds and other funds of the company aggregating $5,250,252. The company stated that financial statements had not been included for the reason that they were not deemed material for the exercise of prudent judgment in regard to the matters to be acted upon at the meeting. The company had included a summary of the balance sheet at the close of its last fiscal year and a table showing for ten years the "net income after operating expenses, adjusted to exclude interest on indebtedness, depreciation, and income taxes."

The first letter of comment issued by the Division of Corporation Finance indicated the need to furnish to stockholders in this connection certified financial statements for three fiscal years, unaudited statements of a more recent date, and a pro forma balance sheet as of such recent date showing the effect of the proposed transactions covered by the proxy statement. The company was also requested to

furnish to stockholders a complete summary of earnings for the last ten fiscal years.

The most recent balance sheet indicated a stockholders' equity of $6,236,210.30; and the pro forma balance sheet, as of the same date, after giving effect to mortgaging of properties, reduction of capital and distribution to stockholders, indicated a stockholders' equity of $835,951.10. The table of "adjusted income" originally submitted averaged $729,000 per year (with a minimum of $688,000 and maximum of $787,000) compared with interest and amortization on the proposed mortgages of $385,000, which latter figure was changed to $350,000 in the revised material. The revised summary of earnings for ten years and six months afforded adequate material for analysis of the effect of the change in capital structure of the company by showing in separate columns "Rental and Other Income"; "Operative, Administrative, and General Expense"; "Depreciation" (revealed as being in excess of $200,000 per year); "Interest on Indebtedness" (none in the last six months shown); "Income Taxes"; and "Net Income."

Failure to disclose certain essential information including the names of persons acquiring a controlling block of common stock from the issuer.—The registrant filed preliminary proxy soliciting material to be used in connection with a forthcoming annual meeting at which it was proposed (1) to vote upon a proposal to lease the registrant's plants and equipment for a term of years to a corporation controlled by an outside group and (2) to elect nine directors for the coming year. Five directors were to be elected by holders of the registrant's preferred stock because of defaults in the payment of dividends, and four by holders of registrant's common stock. The management and control of the registrant had been changed some months previously. The financial position of the registrant was very weak due to continued losses in its peacetime operations and large indebtedness which was past due. The material indicated it was anticipated that within six months there would be submitted to stockholders for their approval a plan of recapitalization, including the issuance of a large block of common stock, in exchange for the outstanding stock of the lessee corporation. Such stock would have represented control of the registrant.

No disclosure was made of the names of the persons financially interested in the lessee corporation who might succeed to control of the registrant. This and other deficiencies were brought to the attention of the registrant, after which revisions of the preliminary soliciting material were filed. The proposal to lease the plants was ultimately abandoned, among other reasons because the registrant was unable to obtain the required consents of its mortgage creditors. The revised material proposed a plan of recapitalization which involved the issue of common stock for cash to the same outside group. The obligation to purchase such additional stock was subject to various material conditions which had to be met by the company. These proposals would have substantially reduced the interests of the old common and preferred stockholders, and would have given control of the company to the outside group, who for the first time were named.

A few years earlier, the Commission had obtained an order enjoining the central figure in this group from the purchase of certain securities in violation of the Securities Exchange Act of 1934. Certain other

questionable activities of this individual had been brought to the Commission's attention in the course of its earlier investigation of investment companies. Because of continued material deficiencies in the revised proxy soliciting material, the Commission ordered a private investigation under section 21 (a) of the Securities Exchange Act of 1934. During the course of the investigation the registrant made numerous revisions to reflect facts disclosed by the investigation. The registrant apparently was reluctant, however, to disclose the existence of the injunction against the principal promoter as well as other adverse facts regarding him developed during the course of the investigation.

Subsequently, the registrant abandoned the proposed plan of recapitalization, including the sale of common stock, and confined its deferred annual meeting to the election of directors, for which a committee acting on behalf of holders of preferred stock had solicited sufficient proxies to elect a majority of the board.

Problem arising in use of inventory reserves to equalize reported income.—The Commission's 14th Annual Report [9] referred to the adoption by the American Institute of Accountants of research bulletins recommending that inventory reserves created in anticipation of losses not yet incurred should not enter into the determination of income. These bulletins assisted in correcting a troublesome practice that had arisen during and immediately after World War II. While this problem was largely corrected in recent years, it arose in the 1951 fiscal year in connection with the examination of a proposed proxy statement soliciting authority to dispose of all of the assets of that part of the company's business to which the inventories in question applied. The independent public accountants of this particular company, a leading processor of certain raw materials, had noted in their certificate accompanying the registrant's first annual report following the publication of the Institute's bulletins that the net income for the fiscal year had benefited through return to income of previously created reserves and that under recently accepted accounting principles the amount should have been restored directly to surplus. That annual report and the subsequent year's annual report submitted on the same basis were amended at the request of the staff to eliminate the qualification in the certificate of the accountants and to return the reserve directly to surplus.

Despite the fact that the Commission had required such amendment of those annual reports, the company included in a preliminary proxy filed in the 1951 fiscal year a summary of earnings for ten years prepared on the original basis. In this summary the first seven years reflected deductions for additions to the inventory reserve and the years 1948 and 1949 reflected partial return of the reserves to income. Results for 1950 were not furnished in this preliminary proxy material. When complete financial statements including a new summary were then furnished at the instance of the Commission, it was discovered that while data for two of the years summarized, 1948 and 1949, were restated to conform to the amended annual reports, a footnote was appended to the net profit item for the year 1947 which read: ". . . after appropriation of $1,500,085—see Consolidated Statement of Profit and Loss." In the opinion of the Commission's staff,

[9] 14th Annual Report, page 110.

which corresponds with the Institute's recommendation noted above, the amount of $1,500,085 was an appropriation of surplus and not a proper charge in the profit and loss statement. Accordingly, the issuer was advised that the net profit for the year in question should be reported before making the $1,500,085 deduction, and that the footnote should be deleted. The issuer was further advised that, to the extent that other deductions in prior years represented appropriations of income similar to that made in 1947, the earnings summary should be recast to show results for all years on a uniform basis.

As a result of the amendments secured in this case, the net profit for each of the seven years 1941 through 1947 was reflected in the summary as revised at a substantially higher figure, the effect of which was to increase the net profit shown for the seven-year period from approximately $7,000,000 to $12,000,000. That no losses in the amount of this difference had been sustained over the period seems clear by a statement in the definitive proxy material that the market value of inventory early in 1951 was approximately $5,000,000 in excess of (or about double) the book value, which value represented cost under the last-in-first-out method of pricing.

REGULATION OF BROKERS AND DEALERS IN OVER-THE-COUNTER MARKETS

Registration

Section 15 (a) requires the registration of brokers and dealers using the mails or instrumentalities of interstate commerce to effect transactions in securities on over-the-counter markets, except those brokers and dealers whose business is exclusively intrastate or exclusively in exempt securities.

Statistics relating to registrations of brokers and dealers fiscal year ending June 30, 1951

Effective registrations at close of preceding fiscal year	3,930
Effective registrations carried as inactive [1]	70
Registrations placed under suspension during preceding fiscal year	0
Applications pending at close of preceding fiscal year	23
Applications filed during fiscal year	464
Total	4,487
Applications withdrawn during year	16
Applications cancelled during year	0
Registrations withdrawn during year	363
Registrations cancelled during year	43
Registrations denied during year	0
Registrations suspended during year	0
Registrations revoked during year	85
Registrations expired by Rule X–15B–3	0
Registrations effective at end of year	3,945
Registrations effective at end of year carried as inactive [1]	9
Applications pending at end of year	26
Total	4,487

[1] Registrations on inactive status because of inability to locate registrant despite careful inquiry.

Administrative proceedings

Registration may be denied or revoked by authority of section 15 (b) of the Act, and brokers and dealers may be suspended or expelled from national securities associations and exchanges for specific types of

misconduct on the part of the firm, its partners, officers, directors or employees. To carry out these provisions of the Act, applications for registration must be examined in the light of the information contained therein and information obtained from numerous other sources available to the Commission in order to determine whether the firm is entitled to registration for which it has applied. When it appears that an applicant may be disqualified under such standards, proceedings are ordered by the Commission to determine whether on the evidence adduced it is consistent with public interest to permit registration. The applicant is, of course, given notice of the issues to be considered and afforded full opportunity to be heard thereon. Similar procedures are followed in proceedings brought against registered brokers and dealers to determine whether registration should be revoked or the firm suspended or expelled from membership in a national securities exchange or association. The following tabulation reflects the number of such proceedings pending during the fiscal year:

Record of broker-dealer proceedings to deny registration, proceedings to revoke registration, and proceedings to suspend or expel from membership in a national securities exchange or association instituted pursuant to the Securities Exchange Act of 1934 for the fiscal year 1951.

Proceedings pending at start of fiscal year to:	
Revoke registration	11
Revoke registration and suspend or expel from NASD, or exchanges	12
Deny registration to applicant	2
Total proceedings pending	25
Proceedings instituted during fiscal year to:	
Revoke registration	88
Revoke registration and suspend or expel from NASD, or exchanges	4
Deny registration to applicant	5
Total proceedings instituted	97
Total proceedings current during fiscal year	122
DISPOSITION OF PROCEEDINGS	
Proceedings to revoke registration:	
Dismissed on withdrawal of registration	4
Registration revoked	81
Cancelled—proceedings dismissed	3
Total	88
Proceedings to revoke registration and suspend or expel from NASD or exchanges:[1]	
Suspended from NASD—registration not revoked	1
Registration revoked and firm expelled from NASD	2
Registration revoked—no action taken on NASD membership	2
Total	5
Proceedings to deny registration to applicant:	
Dismissed on withdrawal of application	2
Dismissed—registration permitted	4
Total	6
Total proceedings disposed of	99

[1] The National Association of Securities Dealers, Inc., is the only national securities association registered with the Commission.

Proceeedings pending at end of fiscal year to:	
Revoke registration	11
Revoke registration and suspend or expel from NASD, or exchanges	11
Deny registration to applicant	1
Total proceedings pending at end of fiscal year	23
Total proceedings accounted for	122

As shown in the above table, there were pending at the beginning of the fiscal year two proceedings to determine whether applications for registration should be denied or granted, and five such proceedings were instituted during the year. Of these seven, four registrations were granted and the proceedings dismissed; two applicants withdrew their applications; one proceeding remained pending at the end of the year.

At the beginning of the fiscal year, there were 23 pending proceedings to revoke registration, 12 of which also involved consideration of suspension or expulsion from the NASD. During the year, 92 revocation proceedings were instituted, three of which involved also the question of suspension or expulsion from the NASD, and one suspension or expulsion from an exchange. A total of 84 of the proceedings instituted concerned the failure to file financial reports as required by rule X–17A–5, and eight concerned alleged fraudulent conduct. A total of 93 revocation proceedings were decided during the year, leaving 22 pending at the end of the year.

In seven proceedings the Commission revoked registration on findings of fraudulent conduct prohibited by the Securities Act and the Securities Exchange Act, including such frauds as misappropriation of customers' funds and securities, misrepresentations in the sale of securities, manipulation of the market price of securities on national securities exchanges, the sale of unregistered securities in violation of section 5 of the Securities Act, false and fictitious entries on books and records and filing of false financial reports with the Commission.

Proceedings against W. F. Coley & Company, Inc., and Wade F. Coley, its president and controlling stockholder, resulted in an order revoking the registration of the firm, expelling the firm from the NASD, and the finding that Wade F. Coley, personally, was the cause of such order.[10] The Commission found that the firm, aided and abetted by Coley, had misappropriated customers' securities and funds, had concealed such misappropriations by false or deficient records, and had filed false financial reports with the Commission.

In proceedings against Mercer Hicks Corporation and Mercer Hicks, its president and controlling stockholder, the Commission revoked the registration of the firm, expelled it from the NASD, and found Mercer Hicks, personally, a cause of such revocation and expulsion,

[10] *In the matter of W. F. Coley & Company, Inc.*, Securities Exchange Act release No. 4470, July 18, 1950. On Oct. 30, 1950, Wade F. Coley was convicted in the United States District Court at Greenville, S. C., on a plea of guilty, to an indictment charging violations of the anti-fraud provisions of the Securities Act of 1933, the Mail Fraud Statute, section 17 (a) of the Securities Exchange Act and Rule X–17A–3 thereunder requiring registered brokers and dealers to keep public books and records, the Perjury Statute, and the False Statement Section (Section 1001) of the Criminal Code in connection with his operation of W. F. Coley & Company, Inc., and the effecting of securities transactions on behalf of customers of that firm.

the respondents consenting thereto.[11] On the respondents' admission of the facts alleged, the Commission found that Mercer Hicks Corporation and Mercer Hicks, individually, had made false and misleading representations in the sale of the corporation's stock, that purchasers were told that the corporation was being operated at profit but were furnished with no financial data, and that purchasers were not informed of the corporation's operating deficits or the fact that dividends were paid out of capital surplus obtained from the sale of the stock. The Commission also found that the corporation and Hicks appropriated funds and securities held for customers and substituted therefor the stock of the corporation, without the knowledge of these customers.

It is customary, when adequate evidence of violations can be obtained in time, to institute court action promptly to enjoin further violations, deferring until later consideration of other remedial or punitive action. Thus in the instance of Mercer Hicks Corporation, the Commission's action to revoke its broker-dealer registration was instituted after the district court, Southern District of New York, had enjoined the fraudulent acts and practices later alleged in the revocation proceedings.[12] In two other instances during the current year, registration was revoked on findings of fraudulent conduct by the registrants after a court had enjoined them from further violations.[13]

In proceedings resulting in the revocation of the broker-dealer registration of Lawrence R. Leeby,[14] the Commission rejected the contention that a broker-dealer, conducting a securities business as a sole proprietor, may engage in "personal transactions" as distinguished from "company transactions" without recording them on his business books. This proceeding is also significant because it is the only instance in which the Commission has twice revoked the registration of a broker-dealer. Leeby first became registered in 1936. In 1943, the Commission revoked his registration on findings of fraudulent practices in the sale of oil royalties. In 1946, he again applied for registration, and after hearings the Commission granted him the limited registration he requested. He was permitted to do business as a broker, but his dealer activities were limited to the sale of investment companies' shares.

On October 21, 1948, he petitioned the Commission to remove the restriction with respect to his dealer activities so that he might do a general securities business. At a hearing on his petition he testified

[11] *In the matter of Mercer Hicks Corp. and Mercer Hicks,* Securities Exchange Act release No. 4557, Jan. 31, 1951.

[12] *SEC* v. *Mercer Hicks Corp. and Mercer Hicks,* S. D. N. Y. No. 5896. Litigation release 632, Dec. 26, 1950.

[13] In May 1949, S. H. Junger, George T. Anderson and Robert S. Junger, individually, and as co-partners in Junger, Anderson and Company, were enjoined on complaint of the Commission from engaging in certain fraudulent practices discovered during an investigation. *SEC.* v. *Caplan, Junger, Anderson and Company,* Civil No. 49–138 S. D. N. Y. Litigation release 514, May 14, 1949. On July 27, 1950, the Commission revoked the registration of Junger, Anderson and Company on findings of fraudulent conduct, but specifically finding that as to Robert S. Junger, there was no evidence that he knowingly participated in the scheme. S. H. Junger and Company, a partnership, consisting of Samuel H. Junger and his wife, Frances Junger, was later permitted to register as broker and dealer, Securities Exchange Act release No. 4563, Feb. 8, 1951.

In *SEC* v. *Howard F. Hansell, Jr.,* Civil 62–240 S. D. N. Y., the court on complaint filed by the Commission enjoined Hanseli from further violations of section 9 (a) (2) of the Securities Exchange Act. Litigation release 627, November 22, 1950. Later, the Commission revoked Hansell's registration on findings of fraudulent conduct. Securities Exchange Act release No. 4536, Dec. 18, 1950.

[14] *In the matter of Lawrence R. Leeby, doing business as Lawrence R. Leeby & Company.* Securities Exchange Act release No. 4601.

that he had fully complied with the conditions of 1946 registration and had not effected any transactions as a dealer except in investment companies' shares. Since an examination of his books and records made by the Commission's staff reflected nothing to the contrary, the Commission removed the restriction. When it was later discovered that Leeby had purchased and sold Ribbonwriter shares during the period when his registration as a dealer was limited to investment companies' shares and that these transactions were not recorded on his books, proceedings to revoke his registration were instituted. During the hearings, he sought to defend the exclusion of the transactions in Ribbonwriter stock from his broker-dealer books on the ground that these were "personal transactions" unrelated to his securities "business."

In its findings, however, the Commission held as artificial any attempted distinction between "personal transactions" and "company transactions" where the "company" is a sole-proprietorship, and held that all securities transactions of the proprietor are required to be recorded on his broker-dealer books whether they are for so-called personal investment for what is termed "firm trading account" for which business capital is employed. The Commission made the finding that Leeby's failure to enter his "personal" transactions in an account on his broker-dealer books was in wilfull violation of the bookkeeping rules prescribed for brokers and dealers under section 17 (a) of the Securities Exchange Act, and the further finding that the representation in his application and testimony, in connection with his 1948 petition for unconditional registration as a dealer, that he had fully complied with the conditions of his limited registration was false and misleading.

Broker-Dealer Inspections

Section 17 (a) of the Securities Exchange Act empowers the Commission to make periodic, special, and other examinations of the books and records of brokers and dealers. Such inspections have become the principal means by which the Commission detects and prevents violations of law by brokers and dealers. Inspections are frequently limited to a particular phase of the firm's business, but generally they encompass examination of all characteristic activities.

During the fiscal year the Commission's regional offices, the staff of which conducts these inspections, reported on 922 such examinations, 696 of which were inspections of NASD members. As in previous years, a substantial number of violations of the rules and regulations were discovered, including non-compliance with the capital rule, the hypothecation rule, and Regulation T prescribed by the Board of Governors of the Federal Reserve System. There were a few instances of secret profits, a good many transactions in which the reasonableness of the price to the customer in relation to current market was questionable, and a fairly large number of infractions too scattered to classify separately.

Consistent with accepted standards of administrative procedure, those violations which appear to be inadvertent or the result of misinformation or innocent misinterpretation, and not "wilful," are called to the attention of the firm involved to afford it an opportunity to "put its house in order." Other remedies which may be invoked

against violations are discussed in detail under the preceding caption "Administrative Proceedings."

Investigations

Investigations of brokers and dealers stem from various sources. When an inspection discloses conduct or practices the full facts with reference to which must be obtained and analyzed to determine whether any remedial or punitive action is necessary investigation is promptly undertaken. Investigations are also made when complaints from customers are received. Other investigations may be commenced as a result of information supplied by cooperating agencies such as state securities commissions, securities exchanges and associations, or "better business bureaus." When investigations are completed and the evidence has been analyzed, the staff makes recommendations to the Commission for such further action as appears appropriate. In some instances the recommendation may be for injunctive relief, in some for administrative action such as discussed above and in some for notice, as contemplated by the Administrative Procedure Act to achieve compliance with the Act.

The following schedule reflects the number of such investigations during the fiscal year.

Pending July 1, 1950	137
Commenced during year	213
	[1] 350
Closed during year	186
Pending June 30, 1951	[2] 164
	350

[1] This figure includes 122 administrative proceedings as shown in the schedule set forth under "Administrative Proceedings" supra.

[2] This figure includes 23 administrative proceedings pending at the end of the year as shown in the schedule set forth under "Administrative Proceedings" supra, and 71 such proceedings on which the Commission had issued its final determination before the end of the fiscal year but the investigative files on which had not been closed of record.

Financial Reports

One of the Commission's rules, X–17A–5, requires brokers and dealers to file financial reports each calendar year. During the 1951 fiscal year, 3,705 such reports were filed. Examination of the financial report filed by a broker-dealer affords the staff an opportunity to determine whether, as of the date of the report, the firm is in compliance with the capital resuirements prescribed by rule X–15C3–1, and if it is not, the firm is given an opportunity to bring its financial condition up to the required standards. Failure to do so may, of course, require more drastic measures to enforce the rule.

SUPERVISION OF NASD ACTIVITIES

Membership

At June 30, 1951, there were 2,846 members of the National Association of Securities Dealers, Inc. (NASD), the only national securities association registered as such with the Commission. This represented an increase of 62 members in the year as a result of 212 admissions to, and 150 terminations of, membership. At the same date there were registered with NASD as registered representatives 30,922 individuals, including generally all partners, officers, traders, salesmen and other persons employed by member firms in capacities

which involved their doing business directly with the public. This represented an increase of 2,128 registrations during the year as a result of 5,128 initial registrations or re-registrations and 3,000 terminations of registrations.

Disciplinary Actions

During the 1951 fiscal year the Commission received from the NASD reports of final action in 22 disciplinary cases in which formal complaints had been filed against members. One of these complaints was dismissed on the finding by the NASD District Business Conduct Committee of initial jurisdiction that there had been no violation of the Rules of Fair Practice as alleged in the complaint. In the remaining 21 cases the appropriate Business Conduct Committee found that the members or registered representatives of the members cited in the complaints, had acted in violation of the Rules of Fair Practice and imposed various penalties as a consequence of those infractions.

Of the 21 disciplinary decisions which included findings of violations against those named in the complaints, eight cases were directed solely against member firms who were subjected to the following penalties: Two member firms were expelled; two member firms were each fined $500 and censured; one member firm was fined $300; one member firm was fined $100 and censured; and two member firms were censured.

In nine other cases findings of violations of the Rules of Fair Practice, and the consequent penalties, were directed not only against member firms but also against registered representatives of such members who had been named, together with their employers, in the complaints. One such case resulted in expulsion of the member firm involved and revocation of the registration with the NASD as registered representative of one individual and suspension of such registration of two other individuals. This decision, which had been affirmed by the Board of Governors on appeal, was appealed to the Commission by R. H. Johnson and Co., the member firm, and at the year-end was in process before the Commission.[17] In two unrelated cases the member involved was expelled from the Association and the registration with the NASD of two registered representatives of each of the two firms were revoked.[18] In another case both a member and a representative of that member were each fined $500; in another, fines of $200 were imposed both on the member and on the member's representatives. The only other such case involving a fine resulted in a fine of $5,000 on the member firm, six months' suspension of registration of one representative, three months' suspension and a fine of $1,000 with respect to another and three months' suspension and a fine of $100 with respect to a third representative. In three other cases against both

[17] Securities Exchange Act release No. 4571 (1951). This appeal, pursuant to the provisions of section 15A (g) of the Securities Exchange Act of 1934, operates as a stay of the effectiveness of the NASD's action pending the Commission's decision. There was also pending at the year-end, its status not substantially changed during the year, another such appeal to the Commission from an NASD decision which imposed on Otis & Co., the appellant, a two-year suspension from membership in NASD. This action arose from a stock offering of Kaiser-Fraser Corporation in 1948 as described in considerable detail in the Commission's 15th Annual Report, pages 73–77, and 16th Annual Report, pages 58–59.

[18] After the close of the fiscal year one of these decisions was appealed to the Commission by George J. Martin Co., the member, and Alfred and Irving Shayne, the representatives.

member firms and representatives of the firms, the firms were censured and in addition the representatives were respectively suspended for 30 days, fined $100 and fined $25.

A third category of cases consisted of those in which a finding of violations, and the imposition of penalties, was directed solely against a representative of a member with a concurrent finding that the member had not acted in violation of the Rules of Fair Practice and dismissal of that portion of the complaint directed againt the member. In this type of action revocation of the representative's registration resulted in three cases and, in a fourth, the penalty was a five-year suspension of registration.

The Commission continued its practice of referring to the NASD for appropriate action facts disclosed in the course of its broker-dealer inspection program which tend to indicate possible violations of the Association's Rules of Fair Practice. At the end of the last fiscal year there were four such references in process before the Association and, in this year, ten additional references were made. At the end of the year nine of these references were in process, reports of disposition having been received by the Commission from the Association on five of the cases. Four of these five cases were disposed of by informal means without invoking formal complaint procedure; the formal complaint case resulted in a fine of $100 and censure of the member involved, as mentioned above.

