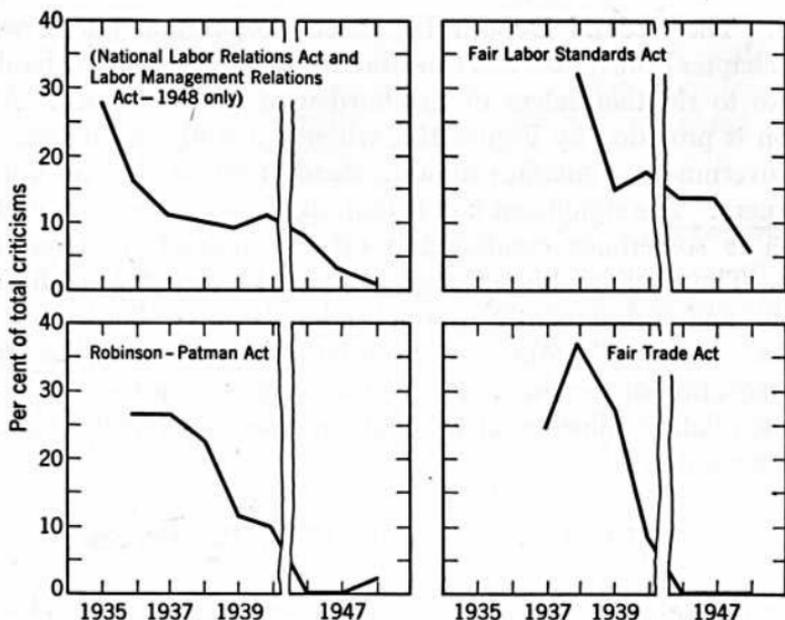


42. Government Regulation of Business



THE federal government not only promotes business; it also regulates it. The process of regulation has several aspects; it includes limits upon certain types of business structures, such as trusts; restrictions on business financial practices, such as dishonest advertising of corporation stocks; and consumers' welfare activities, such as the setting of railroad rates. In terms of the goals of their regulation, American businesses fall into two broad classes, the line between which often shifts. One class is ordinarily regarded as "competitive"; that is, in this class there are apt to be two or more business organizations vying with each other for profits. These organizations are typically manufacturers, such as the automobile producers. In their case, the principal task of regulation is to ensure that competition will not be stifled. The second class of business is termed a "natural monopoly," that is, one in which the existence of several firms is viewed as wasteful. This class includes the so-called "businesses vested with a public interest,"



Robert E. Lane, "Government Regulation and the Business Mind," *American Sociological Review*, Vol. 16 (1951), p. 168

Figure 103. Adjustment of Business Attitudes to Government Controls. Per cent of total number of criticisms of each of four laws that were made in each of several years in a journal of business.

or the "public utilities." These organizations are usually distributive, such as the railroads. Here the goal of regulation is primarily to protect the consumer from exorbitant rates.

It is sometimes difficult to separate business regulation from business promotion. In general, the government helps develop an activity when it promotes it, and restricts an activity when it regulates it. Yet the two terms simply are not clear. Hence it is necessary to understand at least what they stand for and how not to be confused by their application. Promotion in itself demands regulation; the tariff, for example, by forbidding entry to certain goods, is a regulative device with respect to those goods. By the same token, regulation may be promotional. It may promote other businesses: if railroad rates are set very high, other forms of transportation may prosper. On the other hand, regulation of a given business may promote that business: insistence by the government that a certain mode of transportation adopt safety devices is likely to increase the traffic. Frequently regulation does not directly or immediately benefit either one form of business or its competitors, but the consumer. Then again, the benefits may go only to some consumers and not to others. Few Americans buy oil corporation stocks; yet the Securities and Exchange Commission (SEC) regulates their sale.

There have been many occasions wherein a regulatory process was opposed by the business concerned when the process was established; yet later the regulation was first grudgingly, and at length enthusiastically,

approved. The Federal Deposit Insurance Corporation (dealt with in a previous chapter) illustrates this transformation in attitude; few banks today would like to rid themselves of the burden of this insurance. A second illustration is provided by Figure 103, wherein a study of business protests against government regulation shows a steady decline after an initial peak of resentment. The significant fact is that, like business promotion, business regulation is sometimes created and often sustained by interest group pressures. These forces oblige Congress to enact laws providing for business regulation, and subsequently compel administrative bodies to execute these laws. Meanwhile other groups strive to oppose both the legislation and the execution of the laws. Hence the composite of regulatory statutes mirrors the relative influence of business groupings and of their antagonists upon the government.

STRUCTURE OF AMERICAN BUSINESS

It is pertinent, before describing the numerous ways in which the federal government regulates American business, to analyze the structure of American business. There are two general phases to this structure: individual businesses, and combinations of businesses. Individual businesses may be subdivided into single proprietors, partnerships, and corporations; combinations may be subdivided into pools, cartels, trusts, and holding companies.

Individual businesses

Single Proprietors: The single proprietorship is the commonest form of business structure; it is typified by any of the thousands of small retail stores throughout the country. The proprietor may employ the labor of other persons. He is, however, individually responsible for all debts incurred by the business; that is, his personal property may be sold in order to satisfy the obligations of the business. The business as such dissolves at his death; whereas the properties of the business may be willed to his heirs, the business itself will acquire an entirely new legal status because of its changed ownership.