Commission Review of Action on Membership

Under section 15A (b) (4) of the Securities Exchange Act of 1934, and NASD by-laws, except in cases where the Commission approves or directs admission to or continuance in membership as appropriate in the public interest, no broker or dealer may hold NASD membership if he controls a person who has been, among other things, expelled from a registered securities association for violation of an association rule prohibiting conduct inconsistent with just and equitable principles of trade, or is subject to an order of the Commission revoking his registration or expelling him from NASD membership.

Pursuant to this authority, and with consideration to the affirmative recommendation of the Board of Governors of the NASD, the Commission approved the admission to membership of O. H. Hecht, who was under a disqualification arising from expulsion by and from the NASD of Mutual Investments, Ltd., a broker-dealer firm of which Hecht had been a partner, on findings that the firm had been guilty of conduct inconsistent with just and equitable principles of trade.[19] The Commission also approved a similar petition by the NASD for the continuance in NASD membership of Oscar F. Kraft & Co. while controlling Carter Harrison Corbrey, who was under disqualification as a consequence of expulsion from NASD membership and revocation of broker-dealer registration by the Commission.[20]

During the year two other petitions were filed with the Commission under this same section of the statute by or on behalf of firms seeking to retain NASD membership while controlling a disqualified person. Each of these petitions was withdrawn prior to a decision on the merits by the Commission.

[19] Securities Exchange Act release No. 4619 (1951).
[20] Securities Exchange Act release No. 4562 (1951).

CHANGES IN RULES, REGULATIONS, AND FORMS

As stated elsewhere in this report, section 16 (b) of the Act provides in general that where any director or officer of the issuer of a listed and registered equity security or the beneficial owner of more than 10 percent of any class of such security has realized any profit from any purchase or sale, or sale and purchase, of any equity security of the issuer, such profit inures to and may be recovered by the issuer, or by any security holder acting in its behalf. The section authorizes the Commission to adopt rules exempting therefrom any transactions not comprehended within its purpose. Various rules adopted during the 1951 fiscal year under this authority, after consideration of all comments and suggestions invited and received in the premises, are briefly described below.

Rule X–16B–1. Exemption from section 16 (b) of certain transactions by registered investment companies.—This new rule, in the form of a revision of rule X–16B–1 which in its previous form had become obsolete, exempts transactions which the Commission has, by order entered pursuant to section 17 (b) of the Investment Company Act, exempted from 17 (a) of that Act.

Rule X–16B–3. Exemption from section 16 (b) of certain acquisitions of securities under stock bonus or similar plans.—Rule X–16B–3 was amended so as to exempt from section 16 (b) acquisitions by directors or officers of securities received under certain types of bonus, profit-sharing, retirement or similar plans not previously exempted by this rule. It should be noted that the rule exempts only certain acquisitions of securities under plans of the types specified. Sales of securities so acquired are not exempted by the rule and are, therefore, within the purview of section 16 (b) of the Act if within six months before or after such sales the director or officer effects other acquisitions which can be matched against them.

Rule X–16B–5. Exemption from section 16 (b) of certain transactions in which securities are received by redeeming other securities.—This new rule was adopted to exempt from the operation of section 16 (b) those transactions in which one security is surrendered for another, where both the old and the new securities are substantially and in practical effect equivalents and where the transaction does not require the payment of any consideration.

Rule X–16B–6. Exemption of long-term profits incident to sales within six months of the exercise of an option.—This new rule grants partial exemption with respect to profit which might otherwise be deemed to have been realized and recoverable, where there is a purchase by an "insider" of an equity security pursuant to the exercise of an option or a similar right and a sale of that equity security within six months thereof. A statement of the considerations which led to the adoption of this rule accompanied its promulgation in Securities Exchange Act release No. 4509.

As set forth more fully in that statement, the Commission had been aware for some time of a controversy concerning the proper method of computing profits under section 16 (b) where there is a sale of an equity security acquired pursuant to an option. The Act makes such profits recoverable in private litigation, thus placing upon the courts the ultimate responsibility for the interpretation of section 16 (b), but gives the Commission, as pointed out above, responsibility for

exempting by rule transactions which it may determine to be "not comprehended within the purposes of section 16 (b)."

Uncertainty as to just what profits would, as a matter of legal interpretation, be recoverable in the absence of a rule, as well as uncertainty whether the Commission should attempt by rule making to affect pending litigation, had previously induced the Commission to refrain from adopting such a rule. The Commission determined to express its understanding of the relationship between such transactions and the underlying purpose of section 16 (b), as set forth in the published statement; and to exercise its rule-making power in the light of that understanding, as reflected in this new rule.

Rule X–16C–3. Exemption of sales of securities to be acquired.—The Commission adopted a new rule, designated rule X–16C–3, exempting certain sales from the provisions of section 16 (c) of the Securities Exchange Act of 1934.

Section 16 (c) provides that it shall be unlawful for any beneficial owner of more than 10 percent of any class of equity security registered on a national securities exchange, or a director or officer of the issuer of such a security, to sell any equity security of the issuer (other than an exempted security), (1) if he does not own the security sold, or (2) if, owning the security, he does not either deliver it within 20 days or deposit it in the mails or other usual channels of transportation within five days, unless he was unable to do so nothwithstanding the exercise of good faith or it would cause undue inconvenience or expense.

The purpose of the rule is to permit persons who are entitled to receive a security "when issued" or "when distributed" as an incident of ownership of another security to sell the new security subject to the same restrictions as would apply if the "when issued" or "when distributed" security were already in their possession. This rule assumes, of course, that the "when issued" or "when distributed" sale is otherwise lawful under the Securities Act of 1933 and the Securities Exchange Act of 1934.

Revised Form U5S.—During the fiscal year the Commission adopted substantial revisions in the annual reporting requirements applicable to public utility holding companies registered under the Public Utility Holding Company Act of 1935.[21]

The object of these changes was to reduce the over-all reporting requirements for registered holding companies under both the 1935 Act and the Securities Exchange Act of 1934. A new Form U5S was promulgated as the annual report form for registered holding companies. The Commission has abolished Form U–14–3, heretofore required to be filed annually under the 1935 Act by registered holding companies, and Forms U5–K and U5–MD which registered holding companies formerly had the option of filing in lieu of Form 10–K under section 13 or 15 (d) of the 1934 Act. Whereas each registered holding company in a system has heretofore been required to file separate annual reports on Form U5S, the revised requirements provide that only one annual report shall be filed by the top registered holding company for all registered holding companies in the system. Registered holding companies required to file annual

[21] Public Utility Holding Company Act release No. 10432.

reports under Section 13 or 15 (d) of the 1934 Act (formerly on Form 10–K) may now satisfy these requirements in full by filing copies of their annual reports prepared on the new Form U5S.

LITIGATION UNDER THE SECURITIES EXCHANGE ACT

Brokers and Dealers

Although the Commission's sanctions against brokers and dealers violating the Securities Acts include administrative proceedings and references to the Attorney General for criminal prosecution, it is often necessary to seek court injunctions to afford immediate protection to investors.

In *S. E. C.* v. *Lloyd Beversdorf*,[22] the Commission obtained a final judgment by consent enjoining the defendant from further violations of the broker-dealer registration provisions. The Commission charged that he was engaging in a broker-dealer business without having registered with the Commission in accordance with section 15 (b) of the Securities Exchange Act.

In *S. E. C.* v. *Adams & Company* [23] during the fiscal year the individual defendants consented to the entry of a judgment restraining them from further violations of the fraud provisions of the Securities Act and of the Securities Exchange Act. A similar judgment was entered against Adams & Company by default. In that case a temporary receiver had been appointed for the protection of customers during the previous fiscal year when the Commission had filed its complaint. The complaint had charged that the defendant Adams & Company, a registered broker-dealer, and three of its officers violated the fraud provisions of both the Securities Act and the Securities Exchange Act in soliciting and accepting customers' orders for the purchase and sale of securities while its liabilities exceeded its assets; in inducing customers to purchase securities by representing that such securities would be held in safekeeping when, in fact, the securities were being hypothecated to secure loans made to the firm; and in soliciting customers to purchase securities and accepting payment therefor upon the representation that the securities would be delivered when, in fact, the defendants used the customers' money for their own benefit.

In *S. E. C.* v. *Frank S. Kelly*,[24] the Commission's complaint sought to enjoin the defandant, a registered broker-dealer, from further violations of certain of the fraud provisions of the Securities Exchange Act of 1934. The complaint charged that the defendant effected transactions in securities for the accounts of customers and, as a part of such business, solicited and accepted orders from customers for the purchase of when-issued securities, using money received from customers to purchase securities for his own account and for other purposes without disclosing that fact to his customers. The court granted a temporary restraining order and appointed a receiver for the defendant. Subsequently, the defendant consented to a final injunction.

In *S. E. C.* v. *Howard V. Hansell*,[25] the defendant consented to the

[22] E. D. Mich. Civil Action No. 10290.
[23] N. D. Ill. Civil Action No. 49 C 1145.
[24] N. D. Ill. Civil Action No. 50 C 1798.
[25] S. D. N. Y. Civil Action No. 62–240.

entry of a final judgment enjoining him from further violations of the anti-manipulative provisions of the Securities Exchange Act. The Commission's complaint charged that the defendant, in trading in securities on the New York Stock Exchange and the New York Curb Exchange, induced other persons to purchase said stock by raising the market price of such stocks by means of purchasing the stock through other persons, recommending the stock to brokerage firms and friends on the representation that the stocks would increase in price, asking brokerage firms and friends to purchase the stock as a favor to him and, in connection with one of the stocks, engaged a public relations man to induce brokerage firms and others to purchase such securities. Subsequently, Hansell's broker-dealer registration was revoked.

Injunctive action was also brought against *Mercer Hicks* and *Mercer Hicks Corporation*, a broker-dealer, for alleged violations of the Securities Act of 1933. This case is discussed above at pages 51 and 52.

Amicus Curiae Cases

In addition to the cases in which it is a party, the Commission frequently participates as *amicus curiae* upon important questions of law, but not on factual issues, arising in suits between private parties involving construction of the Acts administered.

An important issue involved in all of the private actions in which the Commission participated as *amicus curiae* under section 10 (b) of the Securities Exchange Act of 1934 and rule X–10B–5 thereunder during the past year is whether that section and rule are applicable to transactions in securities not traded by professionals on the exchanges or in the over-the-counter markets of brokers and dealers. The Commission has repeatedly expressed the view that the section and rule are applicable to such transactions. The Commission's view was upheld in July 1950 by the United States District Court for the Eastern District of Pennsylvania in *Robinson* v. *Difford*.[26] The question, among others, is also involved in *Speed* v. *Transamerica Corp.*,[27] *Fratt* v. *Robinson*,[28] and *Northern Trust Co.* v. *Essaness Theatres Corp.*,[29] all of which were pending at the close of the fiscal year.

In the *Fratt* and *Northern Trust Co.* cases, the Commission also expressed the view that the applicable statute of limitations in an action for damages for the violation of rule X–10B–5 is that of the state of the forum. Moreover, in the *Northern Trust Co.* case the Commission presented argument to the following effect: (1) that section 10 (b) and rule X–10B–5 apply to intrastate transactions in securities involving the use of the mails, irrespective of whether the securities are registered for trading on an exchange or whether the issuer conducts an interstate business, (2) that under rule X–10B–5 it is sufficient that the mails or facilities of interstate commerce are used in connection with a particular sale or purchase of securities, and that it is not necessary that misrepresentations or misleading statements be communicated through the mails or facilities of interstate commerce, and (3) that rule X–10B–5 was not rendered inapplicable to the securities purchases in that case by virtue of the fact, if established, that the purchases were made pursuant to conditions re-

[26] 92 F. Supp. 145.
[27] D. Del., Civil Action No. 480. See 13th Annual Report of S. E. C., p. 63, 15th Annual Report of S. E. C., p. 72, and 16th Annual Report of S. E. C., p. 58.
[28] W. D. Wash., Civil Action No. 2765.
[29] N. D. Ill., Civil Action Nos. 50 C 1750 and 50 C 1762.

specting directors' and shareholders' consent contained in an agreement and corporate by-law predating the rule.

The Commission also participated during the past fiscal year as *amicus curiae* in a number of cases which involved a construction of section 16 (b) of the Act, wherein there is accorded to a corporation the right to recover profits realized by officers, directors or large stockholders from purchases and sales or sales and purchases of the corporation's equity securities within a six months' period. In all of these cases, the courts were concerned with the problem of computing the profits which might be recovered by or for the particular corporation involved.

In *Steinberg* v. *Sharpe, et al.*,[30] a stockholder of Bendix Home Appliances, Inc., sued an officer of the company, to recover profits that the officer allegedly made in the sale of certain shares of stock which he had purchased less than six months before. The securities had been purchased by the defendant pursuant to earlier employment agreements which allowed him to buy a specific number of Bendix shares at a specified price which was lower than the market price. The plaintiff claimed $11,571.20, the difference between the sales price and the cash actually paid under the terms of the option contracts. Recognizing, however, that the option itself had certain values, Judge Medina concluded that the cost basis of the stock was the cash actually paid pursuant to the option plus the value of the option on the date that it accrued and therefore allowed a judgment for the plaintiff in the amount of the difference between the sale price and the market price of the stock on the date the option accrued. The Commission had urged the conclusion reached by the court. On appeal, the Commission filed a memorandum in support of the findings of the district court and the court of appeals rendered per curiam a memorandum opinion affirming the decision of the lower court.[31]

In *Blau* v. *Hodgkinson*, [32] *et al.*, a security holder of Federated Department Stores brought an action to recover profits realized by directors of the company as a result of certain transactions in the company's securities. One of the defendants, acting pursuant to a stock warrant granted to him on October 2, 1944, had purchased a number of Federated's common shares at substantially less than the market price and then sold them within 6 months at the current market price. On May 24, 1951, the Commission filed a memorandum wherein it argued that the new rule X–16B–6,[33] effective since November 30, 1950, should be applied in computing the cost basis of the securities, rather than the formula used in the *Steinberg* case. Under that rule, the recovery would be much less than that claimed by the plaintiff. The application of the rule was attacked on the ground that its retroactive feature was unconstitutional. The Commission also urged that an earlier payment by the defendant of less than that owed to the corporation was immaterial, the corporation being unable to satisfy a claim so as to prevent stockholders' actions arising under section 16 (b); and that the acquisition, by other defendants, of shares of Federated's common stock by the exchange of their holdings in Federated's subsidiaries for shares in Federated, would constitute a "purchase" of stock within the meaning of section 16 (b). After the

[30] 95 F. Supp. 32 (S. D. N. Y. 1950).
[31] 190 F. 2d 82 (C. A. 2, 1951).
[32] S. D. N. Y. Civil Action No. 63–51.
[33] See page 57, *supra*.

close of the fiscal year, the court rendered a decision upholding the Commission's contentions.

The case of *Gratz, et al.* v. *Claughton*[34] reaffirmed the principle of computation established in *Smolowe* v. *Delendo Corporation*[35] to the effect that, in the case of trading subject to section 16 (b), maximum profits are required to be returned to the corporation. The court also upheld the Commission's contention that a proper venue was New York where the securities were traded on the New York Stock Exchange, as well as in a district where the defendant is found or is an inhabitant or transacts business. Certiorari was denied by the Supreme Court.

In *Rattner* v. *Lehman, et al.*,[36] the question arose as to what portion of the profits of a partnership earned by trading in the securities of a corporation in which one of the partners was a director, was recoverable. It was decided that the partnership's profits, except for the director's proportionate share, could not be recovered by the corporation. An appeal was taken subsequent to the close of the fiscal year. Similar problems were involved in *Eversharp, Inc., et al.* v. *Robbins*,[37] but negotiations between the parties resulted in a settlement of the case.

PART III

ADMINISTRATION OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

The Public Utility Holding Company Act of 1935 was passed by the Seventy-fourth Congress following an extensive investigation by the Federal Trade Commission. That investigation disclosed a variety of abuses in public-utility holding company finance and operations, the more significant of which are enumerated in section 1 (b) of the act: (1) Inadequate disclosure to investors of the information necessary to appraise the financial position and earning power of the companies whose securities they purchase; (2) the issuance of securities against fictitious and unsound values; (3) the overloading of operating companies with debt and fixed charges thus tending to prevent voluntary rate reductions; (4) the imposition of excessive charges upon operating companies for various services such as management, supervision of construction and the purchase of supplies and equipment; (5) the control by holding companies of the accounting practices and rate, dividend and other policies of their operating subsidiaries so as to complicate or obstruct State regulation; (6) the control of subsidiary holding companies and operating companies through disproportionately small investment; (7) the extension of

[34] 187 F. 2d 46 (C. A. 2, 1951) *cert. denied*, 341 U. S. 920 (1951).
[35] 136 F. 2d 231 (C. A. 2, 1943) *cert denied*, 320 U. S. 751 (1943).
[36] 98 F. Supp. 1009 (D. C. S. D. N. Y. 1951).
[37] S. D. N. Y. Civil Action No. 46–225, Nov. 20, 1950.

holding company systems without relation to economy of operations or to the integration and coordination of related properties.

In this section the Congress expressly stated that it was the policy of the act, in accordance with which all other sections are to be construed, to meet the problems and eliminate the evils enumerated above.

The regulatory provisions of the Holding Company Act fall principally into three basic categories: (1) Those designed to bring about geographical integration and the financial and corporate simplification of public-utility holding company systems; (2) the day-to-day surveillance of the financing, servicing arrangements, intercompany transactions and other operations of those registered holding company groups which will continue under the active regulatory jurisdiction of the Commission as integrated regional utility systems; and (3) miscellaneous provisions of the act, not concerned with regulation of the continuing systems, but designed principally to control the growth of additional holding company situations. The act does not confer any rate-making authority upon the Commission; in the over-all its purpose is not to conflict with but to supplement and strengthen State regulation.

INTEGRATION AND SIMPLIFICATION—OVER-ALL SUMMARY

By the time the statute was enacted in 1935, the holding company device had attained a position of dominance over the major portion of the electric and gas utility industry of the country. Fifteen holding companies controlled 80 percent of all electric energy generation; 20 controlled 98.5 percent of all transmission of electric energy across State lines; and 11 controlled 80 percent of all natural gas pipeline mileage. The properties acquired by these vast combinations, not only in the utility field, but also in many other types of business, were frequently widely scattered and bore little or no functional relationship to one another. The over-all impact of the act upon this structure has been reflected in the return to independent ownership of large numbers of electric and gas utility and other utility companies, the elimination of large numbers of multi-tiered holding companies, the consolidation of many corporations, and the dissolution of many others.

At one time or another from June 15, 1938, to June 30, 1951, a total of 2,175 companies have been subject to the active regulatory jurisdiction of the Commission as components of registered holding company systems. Of this number 211 were holding companies, 925 were electric or gas utility companies, and 1,039 were utilities other than electric or gas and a wide variety of other enterprises. The latter included brick works, ice plants, movie theatres, laundries, and even a baseball club. By the close of the past fiscal year there were but 444 companies subject to regulation, including only 64 holding companies, 195 electric and gas utilities, and 185 non-utility companies.

The following tables summarize these developments.

Companies released from active regulatory jurisdiction of the Commission

	Total companies subject to act during period [1]	Divestments by holding companies of nonretainable companies	Dissolutions not parts of divestment transactions	Absorbed by merger or consolidation	Miscellaneous other disposals	Exemption by rule or order [2]	Total	Companies subject to act as of June 30
Fiscal year ending June 30, 1951								
Holding companies	68	1				3	4	64
Electric and/or gas companies	229	6	5	21	1	1	34	195
Nonutilities plus utilities other than electric and/or gas companies	256	9	11	45	6		71	185
Total companies	[4] 553	16	16	66	7	4	109	444
Fiscal year ending June 30, 1950								
Holding companies	73	2		2		2	6	67
Electric and/or gas companies	275	38		11		4	53	222
Nonutilities plus utilities other than electric and/or gas companies	307	38	12	1		2	53	254
Total companies	655	78	12	14		8	112	[4] 543
Period from June 15, 1938, to June 30, 1951								
Holding companies	211	13	61	25	9	39	147	64
Electric and/or gas companies	925	377	70	168	50	65	730	195
Nonutilities plus utilities other than electric and/or gas companies	1,039	363	180	148	98	65	854	185
Total companies [3]	2,175	753	311	341	157	169	1,731	444

[1] Reflects company additions and classification adjustments during the period indicated.
[2] Includes companies which have ceased to be holding companies by virtue of Commission order under section 5 (d).
[3] A few companies have been subject and not subject to the Public Utility Holding Company Act a number of times. These instances contribute some insignificant duplication to the reported company totals.
[4] Ten additional companies became subject to act during fiscal year 1951.

Electric, gas and nonutility companies and assets divested as not retainable under the Public Utility Holding Company Act of 1935 and not subject to the act as of June 30, 1951

Type of companies	Dec. 1, 1935, to June 30, 1951		July 1, 1950, to June 30, 1951	
	Number of companies	Assets [1]	Number of companies	Assets [1]
Electric utility	239	$8,451,893,000	4	$84,171,000
Gas utility	138	559,890,000	2	3,564,000
Nonutility	[2] 376	1,298,724,000	[3] 10	16,005,000
Total	753	10,310,507,000	16	103,740,000

[1] As of year end next preceding date of divestment and before deduction of valuation reserves.
[2] Includes 13 holding companies.
[3] Includes 1 holding company.

Divestments by sales of partial segments of properties not retainable under the Public Utility Holding Company Act of 1935 and not subject to the act as of June 30, 1951

Type of property	Dec. 1, 1935, to June 30, 1951		July 1, 1950, to June 30, 1951	
	Number of divesting companies	Consideration received	Number of divesting companies	Consideration received
Electric utility	123	$97,007,000	0	
Gas utility	34	14,726,000	1	$197,000
Nonutility	67	37,994,000	2	845,000
Total	224	149,727,000	3	1,042,000

An even more revealing aspect of this achievement is the elimination from the national scene of holding company scatteration, stretching in some instances from coast to coast and from the Canadian border to the Gulf. This drastic realignment is reflected in the following table setting forth the number of states in which registered holding company systems conducted utility operations as of July 1, 1940, when the section 11 program was getting under way, and as of June 30, 1951. Upon completion of section 11 cases now in progress, the latter figures will be reduced still further.

Number of registered public utility holding company systems providing electric or gas service in	July 1, 1940	June 30, 1951
20 or more States	2	None
15 to 19 States	3	None
10 to 14 States	7	None
5 to 9 States	17	7
3 or 4 States	17	16
1 or 2 States	9	15
	55	[1] 38

[1] Excluded from this group is 1 registered holding company system having no domestic utility subsidiaries, and 1 system all of whose utility properties are leased to another system.

While the scaling down of holding company systems during the past 15 years has been spectacular, the properties subject to the act on June 30, 1951, continued to represent an important segment of the electric and gas utility industries of the nation. As of that date, there were registered with the Commission 40 holding company systems with aggregate system assets of approximately $12,913,000,000, before deduction of valuation reserves. These figures may be compared with 46 registered systems and assets of $12,822,000,000 on June 30, 1950. The net increase of $91,000,000 during the year despite divestments of $104,782,000 is accounted for by the continuing growth of the industry. This high rate of expansion of plant facilities was occasioned initially by the almost uninterrupted increase in business activity since the close of World War II and more recently by the defense expenditures touched off by the Korean conflict. It is not expected to diminish to any great extent in the immediate years ahead.

The release from active regulatory jurisdiction of 1,731 corporate entities, however, falls far short of accounting for all of the progress achieved in the integration and simplification of holding company systems under section 11 of the act. From December 1, 1935, to June 30, 1951, 240 companies with aggregate assets of $6,099,111,000, before deduction of valuation reserves, have been divested by holding com-

panies, but, because of their relationships to other holding companies, remain subject to the jurisdiction of the Commission.

Electric, gas and nonutility companies and assets divested under the Public Utility Holding Company Act of 1935 and still subject to its provisions as of June 30, 1951

Type of companies	Dec. 1, 1935, to June 30, 1951		July 1, 1950, to June 30, 1951	
	Number of companies	Assets [1]	Number of companies	Assets [1]
Electric utility	125	$4,220,799,000	4	$73,203,000
Gas utility	40	1,395,557,000	3	65,126,000
Nonutility	[2] 75	482,755,000	[3] 15	148,993,000
Total	240	6,099,111,000	22	287,322,000

[1] As of year end next preceding date of divestment and before deduction of valuation reserves.
[2] Includes 12 holding companies, 6 combination holding and utility operating companies and 3 combination holding and nonutility operating companies.
[3] Includes 1 holding company and 1 combination holding and nonutility operating company.

Divestments by sales of partial segments of properties under the Public Utility Holding Company Act of 1935 and still subject to the act as of June 30, 1951

Type of property	Dec. 1, 1935, to June 30, 1951		July 1, 1950, to June 30, 1951	
	Number of divesting companies	Consideration received	Number of divesting companies	Consideration received
Electric utility	9	$4,426,000	0	
Gas utility	7	6,718,000	1	$2,418,000
Nonutility	4	369,000	1	250,000
Total	20	11,513,000	2	2,668,000

The great bulk of these companies and properties represents parts of holding company systems, such as American Gas and Electric Company, which either have achieved or are expected to achieve full compliance with the geographical integration and corporate simplification requirements of the act. It is not yet possible to calculate the final results of all section 11 problems which remain to be solved, but it is estimated that approximately 20 holding companies will emerge as streamlined, regional systems with some 250 companies and aggregate assets of $7,000,000,000, before deduction of valuation reserves. In addition there will be a number of other systems, such as Texas Utilities Company, which not only have complied with the standards of section 11, but also qualify for exemption under section 3 from nearly all of the provisions of the act.

In addition to the drastic simplification of complicated corporate superstructures and the nation-wide realignment of utilities on an efficient, integrated, regional basis, the financial integrity of the industry has been greatly strengthened and utility investors have received "down-to-the-rails" income-paying securities of sound utility enterprises.

Operating utilities, which have been subject to the active regulatory jurisdiction of the Commission, have removed $1,500,000,000 of inflationary items from their property accounts as a result of the combined efforts of this Commission, the Federal Power Commission, and the various State commissions. Assuming an average allowed rate of

return for rate-making purposes of 6 percent, this represents an aggregate annual saving to consumers of $90,000,000 and, in addition, has removed fictitious values which were misleading to investors.

Depreciation accruals and depreciation reserves have also been increased to more adequate levels thus strengthening the over-all asset protection of security holders. Summary data for all Class A and B electric utilities show an increase in depreciation and amortization reserves from 11.6 percent of total utility plant in 1938 to 20.5 percent at the close of 1950.[1] Significant as this increase is, these figures do not reflect the full improvement—the earlier figure being weighted by the large metropolitan companies most of whom had adequate reserves even at that time, while the latter figure relates to properties a substantial proportion of which has been added during the past decade and therefore possessing a much longer anticipated life than the relatively old plant which the industry possessed in 1938, comparatively little capacity having been added during the depression years.

Despite the drastic elimination of inflationary items from plant accounts and increases in depreciation reserves, both of which tended to reduce common stock equity to an actual investment basis, the capital structures of many companies have undergone substantial improvement.

An adequate equity cushion to absorb the vagaries of business conditions is an important attribute of a good security. A computation has been made of the capital ratios of 18 electric utility companies released from Commission jurisdiction showing the marked improvement from 1940 to the date of release in the period 1946–48.[2] As of 1940, and after adjustment for plant write-up eliminations, these companies had an average debt ratio of 61 percent, preferred stock 22 percent, and common stock and surplus of 17 percent. At the close of the year of their respective divestments, the average proportion of debt was reduced to 55 percent, preferred stock 16 percent, and common stock and surplus had increased to 29 percent.

The generally excellent financial condition of the electric and gas utility industries at the present time is indicated by the average capitalization percentages of the Class A and Class B electric utilities and straight natural gas operating utilities as of December 31, 1950, set forth in the following table:

	Class A and B electric utilities [1]	Straight natural gas operating utilities [2]
	Percent	*Percent*
Long-term debt	48.9	51.7
Preferred stock	13.7	5.7
Common stock and surplus	37.4	42.6
	(298 companies)	(161 companies)

[1] F. P. C. Statistics of Electric Utilities in the U. S., 1950.
[2] Gas Facts, 1950—American Gas Association. (While this group of companies by no means embraces the entire gas industry it constitutes a sizeable and representative portion. Capitalization ratios for other classifications of gas companies do not deviate materially from those reported above.)

[1] Statistics on Class A and B privately owned electric utilities are prepared by the Federal Power Commission and generally cover all companies having annual electric revenues of $250,000 or more.
[2] Eight other electric companies with higher common equity ratios were also divested in the same period. However, because of their stronger equity position no corrective action in respect to capital structure was necessary.

One of the most unhealthy abuses uncovered by the Federal Trade Commission in its exhaustive investigation of holding company practices was the pyramiding device which enabled a few individuals to acquire control of large sections of the gas and electric utility industry. The real investors in the system who supplied the capital for the growth of the industry were effectively disfranchised by the pyramiding of holdings, and by such devices as voting trusts, the control of proxy machinery, interlocking directors and officers, management contracts, etc. This inequitable distribution of voting power was one of the evils which section 11 (b) (2) of the act was designed to eliminate. It led to excessive leverage and made it practically impossible for a security holder near the top of the pyramided structure to evaluate his holdings or to estimate the impact upon him of a slight change in the earnings of the underlying operating companies. Investors in the holding companies were in effect trading on the equity or buying on margin. Sometimes they made substantial profits during the 1920–1929 period of rising markets; but after the stock market crash of 1929 they had to pay dearly. Prior to the passage of the act in 1935, holding companies such as Foshay Company, Middle West Utilities Company, Tri-Utilities Corporation, Atlantic Gas and Electric Corporation, American Commonwealth Power Corporation, Utilities Power and Light Corporation, North American Gas and Electric Company, Midland United Company, Midland Utilities Company, Standard Gas and Electric Company, Associated Gas and Electric Company, etc., were either in acute distress or in bankruptcy or receivership.

The failure of the pyramiding device is illustrated graphically in the fate of investors who placed their funds in "preferred" stocks of holding companies. As of December 31, 1940,[3] preferred stocks of holding companies had a total face value (on the basis of involuntary liquidation preference) of $2,501,723,000; of this total, more than half, or $1,442,168,000 were in default. The total outstanding arrears on holding company preferred stocks, as of this date, aggregated approximately $476,000,000.

Mismanagement and exploitation of operating companies by holding companies, through excessive service charges, excessive common stock dividends, upstream loans, other extortionate inter-company transactions, and an excessive proportion of senior securities, led to serious defaults even on operating company preferred stocks. Of preferred stocks of operating companies in holding company systems totaling $1,658,677,000 (involuntary liquidation preference) at December 31, 1940, approximately $453,434,000 were in default. Total outstanding arrears on such operating company preferred stocks aggregated $165,176,000.

By June 30, 1951, this condition had been largely cured and, at the operating company level, there are virtually no preferred dividend arrearages or defaults on indebtedness in the electric and gas utility industries today. Furthermore, both industries have been able to finance successfully a post-war expansion program of unpredecented proportions now running at over $2,500,000,000 per year.

There have been some securities, of course, which never had any real basis of value even at the time of their original issuance, and quite

[3] Because of the delay in registration, the Commission was not in a position to tabulate figures for registered companies for several years after the act was passed. It is fair to say that enforcement of section 11 of the act did not really commence until about 1940.

naturally these received no participation in the final stages of reorganization of the holding company systems. On the whole, however, most holders of the junior and senior securities of holding companies not only have not lost in the reorganization and realignment process, but they have reaped substantial gains in the bargain.

Perhaps the best means of illustrating this is to examine the situations with respect to some of the larger holding company systems which have undergone drastic reorganization, including, in some instances, dissolution of the holding company. The following table shows the market values of their common stocks as of the date when each such holding company registered under the act, and of a recent date, September 24, 1951. In the table the figure for the earlier of the two dates represents the market price per share of common stock multiplied by the number of common shares then outstanding. The figures relating to the current date represent the market price per common share as of such date multiplied by the number of common shares then outstanding (excluding additional shares, if any, issued between the two dates), plus (1) the amounts of cash distributions of capital to the holders of such shares; (2) the market values, as of the current date, of portfolio securities distributed to the common stockholders as capital distributions (excluding dividends in kind distributed in lieu of ordinary cash dividends); (3) the excess of the current market value of portfolio securities offered to security holders on rights over the price at which such rights could have been exercised by the security holders; and minus (4) amounts paid to the holding company by the common stockholders, in several instances, directly in cash or indirectly as withheld dividends, in order to procure a capital distribution. The table also sets forth comparative increases in the Dow Jones Utilities Averages and the Dow Jones Composite Averages (based on industrials, rails and utilities).

As noted, the percentages of increase in market values of the common stocks listed in the table are derived from a comparison of market values obtaining at different dates of registration with those obtaining at a single current date. In some cases, general market conditions varied materially at the different registration dates, as indicated by the varying Dow Jones index figures. Accordingly, the comparative performances of these common stocks should not be measured against one another. Rather, they should be compared with the performances of the Dow Jones index figures for the same periods of time, thereby eliminating the effects of general market improvement during such periods.

It is quite apparent from the foregoing table that common stockholders of holding companies have generally benefited from the reorganizations accomplished pursuant to section 11 of the Holding Company Act. The lower percentage increases in some cases may be explained, at least in part, by the relatively better financial condition of those systems at the time of registration.

The benefits of reorganization, however, have not been limited only to common stockholders. Senior security holders have likewise been materially aided by these same reorganizations. To demonstrate this, there is tabulated below the market values of the debt securities and preferred stocks of these same holding companies as at the dates the companies registered under the act, and the capital distributions of cash and securities, taken at market values as at September 24, 1951,

Tabulation showing (1) market values of common stocks of certain public utility holding companies as at dates of registration under the Public Utility Holding Company Act of 1935, (2) present values attributable to such common stocks as indicated by amounts of capital distributions of cash and securities received by the holders thereof, with market values computed as at Sept. 24, 1951, (3) Dow Jones indexes as at same dates, and (4) relative percentages of increases in values and Dow Jones indexes since the dates of registration

Name of holding company	Date registered under holding company act	Market values and indexes at registration date			Market values and indexes at Sept 24, 1951			Increases in market values of common stocks to Sept 24, 1951 [1]	Percentage of increase from registration date to Sept 24, 1951		
		Market values of common stocks	Dow Jones utilities averages	Dow Jones composite averages	Cash plus market values of capital distributions to common stocks [1]	Dow Jones utilities averages	Dow Jones composite averages		Market values of common stocks [1]	Dow Jones utilities averages	Dow Jones composite averages
1 American Power & Light Co	4- 8-38	$12,786,174	17.51	34.84	$60,895,568	45.19	98.20	$48,109.394	376.3	158.1	181.9
2 Columbia Gas System, Inc	1-13-38	113,065,118	21.73	43.68	211,647,561	45.19	98.20	98,582,443	87.2	108.0	124.8
3 Commonwealth & Southern Corp., The	3-28-38	37,882,944	16.11	33.59	202,671,343	45.19	98.20	164,788,399	435.0	180.5	192.3
4 Electric Bond and Share Co	4- 4-38	30,189,557	16.97	33.69	165,596,281	45.19	98.20	135,406,724	448.5	166.3	191.5
5 Electric Power and Light Corp	4- 7-38	24,608,232	16.88	33.50	135,654,011	45.19	98.20	111,045,779	451.3	167.7	193.1
6 Engineers Public Service Co	2-21-38	8,594,856	19.75	41.96	94,306,240	45.19	98.20	85,711,384	997.2	128.8	134.0
7 Middle West Corp., The [2]	12- 1-35	[2] 28,141,434	[2] 31.83	[2] 54.53	146,183,040	45.19	98.50	118,041,606	[2] 419.5	[2] 42.0	[2] 80.1
8 National Power & Light Co	4- 8-38	33,418,613	17.51	34.84	96,014,427	45.19	98.20	62,595,814	187.3	158.1	181.9
9 Niagara Hudson Power Corp	[3] 3-28-38	50,300,190	16.11	33.59	167,907,100	45.19	98.20	117,606,910	233.8	180.5	192.3
10 North American Co., The	2-25-37	261,465,093	34.06	66.41	345,664,588	45.19	98.20	84,199,495	32.2	32.7	47.9
11 United Corp., The	3-28-38	30,875,169	16.11	33.59	88,925,440	45.19	98.20	58,050,271	188.0	180.5	192.3
12 United Gas Improvement Co., The	3-29-38	212,557,059	15.33	31.86	367,767,139	45.19	98.20	155,210 080	73.0	194.8	208.2

[1] The figures in these columns include the capital distributions of cash and portfolio or holding company securities, taken at closing prices as at Sept. 24, 1951, made to the holders of the common stocks of the holding companies listed herein. Where the holding company common stocks are still in existence, the figures in these columns include the market prices of such stocks as at Sept. 24, 1951. In cases where portfolio securities have been offered on rights to the common stockholders, the figures shown in these columns include the excess of the market price per share as at Sept. 24, 1951, of the securities so offered over the exercise price per share multiplied by the number of shares offered.

[2] Market prices for the common stock of The Middle West Corp. and the index figures are taken as at Feb. 1, 1936, in view of the unavailability of market quotations for such common stock prior to such date.

[3] The date of registration shown for Niagara Hudson Power Corp. represents the date on which its parent company, The United Corp., registered under the act. Niagara Hudson Power Corp. itself registered as a holding company on June 23, 1948.

made to these senior security holders in retirement of their securities. The notes appearing at the end of the table show accumulated dividend arrears on the preferred stocks which were eliminated in the course of the reorganizations.

Tabulation showing (1) market values of senior securities of certain public utility holding companies as at dates of registration under the Public Utility Holding Company Act of 1935, and (2) present values attributable to such senior securities as indicated by amounts of capital distributions of cash and securities received by the holders thereof, with market values computed as at Sept. 24, 1951

Name of holding company and date registered under Holding Company Act	Market values at registration date	Cash and market values of capital distributions computed as at Sept. 24, 1951 [1]	Increases in market values
1. American Power & Light Co.—4-8-38:			
Debentures	$29,780,185	$51,477,000	$21,696,815
Preferred stocks	[2] 37,913,679	[2] 277,421,065	239,507,386
Total	67,693,864	328,898,065	261,204,201
2. Columbia Gas System, Inc.—1-13-38:			
Debentures	101,352,297	106,552,158	5,199,861
Preferred stocks	81,834,093	119,702,815	37,868,722
Total	183,186,390	226,254,973	43,068,583
3. Commonwealth & Southern Corp, The—3-28-38:			
Debentures	40,236,513	56,358,917	16,122,404
Preferred stock	[3] 43,500,000	[3] 170,720,403	127,220,403
Total	83,736,513	227,079,320	143,342,807
4. Electric Bond and Share Co.—4-4-38: Preferred stocks	65,910,130	145,054,962	79,144,832
5. Electric Power and Light Corp.—4-7-38:			
Bonds and debentures	19,385,450	33,712,696	14,327,246
Preferred stocks	[4] 20,757,368	[4] 200,229,915	179,472,547
Total	40,142,818	233,942,611	193,799,793
6. Engineers Public Service Co.—2-21-38: Preferred stocks	19,382,527	45,953,871	26,571,344
7. Middle West Corp., The—12-1-35: No senior securities	----------	[5]	----------
8. National Power & Light Co.—4-8-38:			
Debentures	15,345,000	25,619,216	10,274,216
Preferred stock	12,447,362	43,282,092	30,834,730
Total	27,792,362	68,901,308	41,108,946
9. Niagara Hudson Power Corp.—[6] 3-28-38: Preferred stocks	33,986,224	49,040,508	15,054,284

[1] Represents cash and portfolio and holding company common stocks, taken at closing prices as at Sept. 24, 1951, paid to the holders of the bonds, debentures, and preferred stocks in redemption of, or exchange for, or other retirement of such securities.

[2] At Dec. 31, 1937, dividend arrears on the preferred stocks of American Power & Light Co. totaled $26,547,180. By the date of consummation of the plan of reorganization in 1950, the arrears had increased by $43,562,076, to a total of $70,109,256. These arrears were eliminated under the plan of reorganization.

[3] At Dec. 31, 1937, dividend arrears on the 1,500,000 shares of preferred stock of The Commonwealth & Southern Corp. amounted to $9 per share, or a total of $13,500,000. During 1943 and 1946, the company repurchased for cash 18,000 and 40,753 shares, respectively, on which the arrears amounted to an estimated $28 and $26.75 per share, respectively, or totals of $504,000 and $1,090,143, respectively. By the date of consummation of the plan of reorganization of the company in 1949, arrears on the remaining 1,441,247 shares outstanding amounted to $17 per share, or a total of $24,501,199. These arrears were eliminated under the plan of reorganization.

[4] At Dec. 31, 1937, dividend arrears on the preferred stocks of Electric Power and Light Corp. totaled $29,741,370. By the date of consummation of the plan of reorganization in 1949, the arrears had increased by $44,409,112, to a total of $74,150,482. These arrears were eliminated under the plan of reorganization.

[5] Not applicable.

[6] The date of registration shown for Niagara Hudson Power Corp. represents the date on which its parent company, The United Corp., registered under the act. Niagara Hudson Power Corp. itself registered as a holding company on June 23, 1948.

Tabulation showing (1) market values of senior securities of certain public utility holding companies as at dates of registration under the Public Utility Holding Company Act of 1935, and (2) present values attributable to such senior securities as indicated by amounts of capital distributions of cash and securities received by the holders thereof, with market values computed as at Sept. 24, 1951—Continued

Name of holding company and date registered under Holding Company Act	Market values at registration date	Cash and market values of capital distributions computed as at Sept. 24, 1951 [1]	Increases in market values
10. North American Co., The—2-25-37:			
Debentures	$24,869,520	$24,749,955	($119,565)
Preferred stock	33,956,104	33,349,745	(606,359)
Total	[7] 58,825,624	[7] 58,099,700	[7] (725,924)
11. United Corp., The—3-28-38: Preference stock	[8] 65,328,694	[8] 138,766,251	73,437,557
12. United Gas Improvement Co., The—3-29-38: Preferred stock	77,382,468	91,664,611	14,282,143
Subtotals (unconsolidated):			
Bonds and debentures	230,968,965	298,469,942	67,500,977
Preferred stocks	492,398,649	1,315,186,238	822,787,589
Grand totals (unconsolidated)	723,367,614	1,613,656,180	890,288,566

[7] The debentures and preferred stock of The North American Co. on Feb. 25, 1937, were selling above the prices at which they were subsequently redeemed.

[8] There were no dividend arrears on the preference stock of The United Corp. at Dec. 31, 1937, or at March 28, 1938. With respect to the arrears which accumulated subsequent to the latter date, an estimated $8,281,085 accumulated in respect of 1,274,013 shares retired in 1944 and 1945 pursuant to exchange plans. The retirement of these shares under exchange plans resulted in the concomitant elimination of the arrears applicable to such shares. The arrears which accumulated during the period in respect of the remaining preference shares retired in 1949 were paid off in cash. Such cash payments are not included in the above table.

( ) Denotes decrease.

INTEGRATION AND SIMPLIFICATION—SURVEY OF INDIVIDUAL SYSTEMS

During the past fiscal year the program of enforcement of the integration and simplification requirements of section 11 has continued unabated. A major portion of this streamlining and realignment process which has contributed so much to the revitalization of the utility industry is now complete and many of the accomplishments of the past year represent the final culmination of several previous years of work. For example, National Power & Light Company completed the divestment of its subsidiary companies and is no longer a registered holding company. Reorganization of Washington Gas and Electric Company was effected in the fall of 1950 with the divestment of its holdings in Southern Utah Power Company through distribution of the common shares to its bond holders and general creditors. After five years of intermittent proceedings under section 11 (b) (2), Eastern Gas & Fuel Associates consummated its financial reorganization plan, and its parent holding company, Koppers Company, Inc., has reduced its stockholdings in Eastern to less than 5 percent. Long Island Lighting Company also completed its reorganization into a single operating company and, since the close of the fiscal year, has been granted an order under section 5 (d) thereby ceasing to be a registered holding company. Another accomplishment of the year was the successful reorganization of Pittsburgh Railways Company with the newly reorganized company replacing more than 50 predecessor companies.[4]

[4] This contraction is not reflected in the divestment data tabulated above, but it is reflected in the dissolutions and consolidations of companies shown in the table on page 4 *supra*. It accounted for half of the total reduction in the numbers of companies subject to the act from 543 on June 30, 1950, to 444 on June 30, 1951.

The number and asset volume of divestments for the past fiscal year was substantially smaller than for the previous period which had witnessed the consummation of reorganization and dissolution plans in several of the largest systems. A decline in the volume of divestments can be expected as the work of integration and simplification nears completion. During fiscal year 1951, 16 companies with assets of $103,740,000 were divested and are no longer subject to the Holding Company Act. In comparison, 78 companies with assets of $2,231,000,000 were divested in the preceding year.

Despite the overall progress witnessed during the past 15 years, however, a substantial volume of work remains to be accomplished.

Final disposition is yet to be worked out with respect to nearly 200 companies with aggregate assets of almost $6,000,000,000.[5] Among the systems which still presented major section II problems on June 30, 1951, were the following:

American Natural Gas Company (retainability of Milwaukee Solvay Coke Company).

American Power & Light Company (disposition of Washington Water Power Company and Portland Gas & Coke Company).

Central Public Utility Corporation (merger of Consolidated Electric & Gas Company into Central Public Utility Corporation and other problems).

Cities Service Company (simplification of the corporate structure of Arkansas Natural Gas Company and redistribution of voting power among its security holders; retainability of other gas utility properties in the Cities Service system).

Eastern Utilities Associates (reorganization of the system).

Electric Bond and Share Company (retainability of its holdings in United Gas Corporation; reorganization of American & Foreign Power Company).

General Public Utilities Corporation (divestment of properties not retainable under the provisions of section 11).

International Hydro-Electric System (section 11 (d) proceedings).

New England Electric System (disposition of non-retainable gas properties).

New England Public Service Company (liquidation and dissolution).

Pennsylvania Gas & Electric Corporation (liquidation and dissolution).

Southwestern Development Company (simplification and integration).

Standard Power & Light Company and Standard Gas & Electric Company (numerous problems including the retirement of the preferred stocks of Philadelphia Company and the preferred of Standard Power and Standard Gas; final disposition of all holding companies in the system).

Wisconsin Electric Power Company (problem related to the retainability of the system gas properties).

Several additional systems have unresolved section 11 problems relating to the retainability of gas or transit properties in combination with electric operating facilities.

A review of accomplishments of the major systems in effecting

[5] Before deduction of valuation reserves.

compliance with section 11 during the past fiscal year is set forth in the following summary descriptions.

American Power & Light Company

On August 22, 1942, American Power & Light Company ("American") then a subholding company subsidiary of Electric Bond and Share Company ("Bond and Share"), was ordered to dissolve, because its existence constituted an undue and unnecessary complexity in the Bond and Share system. At the time of the issuance of this dissolution order American controlled directly or indirectly 35 subsidiaries, 16 of which were public utility companies. American's capital structure then consisted of long term debt, two classes of cumulative preferred stock with heavy dividend arrearages, and common stock. By the beginning of the fiscal year American had completed the major phases of its program of compliance with section 11. The steps taken are reported in the 15th and 16th Annual Reports. At present American controls only two utility subsidiaries, The Washington Water Power Company ("Washington") and Portland Gas & Coke Company ("Portland").

On February 15, 1951, American notified the Commission of its intention to negotiate for the sale of either the common stocks or the utility assets of Washington to Public Utility Districts located in the State of Washington. American was prevented from consummating the proposed sale, however, by the issuance of a decree by the Superior Court of the State of Washington on March 28, 1951, prohibiting the Public Utility Districts from acquiring the common stock of Washington under the proposed transaction.

Subsequent to the close of the fiscal year American filed a section 11 (e) plan proposing a cash distribution of $2 per share to each of its common stockholders. In setting a hearing date on this new proposal the Commission specified that certain additional issues were to be considered. These issues include (a) what further steps should be taken by American in order to comply with the Commission's order of August 22, 1942, directing its dissolution, (b) whether the Commission should apply to an appropriate U. S. district court pursuant to section 11 (d) to enforce this order and (c) whether the Commission should approve some plan which would provide, among other things, for the distribution of American's holdings of the common stock of Washington to its stockholders.

After the close of the fiscal year (October 15, 1951) the Commission approved this plan and, in addition, ordered American to file within 20 days a plan providing for the distribution of Washington's stock, as proposed by resolution of the board of directors promptly after January 1, 1952, in the event that American had not by that date filed a notification of a proposed sale of such stock pursuant to Rule U-44 (c).[6]

Portland, the other utility subsidiary of American, has had on file with the Commission an extensive plan of reorganization which would materially reduce the interest of American in this enterprise. After the close of the fiscal year (August 29, 1951) the Commission issued its findings and opinion on this plan indicating that it would approve the proposal if amended to provide, among other things, that 90 percent

[6] Holding Company Act release No. 10820.

of the new common stock of the reorganized company be allocated to the preferred stockholders, the balance to be allocated to American, owner of all of Portland's presently outstanding common stock.[7] The plan was so amended and later approved by the Commission.[8]

American & Foreign Power Company, Inc.

American & Foreign Power Company, Inc., ("Foreign Power"), is a sub-holding company in the Electric Bond and Share Company ("Bond and Share") system. It controls a mutual service company and more than 60 holding and operating utility companies located throughout Central and South America, Cuba, Mexico, and India. Since the operations of all of Foreign Power's subsidiaries are outside of the United States, the Commission's principal concern is with respect to simplification of the company's corporate structure and its relationship to its parent, Bond and Share. Foreign Power's capital structure at December 31, 1950, consisted of debentures, notes payable to Bond and Share, notes payable to banks, three classes of preferred stock with dividend arrearages aggregating more than 433 million dollars, common stock and option warrants.

Foreign Power and Bond and Share jointly filed a plan for the reorganization of the former in October 1944, which after extensive hearings and amendments was approved by the Commission on November 19, 1947.[9] The plan was subsequently approved by the United States District Court for the District of Maine but the company was unable to effectuate the financing necessary to consummate the plan. For this reason both the district court and the Commission subsequently vacated their orders approving it. On May 2, 1949, the Commission issued an order pursuant to section 11 (b) (2) requiring Bond and Share and Foreign Power to take steps to reorganize the latter company in such a manner that its resulting capital structure would consist only of common stock plus such an amount of debt as would meet the applicable standards of the act.[10]

On January 16, 1951, Foreign Power, joined by Bond and Share, filed a new plan of reorganization under section 11 (e) of the act.[11] Extensive hearings were held during the fiscal year. Shortly after the close of the year, and after extensive negotiations between the companies and the organized security holders' committees who have appeared in the proceedings, a compromise was agreed to and an amendment to the plan was filed reflecting that compromise. The plan, as amended, provides for the following allocations for security holders other than Bond and Share; for each share of $7 Preferred stock—$90 principal amount of new 4.8 percent Junior Debentures and 3.75 shares of new common stock; for each share of $6 Preferred stock—$80 principal amount of new 4.8 percent Junior Debentures and three shares of new common stock; for each share of Second Preferred stock, Series (A) $7—0.85 of a share of new common stock; for each share of outstanding common stock—1/50th of a share of new common stock.

The option warrants are to be cancelled. Bond and Share would receive 3,856,723 shares (55.7 percent) of the new common stock for its present holdings of Foreign Power securities, including $49,500,000

[7] Holding Company Act release No. 10740.
[8] Holding Company Act release No. 10812.
[9] Holding Company Act releases Nos. 7815 and 7849.
[10] Holding Company Act release No. 9044.
[11] Holding Company Act release No. 10362.

of notes due 1955 and sizeable amounts of the various classes of preferred stock, common stock and option warrants presently outstanding.

Hearings on the plan, as amended, were completed after close of the fiscal year and the Commission thereafter approved the plan.

Cities Service Company

Cities Service Company ("Cities") at the time of its registration in 1941 was the top holding company in a system containing 125 companies of which 49 were electric and gas utility companies. Consolidated assets totaled approximately one billion dollars. This system owned or operated properties in each of the 48 States and in several foreign countries. Utility properties were held by three subholding companies, Cities Service Power & Light Company, Federal Light & Traction Co. and Arkansas Natural Gas Corp., each controlling one or more utility systems.

In proceedings under section 11 (b) of the act the Commission found that Cities should be limited in its operations to those of a single integrated gas utility system and required the disposition of its other interests.[12] However, Cities expressed a desire to retain instead its non-utility businesses and, accordingly, the Commission modified its section 11 (b) (1) order so as to permit Cities to effectuate compliance by disposing of all of its utility interests.[13]

Cities Service Power & Light Company was liquidated and dissolved in August 1946, and its portfolio holdings were at that time transferred to Cities. Federal Light & Traction Company had also substantially completed liquidation proceedings.

On February 9, 1949, the Commission instituted proceedings with respect to Arkansas Natural Gas Corp., the third subholding company, and Cities under section 11 (b) (2) and other sections of the act raising issues among others, with respect to the corporate structure of Arkansas Natural, distribution of voting power among its security holders, and with respect to the organization and history of Arkansas Natural and the relation of Cities Service thereto.[14] Arkansas Natural filed a plan under section 11 (e) on January 26, 1950, designed to effectuate compliance with the requirements of section 11 (b).[15] It provided, among other things, for simplification of the company's corporate structure and for the disposition by Arkansas Natural Gas, as a partial liquidating dividend, of its stockholdings in Arkansas-Louisiana Gas Company. Its other subsidiary, Arkansas Fuel Oil Company, will be merged into Arkansas Natural Gas. The plan treats the holdings of Cities on the same basis as the holdings of the public security holders in Arkansas Natural Gas. One of the issues presently being considered in connection with the fairness of the proposal is whether there is any basis for requiring the subordination of the interest of Cities or of any other stockholder to the interests of other security holders of Arkansas Natural Gas. A number of hearings have been held, but at the close of the fiscal year the record had not been completed.

Cities consummated the simplification of its capital structure in 1947, and eliminated three series of preferred and preference stocks

[12] Holding Company Act releases Nos. 4489 and 4551.
[13] Holding Company Act release No. 5350.
[14] Holding Company Act release No. 8842.
[15] Holding Company Act release No. 10372.

with accumulated dividend arrears of approximately $50,000,000. Since that time it has disposed of its direct interest in the common stock of several utilities including Public Service Company of New Mexico, Ohio Public Service Company and The Toledo Edison Company, applying the proceeds derived from the sales of these holdings to the reduction of its debenture indebtedness. At the close of the fiscal year the Cities system included 59 corporate entities. However, of this number only seven companies were engaged in utility operations.

Eastern Utilities Associates

Eastern Utilities Associates ("EUA") is a Massachusetts voluntary association having three direct subsidiary companies, Blackstone Valley Gas & Electric Company ("Blackstone"), Brockton Edison Company ("Brockton") and Fall River Electric Light Company ("Fall River") and one indirect generating subsidiary company, Montaup Electric Company ("Montaup"). During the past fiscal year the corporate changes and expansion program of this system were closely associated with the major reorganization plan now on file with the Commission.

After extensive proceedings, the Commission issued an order under section 11 (b) on April 4, 1950, which provided, in part, that EUA shall, within one year, terminate its existence and distribute its assets to its shareholders pursuant to a fair and equitable plan or, within one year, acquire a minimum of 90 percent of the outstanding common stock of all of its subsidiary companies and reclassify its common and convertible shares into a single class of stock. The order further provided, in effect, that in the event of the adoption of the latter alternative, EUA, within the one year period, would sever its ownership or control of the gas utility properties owned by Blackstone.[16]

On May 17, 1950, EUA filed its reorganization plan under section 11 (e) for the purpose of complying with this order. After public hearings, step 1 of the plan was approved by the Commission on August 17, 1950.[17] EUA borrowed $9,094,000 on short term promissory notes and, with the proceeds, acquired from the New England Electric system its interest in Fall River consisting of 118,161 shares of capital stock. In addition, it acquired 11,721 shares held by the public. As a result EUA now holds 98.5 percent of the total voting power of Fall River. EUA has also caused to be organized a new holding-operating company, named Eastern Edison Company, for the purpose of acquiring the properties and assets of EUA, Brockton, Fall River and Montaup and holding the securities of Blackstone.

The subsequent permanent financing of Eastern Edison Company will require the issuance of approximately $44 million of securities. The plan contemplates that $28 million will be raised through the public sale of bonds, $12,500,000 through the sale of preferred stock, and $3,500,000 through bank borrowing. Eastern Edison Company also proposes to acquire the capital stock held by minority stockholders of its subsidiary companies. Thereafter EUA proposes to distribute to its common and convertible shareholders the new common stock of Eastern Edison. EUA will then transfer its remaining assets to Eastern Edison and dissolve.

[16] Holding Company Act release No. 9784.
[17] Holding Company Act release No. 10040.

Hearings on the amended reorganization plan were reconvened in May, 1951.

Electric Bond and Share Company

The Electric Bond and Share Company ("Bond and Share") system was the largest to register under the act. At the time of its registration in 1938, it controlled 121 domestic subsidiaries including five major subholding companies with combined assets of nearly $3,500,000,000. These subholding companies were American & Foreign Power Company, Inc. ("Foreign Power"), American Gas and Electric Company ("American Gas"), American Power & Light Company ("American Power"), Electric Power & Light Corporation ("Electric Power") and National Power & Light Corporation ("National Power"). Bond and Share has disposed of its holdings in American Gas and National Power. Electric Power has been dissolved and has been succeeded by Middle South Utilities, Inc., which like American Gas is expected to remain as a registered holding company.[18] American Power has been partially liquidated and Bond and Share now holds 7.8 percent of its new common stock. Proceedings with respect to Foreign Power, in which Bond and Share continues to hold a substantial interest, are pending before the Commission and are described above under a separate heading.

As indicated in the 16th Annual Report, the Commission issued an order on June 19, 1950, directing the Bond and Share pay to holders of certificates issued in respect to the $6 preferred stock an amount of $10 per share plus interest of 5.45 percent as compensation for delay in payment and that no further payment should be made to holders of certificates issued in respect to the $5 preferred stock. Payments totaling $100 per share had previously been made to holders of both classes of preferred stock. Following unsuccessful appeals from the Commission's order by the company, Bond and Share paid an aggregate of $12.34 per share to certificate holders in respect to the $6 preferred stock, thus completing the final step in the reorganization of the company's capital structure to a one-stock basis.[19]

In the past Bond and Share had filed plans with the Commission contemplating the divestment of all of its public utility holdings in the United States in order that its status might be changed to that of an investment company. It has applied for relief, however, from its commitment to dispose of the stock of United Gas Corporation ("United"), a large gas utility system, received by it in connection with the dissolution of Electric Power. Hearings with respect to this request have been concluded and the matter has been submitted to the Commission for decision.

In February 1950, Bond and Share acquired upon the reorganization of American Power common stocks of that company's subsidiaries, Florida Power & Light Company ("Florida"), Montana Power Company ("Montana"), Minnesota Power & Light Company ("Minnesota"), Texas Utilities Company ("Texas") and new common stock of American Power with a commitment to dispose of all of these holdings within one year. During the past fiscal year all shares of Texas Util-

[18] These companies are discussed in the following section entitled "Progress of Continuing Holding Company Systems."

[19] *In re Electric Bond and Share Co.*, 95 F. Supp. 492 (S. D. N. Y., 1951), cert. denied. *Electric Bond and Share Co.* v. *S. E. C.*, 341 U. S. 950 (1951).

ities and Minnesota Power and a portion of its holdings in Florida and Montana have been sold or distributed. At June 30, 1951, Bond and Share still held 18,709 shares of Florida and 138,708 shares of Montana which it expects to dispose of before the close of 1951. An extension of time has been requested in respect to the disposition of its holdings of 183,050 shares of American Power.

United and its subsidiaries are presently engaged in a construction program which will require the expenditure of approximately $170 million during the years 1951 and 1952. The major item of this program relates to the construction of more than one thousand miles of large diameter pipe line to be built as a grid over the present system in order to provide a more balanced withdrawal and distribution of gas supply from presently connected and newly developed fields, to increase the flexibility of the present system, and to enable United to meet increased gas requirements of present customers and new customers which it proposes to serve.

On March 23, 1951, the Commission approved a joint application of United and its subsidiary, United Gas Pipe Line Company ("Pipe Line"), permitting United to undertake temporary short term bank borrowing up to $25 million, the proceeds to be used to purchase $25 million of Pipe Line's first mortgage bonds.[20] In May 1951, approval was given to certain proposals of United and its two subsidiaries, Pipe Line and Union Producing Co. ("Union"), providing for the issuance by Pipe Line to United of $48,127,000 of mortgage bonds due in 1971, in exchange for United's holdings of similar amount due 1962. United also extended to 1971 the due date on $34 million of outstanding debentures issued by Union and owned by United.[21]

On June 21, 1951, a number of major financing transactions designed to finance a portion of the proposed construction program were approved by the Commission.[22] It authorized (1) the issuance and sale by United, pursuant to a rights offering to its stockholders, of 1,065,330 shares of new common stock; (2) the issuance and sale by United of $50 million principal amount of first mortgage bonds; (3) the issuance and sale by Pipe Line to United of $25 million principal amount of Pine Line's first mortgage bonds and $45 million of its sinking fund debentures; (4) the repayment by Pipe Line to United from the proceeds of the sales of securities of $7 million of unsecured indebtedness.

The rights offering to United stockholders was made on June 29, and Bond and Share was permitted to acquire its proportionate share of the new offering, 287,065 shares, and to exercise its oversubscription privilege if available. The offering was heavily oversubscribed. The public offering of $50 million of United first mortgage bonds was consummated on July 26, 1951.

On June 28, 1950, Bond and Share and United entered into a contract with National Research Corporation ("National Research"), a non-affiliated company engaged in industrial research. The contract was not to become effective, however, until either approved by the Commission or declared not subject to its jurisdiction. Under the terms of the contract, which will expire on December 31, 1955, National Research will engage in certain research work in an effort to develop

[20] Holding Company Act release No. 10463.
[21] Holding Company Act release No. 10581.
[22] Holding Company Act release No. 10636.

new processes or products based on natural gas and its constituents. Such services are to be performed by National Research at cost plus certain amounts for overhead, such costs to be shared equally by Bond and Share and United. The contract provides that Bond and Share and United, between them, are committed to expend in each year on work to be done by National Research minimum amounts ranging from $150,000 in 1950 to $250,000 in 1955.

Bond and Share, while urging approval of the contract on its merits, questioned the jurisdiction of the Commission in this matter. The Commission found, however, that the venture provided for by the contract and the interests of Bond and Share and United therein clearly fall within the purview of sections 9 (a) (1) and 12 (f) of the statute. As previously indicated, the retention of United common stock by Bond and Share is before the Commission for determination. In advance of such determination, the Commission approved the proposed research program on condition that if Bond and Share is subsequently denied relief from its commitment to dispose of the common stock of United it will forthwith withdraw from and terminate all interest in the research contract.[23]

On July 11, 1950, Bond and Share entered into an agreement with a non-affiliated holding company, The Southern Company ("Southern"), which provided for the acquisition by Southern and the sale by Bond and Share of the latter's holdings of 254,045 shares of the common stock of Birmingham Electric Company ("Birmingham") in exchange for 381,067-1/2 shares of the common stock of Southern. Southern proposed to merge the electric properties of Birmingham with those of its subsidiary, Alabama Power Company and cause Birmingham to divest itself of its transportation properties to non-affiliated interests. The proposal would not constitute a complete divestment by Bond and Share of Birmingham since it would permit Bond and Share to continue with an indirect interest in that company through ownership of Southern's common stock.

On August 24, 1950, the Commission issued an order approving the proposed transaction but requiring, among other things, that Bond and Share divest itself of any direct or indirect interest in the common stock of Southern within one year from the date of acquisition. The order also required the disposition of Birmingham's transportation properties within one year from the date of the acquisition by Southern of the Birmingham stock.[24]

In January 1951, Bond and Share's subholding company subsidiary, National Power & Light Company ("National Power") effected the divestment of its subsidiary, Lehigh Valley Transit Company, together with its four subsidiary transportation companies. The properties were sold for $810,500 to the Cincinnati, Newport and Covington Railway Company, a non-affiliated enterprise. During subsequent months National Power also disposed of its remaining stockholdings in Pennsylvania Power & Light Company and reduced its assets to a limited amount of cash and cash items. On June 26, 1951, the Commission issued an order approving a plan by which Bond and Share sold its common stock holdings of National Power to Phoenix Industries Corporation ("Phoenix").[25] This corporation is a closely-

[23] Holding Company Act release No. 10237.
[24] Holding Company Act release No. 10055.
[25] Holding Company Act release No. 10640.

held corporation formed primarily to engage in, or to invest in, other companies which engage in commercial activities considered to have good prospects for growth, development and expansion. Its desire to acquire a controlling interest in National Power was related to the large number of the latter company's stockholders, its listing on the New York Stock Exchange and the fact that its assets consisted entirely of cash available for investment. It was indicated that Phoenix upon acquisition of National Power would cause National Power to invest in companies of the same general character as those in which Phoenix plans to invest and that neither company will, directly or indirectly, invest in public utility companies.

In its order approving the sale of stock by Bond and Share the Commission modified the dissolution order directed to National Power so as to permit the continued existence of that company and indicated that, upon consummation of the sale, National Power will have ceased to be a holding company pursuant to section 5 (d) of the act.

General Public Utilities Corporation

This company is the top holding company emerging from reorganization of the former Associated Gas and Electric Company system. Reference is made to the 15th and 16th Annual Reports which outline briefly the steps taken in earlier years to bring about integration and simplification of this highly complex structure. In 1938 this system consisted of 164 companies including 11 subholding companies operating in 26 States and in the Philippine Islands. While the present holding company system controlled by General Public Utilities Corporation ("GPU") represents but a segment of the former Associated system, certain problems remain to be resolved before it can be brought into complete conformity with the standards of section 11.

In May 1951, hearings on the company's section 11 (b) (1) proceedings were concluded. The Division of Public Utilities of the Commission at that time indicated its view: (1) that the electric, coal mining, water, and steam heating properties of Jersey Central Power & Light Company, Metropolitan Edison Company, New Jersey Power & Light Company, and Pennsylvania Electric Company (other than minor steam heating properties of the latter company located at Clearfield, Pa.) constitute a single integrated electric utility system and reasonably incidental businesses, and are retainable by GPU; (2) that the properties of Northern Pennsylvania Power Company and of its subsidiary, The Waverly Electric Light & Power Company, the gas properties of Jersey Central Power & Light Company, and the steam heating properties of Pennsylvania Electric Company referred to above are not retainable under the standards of section 11 (b) (1) of the act; and (3) that the Commission's order of August 13, 1942, directing, among other things, the divestment by GPU of its interest in the Philippine subsidiaries should be reinstated forthwith. At the same time, GPU indicated that it was not opposed to the prompt entry by the Commission of an order embodying the views of the division. After the close of the fiscal year the Commission entered such an order.

Construction requirements during the past year have made it necessary for the GPU system to undertake the issue and sale of 504,657 shares of its common stock through a rights offering to its common stockholders. This offering was made on June 16, 1951. Gross pro-

ceeds amounted to approximately $8,365,000.[26] These funds, less fees and expenses, are being employed by GPU for investment in the common stocks of its domestic utility subsidiaries to meet their expansion requirements. GPU has also made capital contributions to certain subsidiaries from treasury cash. In addition, its domestic subsidiaries sold to the public $5,750,000 of mortgage bonds and $2 million of preferred stock. Virtually all of the proceeds derived from these sales have also been applied to meet construction requirements.

International Hydro-Electric System

At the time of registration International Hydro-Electric System ("IHES"), a Massachusetts voluntary association, owned directly Gatineau Power Company ("Gatineau"), a Canadian public utility company, and two wholesale electric utilities operating in the United States. It also owned the equity in New England Power Association which, since its reorganization, is known as New England Electric System. IHES is now in process of liquidation and dissolution under section 11 (d) of the act. It functions under the authority of Bartholemew A. Brickley as trustee, who was appointed by the United States District Court for the District of Massachusetts in November 1944.

Earlier steps taken toward the eventual liquidation and dissolution of IHES are described briefly in the 15th and 16th Annual Reports. On April 19, 1949, the Trustee submitted a "Second Plan" of four parts to effect the eventual liquidation and dissolution of IHES and on July 1, 1949, after approval of the Commission, Part I of the plan was consummated.[27] This consisted of a partial payment on outstanding 6 percent debenture indebtedness in default since 1944, reducing the outstanding principal amount of each $1,000 debenture from $700 to $600. At the close of the last fiscal year the trustee was also authorized to consummate Part II of the plan and retired the company's 6 percent debentures by repaying the balance of $15,940,800 ($600 per debenture) which was then outstanding. The requisite amounts of cash were obtained through the exchange or sale of 340,000 common shares of Gatineau and through consummation of a bank loan of $9,500,000.[28]

Hearings were resumed in November 1950, on Part III of the Trustee's Second Plan in which it is proposed to retire the preferred and class A stocks of IHES by issuing in exchange therefor eight trustee certificates for each preferred share and one trustee certificate for each class A share. Under Part IV of the Trustee's plan, a 60 day takedown privilege would be afforded to the certificate holders, under which each certificate holder would be permitted to pay his aliquot share of the Trustee's net obligations including the bank debt and receive his aliquot share of the portfolio assets. Thereafter, the balance, if any, due on the bank debt would be satisfied by a sale of assets, the expenses of administration would be paid, the remaining assets would be ratably distributed and the holding company would be dissolved.

Hearings on Part III of the Trustee's plan and various counterproposals were closed on February 20, 1951. At the end of the fiscal year the staff filed its recommendations indicating that Part III would

[26] Holding Company Act release No. 10622.
[27] Holding Company Act release No. 9120.
[28] Holding Company Act releases Nos. 9535 and 9917.

be fair and equitable if amended to provide seven trustee certificates in exchange for each preferred share and one trustee certificate for each class A share. It was recommended that other counter-proposals be disapproved. All parties have been given an opportunity to file objections to the staff recommendations and at the close of the fiscal year the matter had not yet been argued orally before the Commission.

In a collateral proceeding, the Trustee applied for authorization to make quarterly payments of 87½ cents per share to the preferred stockholders pending final liquidation. No dividends have been paid on the preferred stock since July 15, 1934. This request is pending before the Commission.

Koppers Company, Inc.
Eastern Gas & Fuel Associates

Koppers Company, Inc., is a large industrial organization engaged in the production, manufacture, and sale of coal tar products, forest products, coke and gas, machine shop and foundry products, and in the design and construction of various types of coke ovens, chemical plants and other structures. It has been a public utility holding company by virtue of its stock ownership of Eastern Gas & Fuel Associates ("Eastern"). The latter company, which is engaged in a large measure in the production, transportation, sale and conversion of coal, is a public utility holding company because of its ownership of the outstanding voting securities of two gas utility companies operating in the Boston area.

Both Koppers and Eastern filed applications pursuant to section 3 of the act for orders exempting them and their subsidiaries from all provisions of the act because of the intrastate character of their utility operations and on the ground that they were only incidentally public utility holding companies. Subsequently, however, Eastern filed a notification of registration as a holding company which filing purported in substance to limit the effect thereof to the corporate simplification provisions of the act and Koppers filed a notification of registration purporting to limit its effect to the geographic integration provisions of the act.

In proceedings subsequently instituted under section 11 (b) (1) of the act, the Commission, in June 1945, ordered Koppers with its consent to sever its relationship with Eastern and its subsidiaries by disposing of its security holdings of those companies.[29]

In May 1945 the Commission also instituted proceedings under section 11 (b) (2) against Eastern and these proceedings were consolidated with those involving a plan filed by that company in the same year.[30] The plan as originally filed provided for the retirement of Eastern's outstanding 6 percent cumulative preferred stock and common stock through the issuance of a new common stock, 85 percent of which was to be allocated to the preferred holders and 15 percent to the common stockholders. At the close of the hearings in January 1947, the allocation was amended to provide 79.01 percent for the preferred holders and 20.99 percent to the common stockholders. The record was closed in March 1947, but because of changed circumstances the hearings were reconvened in 1948 for the purpose of adducing additional evidence.[31] On December 31, 1948, arrearages on

[29] Holding Company Act release No. 5888.
[30] Holding Company Act releases Nos. 5827 and 5877.
[31] Holding Company Act release No. 8096.

the preferred stock amounted to $35.50 per share, aggregating $13,281,899.

In January 1949, Eastern again amended its plan by further reducing to 73.08 percent the proposed allocation of new common stock to the 6 percent preferred stockholders. The proceedings were the subject of vigorous disputes by various contending stockholder representatives. In February 1950, the Commission directed Eastern to reclassify the 6 percent preferred stock and common stock into one new class of stock and indicated that an 87 percent—13 percent allocation plan could be approved.[32] Because of the wide fluctuations in Eastern's earnings due to changing conditions in the coal business, the Commission was confronted with a most difficult task in its evaluation of past and future prospects of the company necessary to determine the fairness of the allocation. The plan was subsequently amended to meet suggestions of the Commission and was approved in March 1950.[33] In June the United States District Court for the District of Massachusetts entered its order approving the plan which was consummated in October 1950.

As a result of the plan Koppers' holdings of about 78 percent of Eastern's common stock and 13 percent of its preferred stock were converted into 22 percent of the new common stock. Through subsequent sales to various purchasers Koppers has reduced its holdings to 4.6 percent and is under order to divest itself of this remaining interest. The matter of Eastern's application for exemption from all provisions of the act is still pending before the Commission.

Mission Oil Company
Southwestern Development Company

The stock of Southwestern Development Company ("Southwestern") is owned 47.28 percent by Mission Oil Company ("Mission"), representing virtually the only assets of that company; 51 percent by Sinclair Oil Corporation ("Sinclair") and 1.72 percent by minority interests. Sinclair also holds about four percent of the stock of Mission. Mission and Southwestern are registered holding companies; Sinclair, primarily engaged in the production and refining of petroleum products, has been granted an exemption from the provisions of the act.[34]

At the time of its registration in 1936, the Southwestern system proper comprised seven wholly owned subsidiaries (four gas utilities, two small gas transmission companies and one natural gas production company) which supplied the natural gas requirements of about 50 communities in the Panhandle area of Texas. In addition to these operations, Southwestern had substantial interests in other important natural gas production and transmission companies. It held all of the capital stock of Canadian River Gas Company ("Canadian River") and a substantial interest in Colorado Interstate Gas Company ("Colorado"). These two companies are known as the "Denver line," constituting in effect a single operating and business unit. Southwestern also had at that time an interest in Texoma Natural Gas Company and Natural Gas Pipeline Company of America. These two companies, sometimes described as the "Chicago line," constitute

[32] Holding Company Act release No. 9633.
[33] Holding Company Act release No. 9725.
[34] 2 S. E. C. 165, sub nom. *Consolidated Oil Corporation.*

a natural gas transmission system furnishing gas to Chicago and certain intermediate cities enroute.

The Southwestern holdings remained without substantial change until 1947 when its interest in the two companies comprising "Chicago line" was sold to a non-affiliated company.

In June 1951, after numerous conferences with the staff, Mission and Southwestern filed with the Commission a section 11 (e) plan designed to conform its system to the integration and simplification requirements of the statute. In substance the plan provides that (a) Mission will be liquidated and Sinclair will divest itself of its stockholdings in Southwestern, (b) the rights to the natural gasoline in the natural gas reserves of Canadian River, "in place", will be transferred to a new company, the stock of which will be issued to Southwestern and distributed by it to its stockholders, (c) the two companies, Colorado and Canadian River, constituting the "Denver line," will be merged, (d) Southwestern will also distribute its holdings of stock in the merged Colorado-Canadian River Company to its stockholders and (e) for purposes of facilitating these proposed distributions, Southwestern and Colorado will reclassify their outstanding common stocks. The Commission has instituted cross-proceedings under sections 11 (b) (1) and 11 (b) (2) and hearings upon the consolidated matters were initiated early in August 1951.[35]

If this plan is successfully consummated Southwestern will remain with its wholly owned subsidiaries including four gas utilities with a field of operations confined generally to the north Texas area. The stock of Southwestern will be publicly held.

New England Public Service Company

New England Public Service Company ("NEPSCO"), at the time of its registration, had five major operating subsidiaries of which two operated in Maine, one in New Hampshire and two in New Hampshire and Vermont. It also owned through an industrial subsidiary, five textile mills, a paper company and a forest products manufacturing company. As a result of simplification proceedings instituted by the Commission under section 11 (b) (2), the company was directed in 1941 to reorganize on a one stock basis or in the alternative to liquidate and dissolve. The management of NEPSCO elected to liquidate and subsequent steps have been taken toward this end.

On June 19, 1950, the Commission reached its decision as to the amounts to be paid on the certificates of contingent interest issued in connection with the retirement of NEPSCO's Prior Lien Preferred Stock and it ordered that the $7 Series receive an additional payment of $12.25 per share and the $6 Series $2.25 per share, together with compensation for delay in payment at the rate of 5.5 percent per annum from October 10, 1947.[36] The findings of the Commission with respect to these amounts were subsequently approved and enforced by the United States District Court for the District of Maine in November 1950. These sums represented the final payments in connection with retirement of the Prior Lien Preferred Stock.

Subsequently, the Commission and the court approved an amendment to the section 11 (e) plan of NEPSCO which provided for the reduction of its outstanding bank loan by the use of proceeds derived

[35] Holding Company Act release No. 10668.
[36] Holding Company Act releases Nos. 9931 and 9982.

from the sale of 260,000 shares of common stock of Central Maine Power Company, renewal of the unpaid balance, and a program for full payment by October 11, 1952. The changes also included removal of restrictions on the payment of dividends on NEPSCO preferred stock and an accounting quasi-reorganization.[37] Proceeds derived by NEPSCO from the sale of Central Maine Power Company common stock permitted a reduction in its bank loan of approximately $4 million. The company also applied $2,132,000 returned to it from funds deposited in escrow for payment of amounts found due on the preferred stock certificates of contingent interest. These payments, together with funds generated from current earnings, have brought the outstanding amount of the loan down to $1,310,000 at June 30, 1951.

In June 1951, NEPSCO filed a new plan providing for the distribution of its remaining assets to the holders of its junior preferred and common stocks and for its liquidation and dissolution. This plan is intended to effectuate complete compliance with the Commission's order of May 2, 1941. Superimposed on NEPSCO is Northern New England, a voluntary association, which owns approximately one-third of NEPSCO's common stock. Northern New England is under Commission order to liquidate and dissolve, but it is awaiting consummation of a final plan by NEPSCO in which the participation to be accorded to the common stock of the latter company will be determined, before it can take the required steps to complete liquidation.

Pennsylvania Gas & Electric Corporation

Pennsylvania Gas & Electric Corporation ("Penn Corp"), which filed its registration statement with the Commission in November 1936, had at that time 19 subsidiary companies. Its utility operations were conducted in sections of New York, Pennsylvania, Massachusetts, Rhode Island and Virginia. The system included 15 gas utility companies, three wholesale gas companies and one service company. Three of the utility subsidiaries, North Penn Gas Company ("North Penn"), Pennsylvania Gas & Electric Company, name later changed to York County Gas Company ("York County"), and Saugerties Gas Light Company ("Saugerties") were also subholding companies.

In January 1942, the Commission instituted a proceeding under section 11 (b) (2) with respect to York County and Penn Corp.[38] Thereafter, two subsidiaries were merged into York County and a recapitalization plan of that company was approved by the Commission in December 1944 providing for corporate simplification and a program of debt reduction.[39] The plan was consummated during 1945 after approval by the United States District Court for the Middle District of Pennsylvania. Two of Penn Corp's Virginia subsidiaries were combined in 1944 and, in July 1946, this company was divested by Penn Corp.[40]

In September 1948, the Commission issued an order pursuant to sections 11 (b) (1) and 11 (b) (2) directing Penn Corp to sever its relations with its subsidiaries, Newport Gas Light Company, York

[37] Holding Company Act release No. 10087.
[38] Holding Company Act release No. 3251.
[39] Holding Company Act release No. 5480.
[40] Holding Company Act release No. 6769.

County and North Shore Gas Company, and to change its preferred and common stock to a single class of stock.[41]

Penn Corp disposed of its interest in North Shore shortly thereafter and, in 1949 and 1950, sold its holdings of York County and Newport. Its investment in another subsidiary, New Penn Development Corporation, was also sold during 1950. Subsidiaries in New York were merged into Crystal City Gas Company. An order of the Commission, dated December 22, 1949, approved this merger and also directed that Penn Corp liquidate and dissolve.[42] As a result of successive divestments and the merger, Penn Corp's holding company system was reduced to four gas companies operating in Pennsylvania, one company, Crystal City, operating in New York, and a mutual service company. The Pennsylvania companies were merged, as of December 31, 1950, into a single company, North Penn, with Crystal City as its sole subsidiary.

In the latter part of 1950, Penn Corp. sought the approval of this Commission with respect to a proposed sale of the capital stock of Crystal City to certain non-affiliated interests. After hearings thereon the Commission found that there had not been a maintenance of competitive conditions in the negotiations for such sale and disapproved the proposed transaction.[43]

The final portion of Penn Corp's section 11 plan contemplates the liquidation and dissolution of that company and distribution of capital stock of North Penn pursuant to a proposed allocation to holders of Penn Corp preferred and Class A common stock. A cash payment of $0.10 per share is proposed for holders of the Class B common. Hearings on this proposal were concluded in July 1951.

Standard Power & Light Corporation
Standard Gas & Electric Company

The Standard holding company system presented, at the time of its registration, an extreme example of the evils of corporate pyramiding and scatteration of properties. In 1936, it consisted of 105 active companies operating in 20 states and in Mexico, including the two top holding companies, Standard Power & Light Corporation ("Standard Power") and its subsidiary, Standard Gas & Electric Company ("Standard Gas"). By June 30, 1951, the system had been reduced to 15 companies and further contraction is in prospect.

As reported in the 16th Annual Report, Standard Gas, in 1949, filed an amended plan for the simplification of the corporate structure of the system of its holding company subsidiary, Philadelphia Company ("Philadelphia"). Several provisions of the plan have already been carried out including the reorganization of the gas properties in the Philadelphia system under the ownership of Equitable Gas Company ("Equitable"), the sale of Equitable common stock and $11 million of debentures of Equitable held by Philadelphia, the retirement of Philadelphia's outstanding funded debt, amounting to approximately $36 million and the redemption of Philadelphia's $6 Preference stock, aggregating $10 million in par value.[44] Pursuant to an amendment to the plan submitted on July 11, 1950, Duquesne Light Company ("Duquesne"), a subsidiary of Philadelphia, issued

[41] Holding Company Act release No. 8490.
[42] Holding Company Act release No. 9574.
[43] Holding Company Act releases Nos. 10322 and 10613.
[44] Holding Company Act releases Nos. 9740 and 9766.

$19,500,000 of bonds and preferred stock to the public the proceeds of which were used to finance its construction program and to repay outstanding bank loans. The Duquesne five percent preferred stock, aggregating $27,500,000, was refunded by the issuance to Philadelphia of a new series of four percent preferred stock in consideration of $27,200,000 in cash and the transfer to Duquesne of all of the stock of Philadelphia's direct subsidiary, Cheswick and Harmer Railroad Company.[45]

The amended plan as it now stands proposes that the Duquesne four percent preferred stock be used by Philadelphia in an exchange program to retire its own six percent preferred stock and the six percent preferred of Consolidated Gas Company of the City of Pittsburgh, an inactive subsidiary of Philadelphia, on which Philadelphia has guaranteed certain dividends. The proposed bases of exchange are: one share of Duquesne's four percent preferred stock together with $3.50 in cash, for each share of Philadelphia's six percent preferred and 0.85 of one share of Duquesne's four percent preferred for each share of Consolidated Gas preferred. The plan also provides that Philadelphia five percent preferred stock shall be retired by the payment of $11 in cash for each share and that its $5 preference stock be retired in a manner not yet specified. Aggregate par values of these various preferred stock issues is approximately $31,700,000.

Hearings before the Commission relating to the retirement of the six percent and five percent preferred stocks of Philadelphia and the preferred stock of Consolidated Gas were completed in April 1951 and the matter is now awaiting the decision of the Commission.

During the fiscal year, both Standard Gas and its parent Standard Power, were permitted by the Commission to withdraw their 1943 and 1944 section 11 (e) plans, which had been previously approved but never consummated. The Standard Gas plan which had provided for its recapitalization was allowed to be withdrawn because of changes in conditions occurring during the course of litigation. The Standard Power plan was allowed to be withdrawn because its provisions were linked to the consummation of the Standard Gas recapitalization.[46]

In February 1951, Standard Gas filed a new section 11 (e) plan with the Commission. The plan includes four steps. Step I would effect the retirement of Standard's $7 and $6 Prior Preferred stock; Step II is intended to effectuate the liquidation and dissolution of Standard Gas and the delivery to the holders of its $4 cumulative preferred stock and common stock, shares of Philadelphia Company common stock; Step III will eliminate the minor subsidiaries of Philadelphia and, if feasible, Pittsburgh Railways Company; and Step IV proposes either the dissolution of Philadelphia and the distribution to its common stockholders of its holdings of Duquesne or, if Pittsburgh Railways is not disposed of as part of Step III, the disposition by Philadelphia of most of its holdings in Duquesne and its continuance primarily as a holding company for Pittsburgh Railways until disposition of that company is accomplished. Hearings are currently being held on Step I of the plan.

Pursuant to Step III of the plan, the Commission, on July 3, 1951,

[45] Holding Company Act release No. 10044.
[46] Holding Company Act releases Nos. 9960 and 10385.

approved a joint application by Philadelphia and Equitable Real Estate, a non-utility subsidiary, which provided for the transfer of all of Equitable's assets to Philadelphia and dissolution of the subsidiary.[47] In a prior decision the Commission also approved the dissolution of Equitable Sales Company, another subsidiary of Philadelphia. That step was effected in December 1950.[48]

In December 1950, Standard Gas finally liquidated its investments in Market Street Railway Company ("Market Street") after step one of a modified plan of liquidation and dissolution of Market Street had been approved by the Commission and the United States District Court for the Northern District of California.[49] Pursuant to that plan Market Street paid Standard Gas $512,500 in cash in settlement of its open account indebtedness amounting to $707,189 plus a substantial amount of accrued interest, and it executed a full and complete release of all claims which it held against Standard Gas and Standard Power and any of their subsidiaries. The Standard Gas holdings of junior preferred and common stocks of Market Street were declared worthless since there were not sufficient assets to satisfy the claims of the senior preferred stock.

Standard Gas completed its divestment of Louisville Gas and Electric Company in October 1950 by disposing of its remaining holdings of 137,857 shares of common stock for $4,331,329.[50]

The United Corporation

The United Corporation ("United") registered as a holding company in March 1938, at which time its portfolio was comprised principally of the common stocks of four holding company subsidiaries. These subsidiaries, together with the percentage of voting control held by United, were as follows: The United Gas Improvement Company, 26.2 percent; Public Service Corporation of New Jersey, 13.9 percent; Niagara Hudson Power Corporation ("Niagara Hudson"), 23.4 percent; and Columbia Gas & Electric Corporation (now the Columbia Gas System, Inc.), 19.6 percent. United also had other substantial interests, principally in utility holding and operating companies.

In 1941, United filed a plan pursuant to section 11 (e) for divestment of control of its statutory subsidiaries whereby United would not vote the securities of any of its statutory subsidiaries or have any interlocking officers or directors and would proceed when advantageous to it, to reduce its holdings in each of its statutory subsidiaries to less than 10 percent of the outstanding voting securities of such subsidiaries. Proceedings on that plan were consolidated with proceedings instituted by the Commission under sections 11 (b) (1) and 11 (b) (2). After the development of an extensive record, the Commission found that the plan was not appropriate nor fair and equitable and could not be approved.[51] While it found that dissolution of United would be appropriate it noted the management's expressed desire to change the nature of United's business to that of an investment company. Under the circumstances, the issuance of a dissolution order was withheld but the Commission directed that United correct the inequitable dis-

[47] Holding Company Act release No. 10652.
[48] Holding Company Act release No. 10190.
[49] Holding Company Act release No. 10172.
[50] Holding Company Act release No. 10136.
[51] *The United Corporation*, 13 S. E. C. 854.

tribution of voting power by recapitalizing with a single class of stock and cease to be a holding company.

Shortly before the entry of the Commission's order in 1943 and subsequent thereto, various subsidiary as well as non subsidiary holding companies of United underwent extensive reorganizations under section 11. A large number of indirect subsidiaries of United have been divested and United has effectuated the retirement of all of its outstanding preference stock largely through the exchange of securities of reorganized subsidiaries. Substantial blocks of portfolio securities have also been disposed of through market sales.

In October 1949, the Commission approved a plan filed by United by which it substantially reduced its investment in Niagara Hudson through the distribution of a special dividend of Niagara Hudson stock to its own shareholders.[52] Approval of that plan was conditioned by the Commission upon a prompt filing by United of a comprehensive and detailed program under section 11 (e). Pursuant to this requirement United submitted a new proposal in November 1949 and after successsive modifications, the Commission on June 26, 1951, issued its final order approving the plan as amended.[53] It provided that holders of less than 100 shares of United common stock may surrender their shares for cash in the amount equal to the average net asset value of such stock based on the average of the closing market prices of United's portfolio during the term of the offer. Holders of 100 or more shares of United common stock were offered the opportunity during the same period to exchange their stock for an amount of Niagara Mohawk Power Corporation ("Niagara Mohawk") common stock having an average market value equal to 97 percent of the average net asset value of the United stock surrendered. Such average net asset value was also based on the closing market prices of United's portfolio securities during the period of the exchange offer. Up to 700,000 shares of common stock of Niagara Mohawk were offered for exchange by United under this plan. United also proposes to sell its entire interest in its common stock in South Jersey Gas Company and to reduce its remaining holdings of voting securities of public utility companies to an amount not to exceed 4.9 percent of the outstanding voting stock of such companies.

Shortly after the close of the fiscal year United undertook the exchange offer approved by the Commission and 362,616 shares of United common stock were exchanged for 69,566.6 shares of Niagara Mohawk common stock. In addition, 95,051 shares of United common were surrendered for cash at a purchase price of $4.43 per share. Approximately 557,130 shares of United were held by holders of less than 100 shares and hence were eligible for the cash purchase offer. Proceedings to review certain aspects of the plan are pending in the Court of Appeals for the District of Columbia.

Washington Gas and Electric Company

Washington Gas and Electric Company ("Washington") registered as a holding company on December 1, 1935, and at that time it was a subsidiary of North American Gas and Electric Company. Subsequently, North American Gas and Electric was liquidated pursuant to a section 11 (e) plan which was approved by the Commission in

[52] Holding Company Act release No. 9431.
[53] Holding Company Act releases Nos. 10614 and 10643.

1943 and enforced in the United States District Court for the District of Delaware.[54] Washington had filed a petition in bankruptcy in the United States District Court for the Southern District of New York on September 29, 1941, and, pursuant to order of the District Court for the District of Delaware, the common stock of Washington was turned over to its trustee to be held by him subject to order of the District Court for the Southern District since the common stock had been found to be valueless by the Commission and the District Court of Delaware.

At the time of the filing of its petition in bankruptcy, Washington had three subsidiaries, Oregon Gas and Electric Company, Southern Utah Power Company and Dominion Electric Power, Limited. Washington was also engaged directly in the electric and gas utility business in the State of Washington. The principal electric properties of Washington had been taken by Public Utility Districts in condemnation proceedings in November 1940 and, in the course of reorganization, the remainder of its electric properties were taken in similar proceedings in 1942. Subsequently, the trustee of Washington sold the assets of Oregon Gas and Electric and additional assets of Washington, including its interest in Dominion Electric.

During the proceedings, Washington paid its First Mortgage Bonds in full and caused Southern Utah to refund its debt and to recapitalize on the basis of one class of common stock. As a result Washington received new common stock of Southern Utah in exchange for its former holdings of three classes of that company's stock. On January 24, 1949, the Commission approved a plan submitted under section 11 (f) by the trustee of Washington.[55] The plan was accepted by the bondholders and general creditors of Washington and confirmed by order of the United States District Court for the Southern District of New York on October 5, 1949. It was subsequently directed to be consummated by orders of the court dated April 14, 1950, and July 27, 1950. Pursuant to the plan, Washington has divested itself of its interest in Southern Utah, and retains only its gas utility operations. The common stock of Washington is being distributed to the holders of Washington's First Lien and General Mortgage Bonds and to its general creditors. No participation was accorded to its preferred or common stockholders.

On May 29, 1951, the Commission issued an order pursuant to section 5 (d) declaring that Washington had ceased to be a holding company and cancelling the effectiveness of its registration subject to a condition reserving jurisdiction over the terms, provisions and amount of all debt securities which may be issued in connection with the plan of reorganization.[56] The order also provided that such jurisdiction would be deemed to have been released upon the filing with the Commission of due proof that Washington had obtained approximately $150,000 through the issuance and sale of additional common stock. A statement filed on June 28, 1951, by counsel for Washington indicates that this stock offering has since been successfully consummated.

Wisconsin Electric Power Company

Wisconsin Electric Power Company ("Wisconsin") is an operating-holding company controlling a utility system serving electricity in

[54] 14 S. E. C. 835.
[55] Holding Company Act release No. 8801.
[56] Holding Company Act release No. 10585.

Wisconsin and Michigan and natural gas in Wisconsin. Steam heating service is provided in Milwaukee and Waukesha, Wisconsin. The company also has a transportation subsidiary operating transit facilities in Milwaukee and adjoining suburbs.

On August 15, 1950, the Commission issued an order pursuant to section 11 (b) (1) instituting proceedings to determine what properties may be retained in Wisconsin's electric holding company system. Hearings are presently in progress on these matters. The company recently offered its transportation properties for sale to the City of Milwaukee. In the event these properties are sold the major remaining problem will concern the retainability by Wisconsin of its natural gas utility business. Representatives of the City of Milwaukee and of the Wisconsin Public Service Commission are participating in the proceedings before the Commission.

PROGRESS OF CONTINUING HOLDING COMPANY SYSTEMS

The utility holding company groups expected to continue under the jurisdiction of the Commission as completely integrated, regional systems consist in general of three major types. The first is the electric holding company system, which usually consists of one holding company above a number of interconnected electric operating companies. In this category are included such systems as American Gas and Electric Company, Central and South West Corporation, The Southern Company, and Middle South Utilities, Inc. A significant characteristic of this type of system is the efficient use of large-scale, centralized generation coupled with economical long-distance transmission of energy.

The second type is the natural gas holding company system, which frequently controls gas-transmission as well as gas-distribution properties. Systems of this class include the Columbia Gas System, Inc., American Natural Gas Company, and Consolidated Natural Gas Company. The third type is the operating-holding company system. In these instances the holding company derives a substantial proportion of its income from its own utility operations but also retains one or more subsidiary operating companies. Examples of this type include the Delaware Power & Light Company, Ohio Edison Company, and Interstate Power Company.

In order to achieve the degree of integration contemplated in section 11 and to justify their continuing existence, these holding companies must do more than simply establish physical interconnections among their subsidiary companies. There must be a realization of important economic and engineering benefits obtainable only by the knitting together of a compact group of operating properties having basic functional relationships with one another. In addition, the parent holding companies must be in a position to furnish sound and constructive assistance to their operating subsidiaries in the financing of expansion programs. The strength of each system rests heavily upon the underlying financial stability of its subsidiaries.

The following summaries provide a review of the more important actions taken by the Commission during the past fiscal year in respect to operations of a number of the continuing systems. It should be noted that several of these systems are still faced with residual problems under section 11 (b) (1) and 11 (b) (2) of the act, and during

the past year they have made several property dispositions intended to eliminate some of their nonretainable holdings. In a limited number of cases, registered holding companies may eventually be able to qualify for exemption from the act pursuant to the provisions of section 3 (a).

Certain of the holding companies described in the preceding section may also remain as parts of continuing systems upon resolution of their existing section 11 problems.

American Gas and Electric Company

American Gas and Electric Company ("American Gas") is the largest of the continuing regional holding company systems with consolidated assets in excess of $678,000,000. Its operations, almost wholly electric, extend over a seven state area from Kentucky to Michigan.

In December 1950, the Commission permitted American Gas to undertake an exchange offer designed to acquire all of the outstanding common stock (162,030 shares) of Central Ohio Light & Power Company ("Central Ohio") in exchange for American Gas common stock on the basis of 0.72 of a share of American Gas common stock for each share of Central Ohio common stock.[57] Central Ohio, an independent electric operating utility, had service areas in two sections of Ohio about 100 miles apart and not interconnected. Under the plan outlined by American Gas, expenditures of almost $1,500,000 were proposed in order to interconnect the facilities and coordinate the operations of Central Ohio with The Ohio Power Company, an operating subsidiary of American Gas. The exchange proposal proved highly successful and American Gas reported that as of March 12, 1951, it had acquired 98 percent of the outstanding common stock of Central Ohio.

American Gas, with Commission approval, has also eliminated one subsidiary from its system, Union City Electric Company ("Union City"). Since the power requirements of Union City were furnished entirely by The Ohio Power Company, Union City no longer served a useful purpose in the system as a separate corporate entity. Its property therefore was transferred to Ohio Power and the company was dissolved.

The American Gas system serves a territory which, within the last two years, has experienced a tremendous expansion in the tempo and scope of defense production. The system has therefore been carrying on an extensive construction program to meet the additional demands for service and to replace existing properties with more efficient facilities. Its construction program will require expenditures during the years 1951 through 1953 of approximately $288 million. During the past fiscal year the Commission has approved system financings aggregating in excess of $68 million. This was accomplished by advances to subsidiaries, bank loans and mortgage debt and common stock offerings. Among these was a successful rights offering made by American Gas to its stockholders of 339,674 shares of common stock without the aid of underwriting or dealer solicitation. A substantial portion of the net proceeds of $17,619,000 derived from this offering has been reinvested in the equities of the subsidiary operating companies.[58]

[57] Holding Company Act release No. 10294.
[58] Holding Company Act releases Nos. 10453 and 10475.

American Natural Gas Company

American Natural Gas Company ("American") and its subsidiaries now constitute an integrated gas transmission and distribution system bringing natural gas from the Hugoton field in Texas to areas in the States of Michigan and Wisconsin.[59] The development of the American system was effected by the parent company's divestment of certain non-retainable holdings and the application of cash proceeds derived from these sales to investment in a newly organized gas transmission pipe line, the Michigan-Wisconsin Pipe Line Company. The latter enterprise serves to link the gas utility subsidiaries of American with a source of fuel some eight hundred miles to the south.

The past four years have witnessed the rapid growth of the Michigan-Wisconsin Pipe Line Company as a major long distance transmission system. The first and second phases of the project have been substantially completed and now permit an annual gas delivery capacity of 110 billion cubic feet, the maximum presently authorized by the Federal Power Commission. Capitalization of the pipe line company includes $66 million of bonds, $25 million of common stock owned by American and $20 million of bank loans due July 1, 1952.

On April 5, 1951, Michigan Consolidated Gas Company, one of the principal gas utility subsidiaries of American, acquired the assets of its wholly owned subsidiary, Austin Field Pipe Line Company, in exchange for the cancellation of $7,295,039 of advances, the surrender of all of the outstanding stock and the assumption of all liabilities of the Austin company.[60]

In order to meet a continually increasing demand for fuel the American system has undertaken a substantial amount of new financing during the past year. At June 1951 total system construction requirements were estimated at approximately $45 million. In November 1950, Milwaukee Gas Light Company, another subsidiary, issued and sold at competitive bidding $27 million of mortgage bonds and $6 million of sinking fund debentures to the public and $3 million of common stock [61] to its parent, American. In early July 1951, Michigan Consolidated Gas Company sold publicly $15 million of bonds at competitive bidding and to its parent, American, $5 million of common stock, which, it was estimated, would meet its requirements through 1951.

In order to preserve a balanced capital structure within the system it has been necessary for the parent holding company, American, to make several offerings of its own common stock from time to time. In August 1950, it issued and sold, pursuant to a rights offering, 304,406 additional common shares. In June 1951, another rights offering to its common stockholders resulted in the sale of 334,935 shares of common stock.[62] Aggregate proceeds of the two offerings were $15,900,000.

The Columbia Gas System, Inc.

The Columbia Gas System, Inc. ("Columbia Gas") is the parent holding company in an integrated natural gas utility system providing service in seven states. Its properties embrace both distribution

[59] The status of one non-utility subsidiary, Milwaukee Solvay Coke Company, remains to be determined.
[60] Holding Company Act release No. 10327.
[61] Holding Company Act releases Nos. 10169 and 10188.
[62] Holding Company Act releases Nos. 10054 and 10610.

and transmission facilities. To meet a continuously increasing demand for natural gas as a house-heating fuel and for new defense requirements, construction expenditures totaling over $37 million were made by the system in 1950, and projected expenditures for 1951 involve an additional amount of $68 million. The completion of this program is dependent, however, upon the availability of certain critical materials. Cash requirements for these undertakings have been met, in part, through the sale at competitive bidding by Columbia Gas of $90 million principal amount of debentures in July 1950. Although a portion of this offering was used to retire $58 million of debentures outstanding, the balance was made available for construction needs.

The indenture under which these debentures were issued permits the company to issue debt to the extent of 60 percent of its total capitalization. Columbia Gas indicated that, while it is presently of the opinion that a debt ratio of not more than 50 percent is desirable, it felt that a substantial amount of additional borrowing capacity might be necessary in periods of heavy construction which would temporarily bring the debt ratio above this level. The Commission recognized the desirability of such flexibility and permitted the declaration covering issuance of the debentures to become effective. It indicated, however, that it considered 50 percent to be the desirable proportion of debt for the system and noted that its approval was not to be construed as an indication that the issuance of debt to the full limit permitted by the indenture would be approved under all circumstances.[63]

Cash derived by Columbia Gas from its sale of securities has been reinvested in several of its subsidiary operating companies through the purchase of instalment promissory notes. The aggregate of such investments during the fiscal year 1951 was $25,600,000. Columbia Gas has also purchased 122,000 additional shares of the common stock of its subsidiary holding company, Atlantic Seaboard Corporation. The proceeds of this financing have been applied to meet construction requirements.[64]

Interstate Power Company

Interstate Power Company is an operating-holding company which, together with its two subsidiaries, is engaged principally in the electric utility business in Minnesota, Iowa, Wisconsin, Illinois, and South Dakota.

Following a complete financial reorganization of the company in 1948 pursuant to a section 11 (e) plan Interstate's rapidly expanding business necessitated the raising of substantial amounts of additional capital. The company's financial structure at that time was still far from ideal and, in the process of meeting its new capital requirements, the company and the Commission were faced with the problem of effecting steady improvement in the system's equity ratio so that future financing could be facilitated on a sound and economical basis. This objective has been achieved with marked success. Interstate's common equity has increased from 17 percent of total capitalization and surplus at the time of its 1948 reorganization to about 27 percent by the middle of 1950.

To finance its 1951 construction program Interstate arranged for short term bank borrowings in the aggregate amount of $4,500,000.

[63] Holding Company Act releases Nos. 9993 and 10012.
[64] Holding Company Act release No. 10648

By order dated February 16, 1951, the Commission approved borrowings to the extent of $2,500,000, reserving jurisdiction over the remaining portion pending consideration by the company of plans to effect additional common stock or other equity financing in the near future.[65]

During the past fiscal year the Commission also approved an Adjusted Compromise Plan with respect to the distribution of 944,961 shares of Interstate's new common stock which had previously been placed in escrow pending determination as to whether the holdings of Ogden Corporation (former parent company of Interstate) should be subordinated to those held by the public.[66] The plan was directed to be enforced by the United States District Court for the District of Delaware in its order dated March 16, 1951. Distribution of the escrowed assets to the holders of Interstate's formerly outstanding securities was initiated a month later.

Middle South Utilities, Inc.

Middle South Utilities, Inc. ("Middle South") controls a utility system serving the three state area embracing Arkansas, Louisiana and western Mississippi. The company was organized in May 1949 to acquire from Electric Power & Light Corporation the latter's holdings in Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company and New Orleans Public Service, Inc., and a small land company. Middle South is now an integrated regional holding company system deriving the major portion of its revenues from sales of electricity. Certain of its nonretainable natural gas and transportation operations, and its interest in the land company, have been disposed of during the past fiscal year.

On September 6, 1950, the Commission approved the sale by Arkansas Power & Light Company of its entire gas utility assets, consisting of distribution systems in 23 small towns and cities in Arkansas.[67] These properties were sold to the newly formed Midsouth Gas Company ("Midsouth") which was organized by a group of investment banking firms. Midsouth agreed to pay Arkansas Power in cash an amount equal to the net book cost as of December 31, 1949, of the gas properties and also for other assets transferred and conveyed under the purchase contract.

On December 20, 1950, the Commission also approved the sale by Arkansas Power & Light Company of its holdings of common stock of Capital Transportation Company. The sale was made to a non-affiliated transit company for a total consideration of $575,000.[68]

The Middle South system has estimated that its construction expenditures for the year 1951 will total approximately $48,450,000, of which $25,000,000 is to be raised by new financing. In November 1950, the Commission approved the sale at competitive bidding of $10 million of mortgage bonds by Louisiana Power & Light Company, and in March 1951 approval was granted for the issuance and sale by the parent holding company of 450,000 shares of its own common stock at competitive bidding.[69] Middle South has employed the proceeds of this offering, together with other available cash, to purchase

[65] Holding Company Act release No. 10398.
[66] Holding Company Act release No. 10400.
[67] Holding Company Act release No. 10077.
[68] Holding Company Act release No. 10300.
[69] Holding Company Act releases Nos. 10193, 10228, 10438 and 10458.

$8 million of additional common stock of Arkansas Power & Light Company.

New England Electric System

New England Electric System ("NEES") and its subsidiary companies constitute the largest utility organization in New England. The system's total revenues from operations for the year 1950 amounted to approximately $107 million, 82 percent of which was derived from the sale of electricity, 10 percent from gas and 8 percent from transit operations. The system has 35 subsidiary companies of which 21 furnish electricity, at retail, in Massachusetts and Rhode Island. Two generating companies and a transmission company operating in New Hampshire and Vermont supply electricity on a wholesale basis.

During the past fiscal year, Narragansett Electric Company, a subsidiary operating company, acquired the property of its own subsidiary, Rhode Island Power Transmission Company, which was subsequently dissolved. In October 1950, NEES sold its interest in Fall River Electric Light Company to Eastern Utilities Associates, a nonaffiliated holding company, for $7,608,000. In March 1951, NEES also disposed of its investment in the United Electric Railways Company which operates in the Providence, Rhode Island, area.

NEES has made considerable progress during the year with respect to its plan for the consolidation of certain electric properties into larger operating companies. This plan is closely associated with the separation and disposal of the system's gas properties. The merger of the electric properties of eight subsidiary companies located in the central part of Massachusetts into one electric company was consummated in February 1951 and, at the same time, the gas properties of certain combination gas and electric companies in this area were separated and regrouped into four gas companies. On July 14, 1951, NEES invited proposals for the purchase of all or part of the system's gas properties.

After many modifications, the reorganization plan of Green Mountain Power Corporation ("Green Mountain"), a subsidiary of NEES, was approved by the Commission and ordered enforced by the United States District Court for the District of Vermont at the close of the fiscal year.[70] The plan, among other things, provided for the exchange of new common stock for the company's then outstanding preferred stock, the issuance and sale, for cash, of additional shares of new common stock and the settlement of possible intra-system claims. Since NEES was allowed no participation in the reorganized company, Green Mountain is now an independent operating utility.

It is estimated that construction expenditures for the NEES system for the years 1949 to 1952 inclusive will total $122 million. In addition cash demands to meet sinking fund requirements and short term debt maturities require an additional $29 million. Of direct concern to the Commission has been the system's temporary and permanent financing program for this construction.

To provide temporary financing for the construction program, system companies from time to time have borrowed from commercial banks with indications that they expect to do permanent bond and capital stock financing and use the proceeds to retire the bank debt

[70] Holding Company Act releases Nos. 10524, 10595 and 10625.

and to pay for construction. During the fiscal year, New England Power Company ("NEPCO") and Worcester County Electric Company ("Worcester County"), subsidiaries of NEES, each sold $12 million principal amount of bonds.[71] Although during the period certain subsidiary companies issued capital stock to NEES and used the proceeds thereof to retire bank debt, short term promissory notes to banks authorized or outstanding as at the end of the period aggregated $22 million. During July 1951, other subsidiaries had pending applications for Commission approval of an additional $6,175,000 of bank loans. Proceeds to be derived from the contemplated sale by NEES of its investments in gas and transportation properties are to be reinvested in the equity of its subsidiary companies in order to effect an improvement in the system's capitalization ratios.

New England Gas and Electric Association

New England Gas and Electric Association ("NEGEA") is a Massachusetts trust holding the common stocks of 11 utility companies all of which, except New Hampshire Electric Company ("New Hampshire") and Kittery Electric Light Company ("Kittery"), are engaged in the electric or gas utility business in Massachusetts. In February 1951, NEGEA and New Hampshire filed an application with the Commission proposing the issuance by New Hampshire of 15,000 shares of preferred stock and 140,000 shares of common stock and the exchange of such stocks for all of its presently outstanding common stock which is held by NEGEA. The application further proposed the sale by NEGEA of New Hampshire's preferred stock to the public and the new common shares of New Hampshire to NEGEA's stockholders, both at competitive bidding. NEGEA also proposed to donate to New Hampshire its holdings of all of the common stock of Kittery prior to the issuance and exchange of the new securities. The Commission approved the proposed transactions in March 1951, but no bids were received for the purchase of the new preferred and common stocks of New Hampshire.[72]

NEGEA is continuing the extensive construction program commenced prior to the past fiscal year. Gas plant additions have included facilities to utilize natural gas when it becomes available in the New England area. Estimated expenditures for the calendar years 1951 and 1952 aggregate $12,200,000, of which $2,200,000 represents expenditures necessitated by the introduction of natural gas. To finance this construction program the operating subsidiaries will use general corporate funds in the aggregate amount of $8,500,000, borrow $1 million from banks, and sell additional common stock to NEGEA in the amount of $2,700,000. The cost of adjusting customer-owned appliances for natural gas is to be financed through the issuance by subsidiary companies of 10-year unsecured sinking fund notes.

In June 1951, the Commission approved the issue and sale by NEGEA of 197,394 additional common shares in the form of a rights offering to holders of its common stock.[73] The proceeds, amounting to $2,566,000, were used to repay bank loans in the amount of $1 million and to purchase additional common stocks of subsidiaries

[71] Holding Company Act releases Nos. 10380, 10402, 10468, 10488.
[72] Holding Company Act release No. 10424.
[73] Holding Company Act release No. 10592.

NEGEA is planning to raise approximately $3 million through the issue and sale of additional common shares during 1952.

The cash requirements of NEGEA during the past fiscal year have included the purchase of additional shares of common stock of Algonquin Gas Transmission Company, a natural gas pipeline company to be engaged in transporting natural gas to the New England area.[74] NEGEA's interest in this subsidiary will be limited to $3 million or 37.5 percent of the total initial equity of the company. Participating with NEGEA are Eastern Gas and Fuel Associates, Texas Eastern Transmission Corporation, and Providence Gas Company. To finance the Algonquin purchase NEGEA has negotiated short-term bank loans which will be refinanced on a permanent basis as soon as the line is in operation.

Northern Natural Gas Co.

Northern Natural Gas Company ("Northern") is engaged in the purchase, transmission and distribution of natural gas, which is carried from fields in Texas, Oklahoma, and Kansas to utility companies located principally in Minnesota, Iowa, and Nebraska. The company has one wholly owned gas utility subsidiary, Peoples Natural Gas Company, and is therefore a registered holding company. On September 25, 1950, however, Northern filed an application with this Commission pursuant to section 3 (a) (3) seeking exemption for itself as a holding company and for each subsidiary thereof as such from the provisions of the act. Hearings have been held on this application and the Division of Public Utilities has recommended denial of the application. The Commission has heard oral argument of the question and has taken the matter under advisement.

Since the end of World War II, increased demands on this system have necessitated large increases in its pipe line capacity, which at the end of 1950 stood at approximately 600,000 mcf a day. Additional construction planned and undertaken for the year 1951 contemplates a further addition of 225,000 mcf of daily capacity. The Commission has constantly urged that the financing of this construction be designed with a view to preserving as far as possible the substantial equity ratio which has been a characteristic of the system for many years. During the past two years the company has sold an aggregate of 810,000 shares of common stock by means of rights offerings with gross proceeds of $21,578,750,[75] and has also sold $40 million of 2⅝ percent serial debentures.[76] The company estimates that its 1951 construction program will cost approximately $60 million and contemplates financing these expenditures on a long-term basis through the sale of $51 million of securities to the public. Temporary financing through $30 million of bank loans was permitted by the Commission on April 26, 1951.[77]

Northern States Power Company

Northern States Power Company ("Northern States") is a holding-operating company engaged, either directly or through subsidiaries, in the electric and gas utility business in the states of Minne-

[74] Holding Company Act release No. 10504.
[75] Holding Company Act releases Nos. 8963 and 9833.
[76] Holding Company Act releases Nos. 9890 and 9921.
[77] Holding Company Act release No. 10517.

sota, Wisconsin, North Dakota and South Dakota. Although the system is expected to achieve ultimate compliance with the standards of section 11 (b), it is faced with some residual problems.

In this connection, the Commission in June 1950 authorized the sale of all of the physical properties of Interstate Light & Power Company (Ill.) a wholly-owned subsidiary of Northern States, to Northwestern Illinois Gas & Electric Company, a non-affiliated company, for the base price of $549,900.[78] In the same order the Commission also authorized the sale by Interstate Light & Power Company (Wisc.), another wholly-owned subsidiary, of that part of its electric properties comprising its Platteville division to Wisconsin Power & Light Company, another non-affiliate, for the base price of $560,500. These property sales effected the disposition of outlying electric properties in northwest Illinois and southern Wisconsin which did not constitute a part of the Northern States' principal electric system.

By order entered October 13, 1950, the Commission authorized the sale by Northern States of 175,000 shares of new preferred stock to provide a part of the capital required for completion of the system's post-war construction program, estimated to aggregate $163,500,000 to the end of 1951.[79]

The company stated that further financing of approximately $25 million would be required for the completion of the current construction program in connection with which a material amount of common stock would be sold contingent upon market conditions. It is expected that Northern States will inaugurate another large scale construction schedule, to provide for rapidly growing demand.

Ohio Edison Company

Ohio Edison Company ("Ohio Edison"), formerly a subsidiary of The Commonwealth & Southern Corporation, is now an independent operating-holding company having one utility subsidiary, Pennsylvania Power Company ("Pennsylvania Power"). During the past year, the company and its subsidiary have undertaken several financing operations to provide funds for construction expenditures for the years 1951 and 1952 estimated to aggregate $57,800,000 in the case of Ohio Edison and $14,900,000 for Pennsylvania Power.

Ohio Edison has made two offerings of common stock. The first took place in October 1950 when it offered 396,571 shares through a rights offering to stockholders. This was followed in May 1951 by an additional rights offering of 436,224 common shares.[80] The proceeds derived from these two sales totaled over $23 million which materially increased the company's common stock equity. As a result, Ohio Edison made a further investment of $1,200,000 in Pennsylvania Power by the purchase of 40,000 shares of the latter's common stock, all of which is owned by the parent company. In addition, Pennsylvania Power sold at competitive bidding in March 1951, $4 million par value of preferred stock.[81] Shortly thereafter, Ohio Edison proposed the sale of its own preferred stock in the amount of $15 million, but because of unfavorable market conditions the offering was postponed.

[78] Holding Company Act release No. 9927.
[79] Holding Company Act releases Nos. 10157 and 10174.
[80] Holding Company Act releases Nos. 10133, 10508, and 10540.
[81] Holding Company Act releases Nos. 10426 and 10459.

The Southern Company

The Southern Company ("Southern Company") is the parent holding company of a system which survives the former Commonwealth & Southern group. The integrated system, which it controls, furnishes service through four electric utility subsidiaries in Georgia, Alabama, Florida and Mississippi. It is second largest of the continuing systems.

On August 24, 1950, the Commission approved the acquisition of Birmingham Electric Company ("Birmingham") through an exchange of common shares of the Southern Company and preferred shares of Alabama Power Company ("Alabama"), a subsidiary of the Southern Company, for common and preferred shares of Birmingham. The Commission's order required that the Southern Company and Alabama, which became the immediate parent of Birmingham, bring about the disposal of all interest in the transportation properties of the latter company not later than August 31, 1951.[82] The sale of these properties was accomplished in June 1951.[83]

During the calendar year 1950, capital expenditures of the Southern Company system totalled $70 million and present plans call for further additions to plant during the period 1951–1953 sufficient to effect a 38 percent increase in generating capacity over that installed by the end of 1950. In October 1950 the Southern Company sold one million shares of its common stock at competitive bidding[84] and another sale of the same amount was consummated in April 1951.[85] Total proceeds derived from these offerings aggregated approximately $21,900,000. These funds, together with additional amounts of treasury cash, were invested by the parent company in the common stock of its subsidiaries. In addition to this common stock financing, operating subsidiaries sold bonds and preferred stocks to the public yielding cash proceeds of over $34 million.

Southern Natural Gas Company

Southern Natural Gas Company ("Southern Natural") operates a natural gas pipeline system extending from gas fields in Texas, Louisiana and Mississippi to markets in Mississippi, Alabama and Georgia. Two of the company's subsidiaries are engaged in the distribution of gas in Mississippi and Alabama. Another subsidiary operates a 35 mile gas pipeline in Louisiana.

During 1950 Southern Natural commenced the largest program in its history for the expansion and extension of its pipeline system. Funds for the major portion of the cost of this construction were obtained initially from short-term bank loans in the amount of $20 million.[86] Early in 1951 the Southern Natural sold $17,500,000 of its first mortgage bonds due in 1970, and 155,546 shares of additional common stock to yield aggregate proceeds of $22,666,250,[87] which were used to repay the bank loans. Upon consummation of this financing, the ratio of common equity to total capitalization and surplus of the system was approximately 44 percent.

Over the past five years, Southern Natural's gross plant account has doubled from about $50 million over $100 million.

---

[82] Holding Company Act release No. 10055.
[83] Holding Company Act releases Nos. 10551 and 10588.
[84] Holding Company Act releases Nos. 10114 and 10129.
[85] Holding Company Act releases Nos. 10454 and 10484.
[86] Holding Company Act release No. 9935.
[87] Holding Company Act releases Nos. 10338 and 10351.

Union Electric Company of Missouri

Union Electric Company of Missouri ("Union Electric") is an operating-holding company serving a sizeable area in the State of Missouri, including the City of St. Louis, and through its utility subsidiary, Union Electric Power Company, the southwest portion of Illinois. Union Electric is at present a subsidiary of The North American Company, a registered holding company, which, at one time, controlled 36 utility and 46 non-utility companies and through them operated in 10 States and the District of Columbia. Union Electric is the sole remaining direct utility subsidiary of The North American Company.

On December 29, 1950, North American Light & Power Company, a wholly-owned subsidiary of The North American Company, transferred pursuant to Commission approval its holdings of all of the common stock of its subsidiary, Missouri Power & Light Company, to The North American Company, in partial liquidation. Immediately thereafter, The North American Company transferred these holdings to Union Electric Company of Missouri, its direct subsidiary, in return for 600,000 shares of the latter's common stock.[88] Union Electric, as a part of the transaction, agreed to dispose of several utility properties not capable of integration with its own properties and certain non-utility properties all of which were owned by Missouri Power & Light Company. Sales of an electric distribution system and of some ice manufacturing equipment were consummated prior to the close of the fiscal year.

Union Electric and its subsidiaries are engaged in an extensive construction program which will require expenditures for the years 1951 through 1955 of approximately $161 million. The funds required for the fiscal year were derived principally from the sale by Union Electric, in April and June 1950, of 700,000 shares of its common stock to The North American Company for $10 million and the sale, in December 1950, of $25 million of mortgage bonds to the public.[89]

During the past year, Union Electric, together with four other utility companies, participated in the formation of a new corporation known as Electric Energy, Inc. This represented a significant development in the utility industry and in the history of administration of the act. The new company was organized to build and own a 500,000 Kw generating station at Joppa, Illinois, for the purpose of supplying one half of the power requirements of the Paducah, Kentucky, plant of the Atomic Energy Commission. The main question presented to the Commission for determination was whether, under the standards of the act, the common stock of Electric Energy, Inc., amounting to $3,500,000, might be acquired by the organizers in the following proportions: Union Electric, 40 percent; Middle South Utilities, Inc., 10 percent; Kentucky Utilities Company, 10 percent; and Illinois Power Company, 20 percent. The first two of these companies were registered holding companies and the latter two were exempt holding companies. The remaining stock was to be acquired by Central Illinois Public Service Company, which was not a holding company subject to the act. The type of showing required of the applicants to support their proposed acquisitions would ordinarily necessitate extensive proof, consuming considerable time. Due to the

[88] Holding Company Act release No. 10320.
[89] Holding Company Act releases Nos. 9778, 9944, 10239, and 10268.

importance of this project to the national defense and the expedition required in its building, the Commission decided that, since the project was not "business as usual", it merited postponement of "regulation as usual"; accordingly, it postponed to more normal times the taking of evidence which would be required to justify the acquisition of the stock and permitted the acquisition on an interim basis.[90]

The proposed financing of this project by means of the sale of not more than $100 million of first mortgage bonds to two insurance companies and the sale of the $3,500,000 of common stock to the organizers also raised a serious question as to the propriety of such a capital structure. The Commission expressed the view that the problem raised by this unbalance in the capital structure could be resolved favorably, in view of the financial commitments of the Atomic Energy Commission which have the effect of guaranteeing repayment of a substantial portion of the indebtedness.[91]

The United Gas Improvement Co.

The United Gas Improvement Company ("UGI") is a registered holding company, incorporated under the laws of Pennsylvania, having nine subsidiaries. Six are gas utility companies, one is a gas and electric utility company, and two are non-utilities. The operations of all subsidiaries are conducted within the State of Pennsylvania.

In April 1951, UGI disposed of its only subsidiary having out-of-state operations when it accepted a $1 million note from Delaware Coach Company in exchange for 10,000 shares of that company's common stock and sold the balance of 26,000 outstanding shares to an unaffiliated person for $400,000.[92] Delaware Coach Company conducts a transportation business in Wilmington, New Castle, and Newark, Delaware. It also has two wholly-owned subsidiaries, Delaware Bus Company and Southern Pennsylvania Bus Company.

On June 15, 1951, the Commission approved a voluntary exchange plan, submitted by UGI, intended to reduce the substantial amount of minority interest investments in the portfolio of UGI.[93] A substantial portion of these holdings had been received by UGI in exchange for the latter's investments in holding companies which were reorganized under section 11 of the act. Under the plan, UGI offered to exchange for each unit of five shares of its own stock (to the extent of 363,285 shares), three shares of common stock of Philadelphia Electric Company and two shares of common stock of Consumers Power Company. Stockholders tendering from one to four shares of UGI stock received a cash payment in lieu of stock on an equivalent basis. Shareholders of UGI stock tendered 329,940 shares eligible for the exchange offer and 5,691 additional shares were retired by cash payment. As a result of these transactions, the outstanding capital stock of UGI has been reduced from 1,566,371 shares to 1,230,740 shares. UGI is under order to dispose of all of its remaining nonsubsidiary security holdings.

Utah Power & Light Co.

Utah Power & Light Company ("Utah"), formerly a subsidiary of Electric Power & Light Corporation, is a registered operating-

[90] Holding Company Act release No. 10340.
[91] Holding Company Act release No. 10639.
[92] Holding Company Act release No. 10477.
[93] Holding Company Act release No. 10624.

holding company subject to the active regulatory jurisdiction of the Commission by virtue of its ownership of voting securities in Western Colorado Power Company. Utah and its subsidiary are presently engaged in a construction program which will entail expenditures of approximately $44 million in the years 1951 to 1953, inclusive. Expenditures for the calendar year 1951 are estimated at approximately $18 million.

On August 29, 1950, the Commission approved the issuance by Utah of $8 million of first mortgage bonds, as well as 166,604 shares of common stock,[94] and, on March 8, 1951, it permitted the company to borrow from certain banks amounts not to exceed $12 million evidenced by notes payable on December 15, 1951.[95] This note indebtedness was expected to be retired after the close of the fiscal year through the sale of $9 million of additional mortgage bonds and 175,000 shares of new common stock.[96] During the year the Commission also approved the company's proposal to amend its certificate of organization and by-laws so as to effect, among other things, an increase in the number of authorized shares of capital stock, an adjustment of its preemptive rights provisions, and a change in the date of stockholders' annual meeting.[97] On April 30, 1951, the Commission approved an application by Utah to purchase from the Village of Arco, Idaho, the electrical distribution lines and facilities, together with a transmission line owned by Arco, for a cash consideration of $100,000.[98]

The West Penn Electric Company

The West Penn Electric Company ("West Penn") is the parent holding company in a utility system deriving about 90 percent of its revenues from sales of electric power and servicing a territory located principally in Pennsylvania, West Virginia, and Maryland. Small adjacent sections of Ohio and Virginia are also served. West Penn was formerly a subsidiary of American Water Works & Electric Company, Inc., which was liquidated in January 1948.

The West Penn system presently has in progress a construction program, which for the calendar years 1951 and 1952 contemplates the expenditure of more than $75 million. On February 21, 1951, the Commission approved the sale by West Penn of 320,000 shares of its common stock, at competitive bidding, with proceeds in excess of $8,500,000.[99] In April 1951, bond financings undertaken by two of the subsidiary operating companies furnished additional funds of over $20 million.[1]

The Commission now has before it a residual problem deriving from the liquidation of West Penn's former parent company, American Water Works & Elertic Company, Inc. In October 1947, American Water Works & Electric Company, Inc., undertook to retire its outstanding publicly-held preferred stock. This was accomplished by cash payment of the liquidation preference of $100 per share and accrued dividends to October 15, 1947. Furthermore, at the direction of the Commission and with the approval of the United States District Court for the District of Delaware, escrow certificates were issued

[94] Holding Company Act releases Nos. 10063, 10096, and 10148.
[95] Holding Company Act release No. 10429.
[96] Holding Company Act release No. 10759.
[97] Holding Company Act release No. 9976.
[98] Holding Company Act release No. 10535.
[99] Holding Company Act releases Nos. 10403 and 10431.
[1] Holding Company Act releases Nos. 10428, 10476, 10487, and 10522.

to the holders of the preferred stock as evidence of claims for such additional payments as the Commission might subsequently determine in fairness and equity should be made. In December 1950, after public hearings and the submission of briefs, the Division of Public Utilities submitted a recommended decision to the Commission proposing an additional payment of $10 per share plus compensation for delay in payment at the rate of 5.45 percent from October 15, 1947. On March 15, 1951, oral argument was heard and the Commission now has the matter under advisement.

ACQUISITIONS OF SECURITIES, UTILITY ASSETS AND OTHER INTERESTS

Under the provisions of sections 9 and 10 of the Holding Company Act the Commission passes upon numerous applications covering acquisitions of securities, utility assets or other interests. The major portion of these applications reflect the acquisitions by parent holding companies of securities issued by their subsidiaries. In this area, the Commission exercises jurisdiction over the manner in which parent holding companies finance the expansion of their subsidiary companies. This is one of the most important functions of the modern holding company. During the past fiscal year, for example, holding companies purchased securities of their subsidiaries totaling $216 million. The review of these intercompany security sales is important because of their effect upon the ultimate financial integrity of the utility operating subsidiaries. The maintenance of sound and balanced financial programing at this level is also an important aspect of the Commission's assistance to State regulatory commissions in preserving the stability of utility enterprises operating within their jurisdiction. Public utilities, unlike most other industries, are usually faced with the problem of expanding plant facilities in periods of depression as well as prosperity. A high degree of financial flexibility is therefore essential in order to insure maintenance of adequate service to consumers.

A smaller proportion of the applications under section 10 relates to the acquisition of securities, assets or other interests outside the previous scope of operation of the applicant systems. In many cases these acquisitions reflect the growing trend of positive integration reported in earlier years. Important examples during the fiscal year 1951 included the American Gas and Electric Company's acquisition of the common stock of Central Ohio Light & Power Company, acquisition of the stock of Birmingham Electric Company by The Southern Company from Electric Bond and Share Company and other holders, the acquisition by Niagara Mohawk Power Corporation of certain properties from two non-affiliated companies in the State of New York, the purchase by Eastern Utilities Associates of additional common stock of Fall River Electric Light Company from New England Electric System, and the acquisition by a subsidiary in the Consolidated Natural Gas Company system of gas utility assets from a subsidiary of West Penn Electric Company. An exchange of property was also consummated between Louisiana Power & Light Company, a subsidiary of Middle South Utilities, Inc., and Gulf Public Service Company, Inc., a subsidiary of an exempt holding company.

Well over $1 billion of utility assets have been acquired by holding

company systems and utility operating companies over the past several years thereby effecting a greater degree of integration of facilities.

FINANCING

During the 12 months ending June 30, 1951, 313 questions were presented to the Commission for determination pursuant to sections 6 and 7 of the act, under which the Commission is required to pass upon the issuance of securities, and assumptions of liability and alterations of rights of securities, by registered holding companies and their subsidiaries. A total of 326 questions were disposed of during the year, including a few carried over from the latter part of the preceding year. All but 37 of these related to issues of securities. In the fiscal year 1950, 337 questions were disposed of under sections 6 and 7.

Following the pattern established in 1948, financing during the past year has been predominantly for the purpose of meeting very heavy construction expenditures. On an industry-wide basis, expenditures of electric and gas utilities for the past year, exclusive of investment in natural gas transmission facilities, are estimated to have been in excess of $2,400,000,000. However, public offerings of securities for the fiscal year 1951 did not match in volume the total for 1950 which established a peak level for the industry. The tabulation set forth below includes all security sales for cash, plus refunding exchanges, by electric and gas utility operating companies which have been approved under sections 6 and 7 of the act. The table also includes similar security sales by all other electric and gas utility companies in the United States which have registered their issues with the Commission under the Securities Act of 1933. The data for gas utilities cover only those companies which are engaged in the retail distribution of natural or manufactured gas. Private placements of securities not subject to either the Holding Company Act or the Securities Act of 1933 are separately identified, although the figures are at best rough estimates.

Security issues sold for cash or issued in exchange for refunding purposes by electric and gas utilities [1], fiscal years 1949–51

	July 1, 1948, to June 30, 1949	Percent of total	July 1, 1949, to June 30, 1950	Percent of total	July 1, 1950, to June 30, 1951	Percent of total
Bonds	$899,434,729	47	$953,782,240	43	$785,947,640	43
Debentures	241,238,500	13	104,700,235	5	69,080,740	4
Preferred stock	192,779,280	10	362,015,050	16	137,434,438	8
Common stock	364,016,666	19	501,460,071	23	413,292,773	23
Total sales subject to the 1933, the 1935 act, or both statutes	1,697,469,175	89	1,921,957,596	87	1,405,755,591	78
Private placements not subject to either act (estimates)	200,000,000	11	300,000,000	13	400,000,000	22
Total security sales	1,897,469,175	100	2,221,957,596	100	1,805,755,591	100

[1] In addition, utility operating companies subject to the Holding Company Act sold notes with maturities of 5 years or more in the following amounts:

1949	$62,090,000
1950	23,200,000
1951	39,934,912

The over-all decline in financing volume can probably be attributed to the less favorable security markets prevailing since March 1951, when the Federal Reserve System withdrew support from the Gov-

ernment bond market, thereby inducing a substantial reduction in the prices of corporate bonds and preferred stocks. Market receptivity for preferred issues has been affected to a much greater degree than was the case with bonds and debentures, and the growth of private placements may also be traced, in part, to the same causes. An encouraging aspect of the over-all pattern of utility financing has been the sustained employment of common stock offerings, which contributes to the long-term stability of the industry.

With the further contraction in the numbers of companies subject to active regulatory jurisdiction under the act, as a result of divestments under section 11, there has been some corresponding decline in the volume of financing approved under sections 6 and 7, although the trend seems to be levelling off as the program of integration and simplification approaches completion. The expansion of the continuing systems is proceeding at a rapid pace, and their financing requirements account for approximately one-third of the total for the industry. Furthermore, the intensification of defense preparations and the persistence of a tense international situation suggest continuation of heavy cash requirements for an extended period.

The following tables analyze in detail the volume of securities sold for cash, or issued in exchange for refunding, by registered holding companies and their subsidiaries pursuant to authorization of the Commission under sections 6 and 7. Portfolio sales and issues in connection with reorganization are excluded. Significantly, these data reflect the use of a higher proportion of common equity financing by utility companies subject to regulation under the act than is the case for the industry as a whole, as reflected in the preceding tabulation.

Sales of securities and application of net proceeds approved under the Public Utility Holding Company Act of 1935 during the fiscal year July 1, 1950 to June 30, 1951

	Number of issues	Total security sales [1]	Application of net proceeds [1]		
			New money purposes	Refinancing of short-term bank loans [2]	Refunding
Sales by electric and gas utilities: [3]					
Bonds	32	$344,794,268	$170,692,179	$138,467,932	$31,507,623
Debentures	2	8,863,900	1,657,773	4,332,203	2,633,147
Notes [4]	40	39,934,912	36,090,421	3,750,000	
Preferred stock	8	74,402,178	34,402,899	10,500,000	28,285,959
Common stock	69	188,618,085	151,023,604	34,598,631	1,399,230
Total	151	656,613,343	393,866,876	191,648,766	63,825,959
Sales by holding companies:					
Debentures	2	142,827,200	60,207,355		81,550,000
Common stock	8	75,331,584	69,189,099	4,500,000	
Total	10	218,158,784	129,396,454	4,500,000	81,550,000
Sales by nonutility companies:					
Debentures	1	34,000,000			33,962,100
Notes [4]	2	2,000,000	2,000,000		
Common stock	10	3,415,000	3,261,708	150,000	
Total	13	39,415,000	5,261,708	150,000	33,962,100

[1] Differences between total security sales and total proceeds is represented by flotation costs to the issuing companies.
[2] Notes and bank loans of less than 5 years maturity, usually for construction purposes.
[3] Includes sales by registered operating-holding companies which derive a substantial proportion of income from their own operations, but which also may have 1 or more utility subsidiaries.
[4] With maturities of 5 years or more.

Sales of securities and application of net proceeds approved under the Public Utility Holding Company Act of 1935 during the fiscal year July 1, 1949, to June 30, 1950

	Number of issues	Total security sales [1]	Application of net proceeds [1]		
			New money purposes	Refinancing of short-term bank loans [2]	Refunding
Sales by electric and gas utilities: [3]					
Bonds	39	$402,095,635	$219,628,040	$103,853,561	$73,618,144
Debentures	2	45,523,735	41,011,210	4,100,000	----------
Notes [4]	21	23,200,000	23,173,710	----------	----------
Preferred stock	15	58,064,970	42,812,177	9,869,959	4,018,743
Common stock	73	235,380,176	182,875,058	46,016,170	3,006,452
Total	150	764,264,516	509,500,195	163,839,690	80,643,339
Sales by holding companies:					
Bonds (collateral trust)	1	31,783,060	8,633,353	----------	22,751,416
Debentures	2	125,883,050	30,990,034	----------	93,750,000
Notes [4]	1	27,259,568	53,887	----------	26,978,530
Common stock	12	114,983,705	87,911,631	3,492,201	19,717,423
Total	16	299,909,383	127,588,905	3,492,201	163,197,369
Sales by nonutility companies:					
Bonds	4	48,010,000	43,891,620	4,001,850	----------
Notes [4]	12	17,600,000	17,594,779	----------	----------
Common stock	4	6,812,500	5,566,660	498,050	675,000
Total	20	72,422,500	67,053,059	4,499,900	675,000

[1] Differences between total security sales and total proceeds is represented by flotation costs to the issuing companies.
[2] Notes and bank loans of less than 5 years maturity, usually for construction purposes.
[3] Includes sales by registered operating-holding companies which derive a substantial proportion of income from their own operations, but which also may have 1 or more utility subsidiaries.
[4] With maturities of 5 years or more.

In the fiscal year 1950, debt offerings of the electric and gas utilities in registered holding company systems represented 61.6 percent of the total financing of these companies, preferred stock accounted for 7.6 percent and common stock 30.8 percent. In 1951 the proportions were as follows: debt, 60.0 percent; preferred stock, 11.3 percent; common stock, 28.7 percent.

One of the most important functions of the public utility holding company is the furnishing of capital to its subsidiaries. During the fiscal year 1951 holding companies registered under the act purchased for cash $119,389,000 of common stocks issued by their subsidiaries. In addition they purchased $102,290,000 of subsidiary debt securities and preferred stocks. To raise the cash required for the assistance, registered holding companies sold $218,159,000 of their own securities to the public, including $75,332,000 of common stock and $142,827,000 of debentures. In 1950 holding companies raised $299,909,000 through the sale of $114,984,000 of their common stocks and $184,925,000 of senior securities. With the proceeds they purchased $139,600,000 of the common stocks of their subsidiaries and $60,300,000 of subsidiary senior securities. With respect to both years the sales of debt securities by registered holding companies represent for the most part parent company financing in systems where the subsidiaries have little or no senior securities in the hands of the public thereby enabling the holding companies to issue senior securities without impairing the consolidated equity position of the system.

The role of holding companies in the financing of their subsidiaries today is in sharp contrast with the situation found by the Congress

in the investigation which it conducted prior to passage of the act. During the seven-year period from 1924 to 1930 inclusive, public utility holding companies sold approximately $4,856 million of their securities to the public. The proceeds from this financing were devoted almost entirely to the purchase of outstanding securities. Only a negligible portion went into the construction of plant facilities.[2] Furthermore, for a period of many years up to 1928, it was the general practice of holding companies to furnish capital to their subsidiaries in the form of demand notes or open account advances bearing interest of from 6 to 8 percent and in some large systems the holding companies followed the regular practice of compounding interest monthly or quarterly.[3] By comparison, registered holding companies have invested in excess of $540,000,000 in the common stocks of their subsidiaries in the period from July 1, 1947, to June 30, 1951.

Another important aspect of the financing of registered holding company systems during the past year has been the predominance of the rights offering as a vehicle for raising common equity money. Total sales of common stocks to the public by registered holding companies and their subsidiaries in 1951 aggregated $144,560,000, of which holding companies accounted for $75,331,000 and subsidiaries, $69,229,000. Of this amount 14 issues totalling $117,395,000 were sold by means of rights offerings. In one instance there was a substantial exercise of rights by a parent holding company.[4] Stockholder acceptance was less than 100 percent in only three of the offerings.

Probably the most significant development in this group of issues was the growing importance of the non-underwritten rights offering. Only five offerings aggregating $37,897,000 were made with the aid of firm underwriting commitments. Four issues totalling $22,065,000 were offered without underwriting, but had the benefit of dealer solicitation. The remaining five rights offerings, amounting to $57,433,000 were sold without the benefit of underwriting or dealer solicitation assistance. All five were subscribed in percentages ranging from 106 to 188. In each of these cases the oversubscription privilege made an important contribution to the success of the sale.

The utility bond market suffered a sharp decline in the last four months of the fiscal year. No perceptible change in rates was evident until March 1951, when prices of outstanding utility issues began to weaken along with the prices on long term government bonds. The resulting uptrend in yields of outstanding issues, however, did not fully reflect the impact of the change upon new offerings. This becomes evident from a comparison of several successive utility offerings, all classified by the investment rating agencies as of generally comparable quality.

On December 7, 1950, an electric utility company offered $6 million of 30 year mortgage bonds at a cost of money to the company of 2.87 percent. On April 5, 1951, some time after the decline in government bond prices had set in, another electric utility of comparable credit sold $10 million of mortgage bonds of similar maturity at a cost to the company of 3.345 percent. This increase of almost one-half of

[2] S. Rep. No. 621, 74th Cong., 1st sess., p. 15.
[3] S. Doc. 92, 70th Cong., 1st sess., pt. 72–A, chs. 5 and 6./S. Doc. 92, 70th Cong., 1st sess., pts. 23 and 24, pp. 218 et seq.
[4] The parent, in the exercise of its rights, purchased 56.2 percent of this issue. There were four other rights offerings not included in the above totals for the fiscal year 1951 in which 94 or more percent of the issue was purchased by parent holding companies. The amounts taken by outside stockholders were, in each case, negligible.

one percent brought interest costs to the highest level in several years. Although there was some leveling off in new money rates in April, the relief was only temporary. On June 28, 1951, another offering of electric utility bonds bearing the same credit rating and maturity was made at a cost 3.675 percent. This issue represented the high point of interest costs for the period and the issue was quickly absorbed by institutional purchasers. Subsequent offerings in the same quality group were made at more favorable rates until early in September 1951, when yields again turned upward.

This marked change in money costs may have a considerable impact upon the industry. For a long period the low rates available on senior security offerings were a significant offset to increased operating expenses and, in the financing of new construction, they provided added assurance of an adequate return on new equity investment. Further increases in the cost of raising new capital may result in greater pressure on the utility rate structure, although throughout this period of weakness in the prices of debt securities and preferred stocks, utility common stocks have been readily saleable in substantial amounts, and utility managements on the whole have taken advantage of the opportunities presented.

COMPETITIVE BIDDING

Offerings of securities by issuing companies under sections 6 (b) and 7 of the act and portfolio sales by registered holding companies under section 12 (d) are required to be made at competitive bidding in accordance with the provisions of rule U–50. Certain special types of sales, including issues of less than $1 million, short term bank loans, issues the acquisition of which have been authorized under section 10 and pro rata issues to existing security holders are automatically exempt under clauses (1) through (4) of paragraph (a) of the rule. In paragraph (a) (5) the Commission retains the right to grant exemptions by order where it appears that competitive bidding is not necessary or appropriate to carry out the provisions of the act.

Securities sold at competitive bidding under rule U–50 from its effective date, May 7, 1941, to June 30, 1951, total in excess of $6,770,000,000. A tabular presentation showing the various classes of securities, number of issues and amounts, for the entire period and for the past fiscal year is set forth below:

Sales of securities pursuant to rule U-50

	May 7, 1941, to June 30, 1951		July 1, 1950, to June 30, 1951	
	Number of issues	Amount	Number of issues	Amount
Bonds	284	[1] $4,593,029,000	24	[1] $302,850,000
Debentures	34	[1] 765,938,000	3	[1] 146,000,000
Notes	6	[1] 56,500,000	1	[1] 3,750,000
Preferred stock	82	[2] 720,727,700	6	[2] 45,000,000
Common stock	70	[3] 634,691,236	8	[3] 69,883,400
Total	476	6,770,885,936	42	567,483,400

[1] Principal amount.
[2] Par value.
[3] Proceeds to company.

The experience of the Commission in administering rule U–50 has adequately demonstrated its workability and effectiveness in maintaining competitive conditions and in achieving minimum costs of flotation. The Commission has always recognized, however, that flexibility in administration was a necessity and it has granted a considerable number of exemptions in cases where unusual circumstances were present. In the 10-year period since the rule became effective, 202 security issues totalling in excess of $1,566,000,000 have been exempted by Commission order from the competitive bidding requirements. Ten issues with a value of $151,772,000 were exempted in fiscal 1951. These are exclusive of the automatic exemptions. The following table summarizes these exempted sales by type of security and also shows the numbers and amounts of issues sold with and without underwriting arrangements.

Sales of securities pursuant to orders of the Commission granting exemptions from competitive bidding requirements under the provisions of paragraph (a) (5) of rule U-50 [1]*—May 7, 1941, to June 30, 1951*

	Underwritten transactions		Nonunderwritten transactions		Total—all issues	
	Number of issues	Amount [2]	Number of issues	Amount [2]	Number of issues	Amount [2]
Bonds	4	$27,027,500	58	$592,461,768	62	$619,489,268
Debentures	3	83,425,000	5	36,779,939	8	120,204,939
Notes			19	32,894,158	19	32,894,158
Preferred stock	10	60,868,703	24	261,610,344	34	322,479,047
Common stock	32	276,427,322	47	194,834,081	79	471,261,403
Total	49	447,748,525	153	[3] 1,118,580,290	202	[3] 1,566,328,815

[1] Exclusive of automatic exemptions afforded by clauses (1) through (4) of paragraph (a) of rule U–50.
[2] Proceeds to seller before expenses.
[3] Includes four proposed transactions not yet consummated; proceeds are estimated.

REVISION OF REGULATORY PROCEDURES

Now that the task of integration and simplification of many of the holding company systems has been substantially completed, steps have been taken to streamline the procedures employed in regulation of the continuing systems down to the simplest possible dimensions. As a starting point, the Commission undertook during the past year a thorough-going revision of its Form U5S which is required to be filed annually by registered holding company systems. The modifications which were incorporated in the new form were designed to minimize reporting requirements and adjust its provisions to the pattern of the surviving holding company systems. Under the revised form all registered holding companies in the same system may join in the filing of a single report. Another change permits copies of this report (less certain exhibits) to be filed by registered holding companies in complete satisfaction of all annual reporting requirements under sections 13 and 15 (d) of the Securities Exchange Act of 1934. Furthermore, the Commission abolished Form U–14–3, an additional filing heretofore required to be made annually by registered holding companies, as well as Forms U5–K and U5–MD which registered holding companies formerly had the option of filing in lieu of Form 10–K.

Eighteen of the 31 registered holding companies required to file reports under the Securities Exchange Act of 1934 elected to satisfy the

requirements of that act for the calendar year 1950 by filing duplicate copies of the revised Form U5S. Additional systems are expected to take advantage of this procedure in the coming year.

The Commission presently has under study the revision of Form U–13–60 which is the annual filing required to be made by the service companies associated with holding company systems. The objective of this revision will likewise be maximum simplification, although it should be noted that the opportunities for integration with the reporting requirements under other statutes administered by the Commission are not nearly as great as in the case of Form U5S, because the utility service company is a device peculiar to the registered holding company system.

INVESTMENT BOND AND SHARE CORPORATION

In the spring of 1951, the staff of the Commission made an investigation to secure additional details on the published story that three officers of Investment Bond and Share Corporation ("IBS") proposed to sell 80,000 shares of common stock of Eastern Kansas Utilities, Inc., to Kansas City Power and Light Company, both of which companies were formerly subsidiaries of United Light and Railways Company, a registered holding company. The investigation disclosed that the 80,000 shares proposed to be sold included 15,299 shares owned by IBS, a Delaware corporation whose principal offices are located in Chicago, Illinois. It further revealed that IBS, though a holding company as defined by the statute, for a number of years had taken no steps to effect its registration or to apply for exemption.

As a direct result of the investigation, IBS registered on July 2, 1951, and on August 8, 1951, submitted a plan under section 11 (e) designed to effect its ultimate liquidation and dissolution in compliance with the provisions of section 11 (b).

ORIGINAL COST STUDIES

On April 21, 1941, the Commission adopted rule U–27 which, as amended on November 17, 1943, provides that every registered holding company and every subsidiary thereof, which is a public utility company and which is not required by the Federal Power Commission or a State commission to conform to a classification of accounts, shall keep its accounts in accordance with the designated systems adopted by the Commission for electric and gas utility companies. These systems specifically provide that utility plant accounts shall be stated at the original cost incurred by the persons who first devoted the property to utility service.

Some field examinations of the utility companies' original cost and reclassification studies were begun in 1945, but it was not until later in 1946 that a staff of accountants was organized for this work and field audits undertaken on a comprehensive scale. As of June 30, 1951, the staff had completed the field audits of sixteen companies in various States which do not have regulatory commissions. During the intervening years, some of the reports filed with this Commission were transferred to other regulatory authorities for audit due to changes in applicable jurisdiction as a result of mergers, consolidations and divestments.

Formal proceedings have been completed and orders of the Commission have been issued with respect to nine of the sixteen companies

examined. Amendments giving effect to the recommendations of the Commission's staff have been filed by five companies, and these matters will be closed at an early date. Recommended adjustments affecting accounts of the other two companies are still under discussion.

The results of examinations conducted by the Commission disclosed that the utility plant of the companies involved had an original cost value of approximately two-thirds of the amounts recorded per books prior to reclassification. The remaining one-third of the recorded amounts was transferred to adjustment accounts. Almost 75 percent of the difference between the amount recorded per books and original cost has been classified as Account 107, Plant Adjustments, and required to be written off immediately. The balance has been classified as Account 100.5, Plant Acquisition Adjustments, and will be amortized over a period of years, except in those cases where the company has elected to dispose of all adjustments immediately.

COOPERATION WITH STATE AND LOCAL REGULATORY AUTHORITIES

The policy of the Commission always has been to cooperate to the fullest extent with State and local regulatory authorities. Aside from the many informal contacts and conversations between the Commission and other agencies, which are too numerous to detail, there were several instances of cooperation during the past year which are worthy of mention.

An example of the type of cooperation which is possible between the Federal agency and a State Commission is an investigation which was conducted by this Commission at the request of a State Commission during the past year. Because of the confidential nature of the investigation it is possible to give the facts here only in outline. The investigation was conducted under powers granted by the act which, in part, authorizes the Commission at the request of a State Commission to

> . . . investigate, or obtain any information regarding the business, financial condition, or practices of any registered holding company or subsidiary company thereof of facts, conditions, practices, or matters affecting the relations between any such company and any other company or companies in the same holding company system.

The State Commission had pending before it a rate proceeding, in the course of which question had arisen as to the cost of a power plant which had been constructed for a public utility company by a supplier of equipment. The equipment supplier, through the indirect ownership of securities, was an affiliate of the public utility company. The State Commission had doubts as to its jurisdiction over the equipment supplier and accordingly requested this Commission to conduct an investigation of the relationships between the utility and the supplier. The Commission ordered a private investigation and designated four senior staff members to conduct the inquiry. Hearings were held both in Washington and elsewhere. The State Commission was invited to have a representative attend the hearings, which were not open to the public, and a member of the State Commission did attend a portion of the hearings. Thereafter the Commission transmitted a confidential report of its investigators to the State Commission.

American Power & Light Company, a registered holding company in the Electric Bond and Share Company system, is under an order to liquidate and dissolve. On February 15, 1951, American notified the Commission of its intention to sell its entire interest in one of its sub-

sidiaries, Washington Water Power Company, to certain public utility districts. Under the provisions of rule U–44 (c) promulgated under the act, the proposed divestment could be consummated without further proceedings unless, within 10 days after filing of the notice of intention, the Commission notified American that a declaration or other formal filing should be filed with respect to the proposed transaction. Thereupon the Commission issued an order to show cause in which, among other issues, the question was raised as to whether the Commission had jurisdiction to require American to file a declaration with respect to the sale of Washington Water Power to public utility districts. At the request of the State Commissions of Washington and Idaho the Commission moved its hearings to the territory affected in order to facilitate the presentation by local people of their views. Hearings were held in Spokane, Washington, at which a Commissioner of the Securities and Exchange Commission presided. The hearings were well attended, and any one who desired to be heard on the subject was given an opportunity to appear.

Green Mountain Power Corporation, a Vermont public utility company and a subsidiary of New England Electric System, made application pursuant to section 11 (e) of the act for approval of a plan of reorganization. The Vermont Commission was vitally interested in the whole program, and during the course of the proceedings its chairman and staff experts conferred with members of the Commission staff, resulting in a mutually helpful exchange of ideas. The Attorney-General of the State of Vermont appeared on behalf of the Vermont Commission at the hearings on the plan.

In August 1950 the Commission instituted proceedings pursuant to section 11 (b) (1) of the act directed to Wisconsin Electric Power Company and its subsidiaries. Wisconsin Electric Power Company is both a holding company and an electric utility operating company, with its property located in the State of Wisconsin. It also has a gas utility subsidiary and a transportation subsidiary, both operating in that state. Prior to a hearing in these proceedings representatives of the Commission's staff visited the offices of the Public Service Commission of Wisconsin and discussed the matter with members of its staff. Since the proceedings have been in progress, the scheduling of adjourned hearings has been made after determining what dates would be convenient for representatives of the State Commission, and copies of the transcript of testimony have been forwarded to it.

In connection with the preparation for hearing of proceedings under section 11 (b) (1) directed to General Public Utilities Corporation, to determine whether or not the company might retain its gas properties along with its electric properties, members of the Commission's staff visited the offices of the State Commissions of Maryland, Pennsylvania, New Jersey, New York, Massachusetts, Rhode Island, and Connecticut. This field trip was made for the purpose of obtaining statistical and other data regarding comparative cost of operations of manufactured gas utilities versus manufactured gas departments of predominantly electric utility companies. The Commission staff members were afforded full cooperation.

In the same case, but involving the question of the extent of the principal integrated electric utility system of General Public Utilities Corporation, an attorney and an engineer of the Pennsylvania Commission attended the Securities and Exchange Commission hearings

as observers and had discussions with members of the latter Commission's staff with regard to the questions involved.

LITIGATION UNDER THE PUBLIC UTILITY HOLDING COMPANY ACT

During the fiscal year 1951 the Commission participated in 18 judicial proceedings involving issues arising under the Holding Company Act. Eleven of these proceedings concerned the enforcement of voluntary plans filed under section 11 (e) of the act, and the other seven were initiated by petitions to review orders of the Commission. Fifteen of these cases were finally adjudicated favorably to the Commission and the remaining three were pending at the close of the fiscal year. Over the 16 years since enactment of the Holding Company Act, a total of 274 civil and criminal proceedings, exclusive of Bankruptcy Act proceedings, in which the validity or enforcement of the statute was in issue, have been initiated in the courts. Three proceedings were pending on June 30, 1951, and of the 271 which have been litigated to finality, only one case was terminated adversely to the Commission. In two other cases, decisions adverse to the Commission were vacated as moot. The Commission's activity in the courts during the 1951 fiscal year is shown in the following tables:

ACTIONS TO ENFORCE VOLUNTARY PLANS UNDER SECTION 11 (e)

Applications pending in United States district courts, July 1, 1950	2	
Applications filed, July 1, 1950, to June 30, 1951	5	
Plans approved and not appealed	--	4
Plans approved and appeal taken to court of appeals	--	1
Plan disapproved in part and approved in part, and appeals taken to court of appeals	--	1
Applications pending, June 30, 1951	--	1
Totals	7	7
Appeals from orders of district courts pending in courts of appeal, July 1, 1950	2	
Appeal from order of district court approving plan, July 1, 1950, to June 30, 1951	1	
Appeals from orders of district court disapproving plan in part and approving it in part	1	
Orders of district courts affirmed and petitions for writs of certiorari denied	--	2
Appeals pending, June 30, 1951	--	2
Totals	4	4
Petition for writ of certiorari to review decision of court of appeals revising in part order of district court approving plan, pending at July 1, 1950	1	
Decision of court of appeals reversed and plan approved	--	1
Totals	1	1

PETITIONS TO REVIEW ORDERS OF THE COMMISSION UNDER SECTION 24 (A)

Petitions pending in courts of appeals, July 1, 1950	3	
Petitions filed July 1, 1950, to June 30, 1951	3	
Orders of Commission affirmed	--	4
Petitions dismissed	--	2
Totals	6	[1]6

[1] In a seventh case where the Commission's order was affirmed during the preceding fiscal year, petition for a writ of certiorari was denied.

Actions to Enforce Voluntary Plans Under Section 11 (e)

Two applications for enforcement of voluntary plans were pending in United States district courts at the beginning of the fiscal year 1951. One of these plans related to the liquidation of Market Street Railway Co. The Commission had found that counsel for a preferred stockholders' committee was not entitled to receive a fee for his services since he had been acting in his own interest primarily rather than in the interests of the committee and of the company and that, although he had rendered valuable services, his failure to devote his time and efforts solely to the interests of his clients precluded him from being compensated for such services.[5] The district court agreed with the Commission on all phases of the plan except that which denied the attorney's fee and remanded the plan to the Commission for reconsideration.[6] The Commission took an appeal from the court's refusal to approve the denial of a fee, and a cross-appeal was also filed. The plan was then amended to separate into Step One the settlement of claims and the distribution of the major assets of Market Street, and into Step Two the attorney's application for a fee and certain other matters. The Commission approved Step One of the plan and reserved jurisdiction over Step Two. Upon application the district court approved Step One.[7] An appeal from the district court's order was taken and was consolidated with the pending appeals. A stay was denied and Step One was consummated. These appeals were pending at the close of the fiscal year. The second plan provided for a partial liquidation of American Power and Light Company. The district court approved the plan without opinion and no appeal was taken.

Five applications for enforcement of voluntary plans were filed in United States district courts during the fiscal year. The first of these plans involved the question of what additional amounts, if any, should be paid to holders of certificates representing claims on $6 and $5 preferred stock of Electric Bond and Share Company which had been retired. The Commission decided, and the district court agreed,[8] that the holders of the $6 certificates were entitled to an additional $10 plus compensation for delay in receipt of that amount, and that the $5 certificates were entitled to nothing more. Appeals were taken from the order of the district court and Bond and Share petitioned the Supreme Court to review the district court order. The Supreme Court denied Bond and Share's petition[9] and after the close of the fiscal year, the appeals were dismissed on stipulation of the parties.

One of the remaining four plans paralleled the Bond and Share case and presented the question what additional amounts, if any, should be paid to $7 and $6 prior lien preferred stockholders of New England Public Service Company. The Commission's determination that they should receive, respectively, $12.25 and $2.25 per share, plus compensation for delay, was confirmed by the district court and no appeals were taken from the enforcement order.[10]

The third of these plans concerned the distribution of escrowed common stock of Interstate Power Company. The principal question

[5] Holding Company Act release No. 9376 (Sept. 30, 1949).
[6] *In re Market Street Railway Co.*, Unreported (N. D. Calif., No. 29,723, July 11, 1950).
[7] Unreported (N. D. Calif., No. 29,723, Nov. 21, 1950).
[8] *In re Electric Bond and Share Co.*, 95 F. Supp. 492 (S. D. N. Y., 1951).
[9] *Electric Bond and Share Co.* v. *S. E. C.*, 341 U. S. 950 (1951).
[10] *In re New England Public Service Co.*, 94 F. Supp. 343 (D. Me., S. D., 1950).

presented was what participation should be accorded Ogden Corporation in its dual position as creditor and stockholder of Interstate vis-a-vis public security holders. The Commission found fair and equitable a compromise of the issues and the plan was approved by the district court.[11] No appeal was taken from the Commission's order. A plan providing for a recapitalization of Green Mountain Power Corp. and a settlement of claims between Green Mountain and its parent, New England Electric System, was enforced without opposition. The remaining plan was pending in the district court at the close of the fiscal year.

Shortly before the close of the preceding fiscal year a plan of recapitalization of Eastern Gas & Fuel Associates had been approved by a district court. At the time of approval the court reserved jurisdiction to approve the amount at which the common stock of the company might be surrendered for which the stockholders would be paid in cash. The company petitioned for and was granted a supplemental order approving an amount of $11.00 per share as the settlement price.

Two plans were pending in United States courts of appeal at the beginning of the fiscal year. The first of these plans, approved by the Commission and the district court, involved the liquidation of The Commonwealth & Southern Corporation (Del.) in which the holders of option warrants were denied any participation. As originally submitted to the Commission this plan left undecided the disposition of residual assets of Commonwealth. Prior to consummation of the plan, it was amended to provide that the residual assets should be transferred to The Southern Company, a subsidiary holding company created to own the capital stock of certain former subsidiaries of Commonwealth. An investment banker's petition to intervene in the district court was denied. During the fiscal year the court of appeals affirmed orders of the district court denying intervention[12] and approving the plan,[13] and petitions for writs of certiorari were subsequently denied.[14]

The second plan which was pending at the beginning of the fiscal year and which was affirmed related to an order of a district court which approved and enforced a plan for the dissolution of Federal Water and Gas Corporation. The appellants were officers, directors and controlling stockholders of a predecessor company, Federal Water Service Corporation. They asserted that the district court erred in approving that part of the plan which excluded them from participation as stockholders in the distribution of the assets of Water and Gas with regard to preferred stock of Water Service which they had acquired during the course of reorganization of Water Service. The Water Service plan had provided that they receive cash representing their cost of the Water Service preferred, and not new stock of Water and Gas, and the Commission's approval of that plan had been upheld by the Supreme Court.[15] The court of appeals held that the prior decision was *res judicata* and affirmed the district court enforcement

[11] *In re Interstate Power Co.*, Unreported (D. Del., No. 1003, 3–16–51). The Commission had approved and had applied for enforcement of a prior plan, but had requested and obtained a district court order remanding the proceeding for consideration of changed circumstances. See *In re Interstate Power Co.*, 89 F. Supp. 68 (D. Del., 1950).

[12] *In re Commonwealth & Southern Corp.*, 186 F. 2d 708 (C. A. 3, 1951).

[13] *In re Commonwealth & Southern Corp.*, Adelaide H. Knight, Appellant, 184 F. 2d 81 (C. A. 3, 1950).

[14] *Knight* v. *Commonwealth & Southern Corp., et al.*, 340 U. S. 929 (1951).

[15] *S. E. C.* v. *Chenery Corp.*, 332 U. S. 194 (1947), rehearing denied 332 U. S. 783 (1947).

order.[16] The Supreme Court denied petitions for certiorari seeking review of the district court order [17] and of the court of appeals order.[18]

At the end of the preceding fiscal year a court of appeals had reversed an order of a district court approving a plan for the reorganization of Long Island Lighting Company.[19] Appellants had asserted on appeal that the Commission, in passing upon the plan of Long Island, had not given consideration to earnings which would accrue as the result of the reorganization and that in determining the fairness of the allocation of new securities the Commission had erred. The Commission petitioned for a modification of the decision of the court of appeals and for approval of the plan on the basis of a supplemental opinion showing that full consideration had been given to such benefits. The petition was granted during the fiscal year 1951.[20] One proceeding involving reorganization plans of Niagara Hudson Power Corporation was pending in the Supreme Court at the beginning of the fiscal year. The Commission had held that the holders of option warrants were not entitled to participate in the reorganization. The district court had approved the plans, and the court of appeals had reversed the district court order on this one point.[21] Petitions for a rehearing had been denied and the Commission and the company had petitioned for certiorari, which had been granted by the Supreme Court. During the fiscal year the Supreme Court reviewed the plan, reversed the order of the court of appeals and affirmed the order of the district court.[22]

Petitions to Review Orders of the Commission

Three petitions to review orders of the Commission were pending in United States courts of appeals at the beginning of the fiscal year and three petitions were filed during the fiscal year. In four cases the Commission's order was affirmed, and in the other two cases the appeals were dismissed.

Two of the petitions which were pending were from orders of the Commission approving various matters collateral to the reorganization of the Niagara Hudson Power Corporation system. The Commission had approved an application of The United Corporation to distribute approximately half of its holdings of Niagara Hudson common stock to its own common stockholders. The Commission's order was affirmed.[23] The other such petition sought review of an order of the Commission approving the exchange by United of common stock of Niagara Hudson for the capital stock of Niagara Mohawk Power Corporation, the surviving top company in the reorganization of the Niagara Hudson system. The appeal was dismissed without opinion.[24]

The third pending petition sought review of those provisions of an order of the Commission which denied a petition of a stockholder of International Hydro-Electric System for modification of a prior

[16] *In re Federal Water & Gas Corp., Chenery Corp., Appellants,* 188 F. 2d 100 (C. A. 3, 1951).
[17] *Chenery Corp. et al.* v. *S. E. C. et al.,* 340 U. S. 831 (1950).
[18] 341 U. S. 831 (1951).
[19] *Common Stockholders Committee* v. *S. E. C.,* 183 F. 2d 45 (C. A. 2, 1950).
[20] 183 F. 2d 52 (C. A. 2, 1950); certiorari denied 340 U. S. 834 (1950).
[21] *Leventritt* v. *S. E. C.,* 179 F. 2d 615 (C. A. 2, 1950).
[22] *S. E. C.* v. *Leventritt,* 340 U. S. 336 (1951).
[23] *Phillips* v. *S. E. C.,* 185 F. 2d 746 (C. A. D. C., 1950).
[24] *Phillips* v. *S. E. C.,* Unreported (C. A. D. C., No. 10,601, June 28, 1951).

order directing the liquidation and dissolution of IHES.[25] The Commission's order was affirmed.[26]

One of the three petitions filed during the fiscal year sought review of an order of the Commission which had denied a committee authority to solicit stockholders of The United Corporation for proxies in connection with a pending plan. The Commission found that the solicitation material contained false and misleading statements, and that the proposed solicitation would be detrimental to the pending reorganization proceeding. The Commission's order was affirmed.[27]

Another review proceeding was initiated by two petitions seeking review of an order which granted to preferred stockholders of Federal Light and Traction Company an additional amount over that previously received, together with interest for delay in receipt of the payment. These petitions were consolidated on appeal. The court of appeals affirmed the Commission's order and certiorari was denied.[28]

The third petition for review initiated during the fiscal year sought reversal of a Commission order which had denied the application of a registered holding company for an examiner's report with respect to the petition of the company in opposition to solicitation of stockholders. The appeal was dismissed for lack of jurisdiction.[29] During the preceding fiscal year a United States court of appeals had affirmed an order of the Commission which prohibited a solicitation of voluntary contributions from stockholders to defray expenses of a committee.[30] During the fiscal year 1951 the Supreme Court refused to review the case upon a petition for a writ of certiorari.[31]

[25] The order also approved a plan filed by the Trustee of IHES.
[26] *Protective Committee for Class A Stockholders* v. *S. E. C.*, 184 F. 2d 646 (C. A. 2, 1950).
[27] *Committee for Common Stockholders* v. *S. E. C.*, 188 F. 2d 897 (C. A. 2, 1951).
[28] *Federal Liquidating Corp.* v. *S. E. C.*, 187 F. 2d 804 (C. A. 2, 1951), certiorari denied 341 U. S. 949 (1951).
[29] *North American Co.* v. *S. E. C.*, Unreported (C. A. 2 (1950)).
[30] *Halstead* v. *S. E. C.*, 182 F. 2d 660 (C. A. D. C. 1950).
[31] *Common Stockholders Committee* v. *S. E. C.*, 340 U. S. 834 (1950).