Partnerships: Partnerships legally are similar to single proprietorships; they simply provide means whereby two or more persons may unite their assets to obtain a larger monetary fund for a business. Shares in the profits are usually assigned in proportion to each partner's monetary contribution. Each partner is individually responsible for all debts of the company, regardless of his share in the financing of the business. If, for example, one partner should abscond with all the assets of the company, his partner or partners could be held liable for the obligations of the business. A partnership terminates with the death of one partner.

Corporations: The corporation is the leading structural form adopted by large businesses today. It has certain major advantages over both single proprietorships and partnerships. A corporation is a legal personality; it acquires this stature through a charter secured from any one of the

State governments. Once it has a charter, a corporation may buy and sell goods, employ laborers, incur debts (by selling bonds), and sue or be sued in court. The corporation obtains money apart from loans through selling shares of stock; the profits of the company are divided among the stockholders after the obligations of the business have been fulfilled. The stockholders are the owners of the corporation.

One of the chief advantages of the corporate structure is that the liability of the owners is limited to their holdings of stock. The corporation, therefore, possesses "limited liability," which is the meaning of the abbreviation "Ltd." following the name of any British corporation. If a corporation is bankrupted, the owners lose no more than their investment in stock; the creditors may not seize the personal property of the stockholders. Thus the corporate form greatly reduces the risk associated with business, and encourages people with limited wealth to invest.

Another advantage of the corporate structure is that management can be divorced from ownership. A giant corporation such as the American Telephone and Telegraph Company may have hundreds of thousands of stockholders or "owners." In theory these owners entrust the operation of the company to a board of directors, who presumably are their employees. The fact is that corporate direction adheres to Roberto Michels' "iron law of oligarchy": the many vote but the few rule; the board of directors ordinarily governs the company much as it sees fit. Hence the owners are actually relieved of the burden of administering the company and of the responsibilities linked with administration; yet this separation may permit the management to carry out its own desires with the owners' money.

A third important advantage of the corporate form is that its existence does not terminate with the death of one or more of its owners. Conceivably the organization might be immortal; usually, however, States impose some limit to the life of the charter. In any case, both the owners and the creditors of the corporation may rely upon its surviving the death of any of its stockholders or directors. Owing to these three aspects of its structure, the corporation has appeared to be the most desirable form for a business organization. At the same time, much of the regulatory machinery that the federal government has instituted results from the abuses that can be made of these advantages.

Although corporations today number only about 300,000 out of a total of several million American businesses, they dominate the economy of the country. Moreover, corporations themselves are by no means equally wealthy and influential; rather, a few giants among them tower above the rest. The graph in Figure 104 shows that, in 1950, 200 of the 300,000 American corporations accounted for more than forty per cent of the entire output. The accompanying figures for 1935 show that the concentration of corporate strength has increased; this is pointed up by the fact that in 1935 there were only about 200,000 corporations, so that 200 corporations then were a larger percentage of the whole number than they were in 1950. This enormous concentration of money and power in 200 or, for that

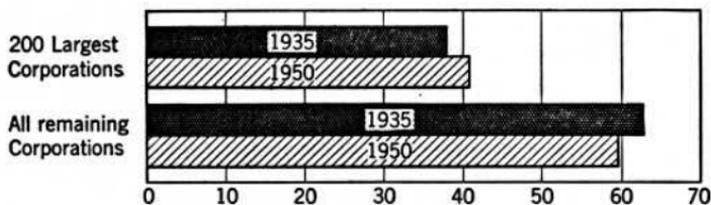


Figure 104. Change in Concentration of Manufacturing, 1935 and 1950. Percentage of total U.S. manufactured output contributed by 200 largest corporations and percentage contributed by remaining corporations.

matter, in 1,000 or 10,000 companies, tends constantly to influence public policy; it would do so to an even larger degree were it not for government restraints. Indeed, government regulation of business could well be termed the reaction to business regulation of government. A balance of forces is created that shifts back and forth, somewhat like the balance between Congress and the presidency.

Business combinations

A business combination is an arrangement among two or more individual enterprises that generally aims at the restriction of competition, so as to fix prices or output, or both. Government regulation of such combinations has the goal of restoring competition.

Pools: A pool is a business combination wherein several companies performing the same type of service or manufacturing the same type of commodity agree among themselves to restrict competition by such a device as allocating certain markets as monopolies to individual members of the pool, the other members agreeing that they will solicit no business in those markets. In a typical pool, the members place their revenues in a common fund, or "pool"; regularly the contents of the entire fund are divided among all the contributors according to a previously established ratio which may be proportioned to the anticipated contribution of each member. The pool often is not very satisfactory; it is only a "gentlemen's agreement" from which the members are at liberty to withdraw at any time when they feel that withdrawal may be to their advantage.

Cartels: The term "cartel" is subject to a number of definitions. In Germany, for example, it is commonly used as a synonym for "pool." However, when used in the United States and applied to American businesses, it is apt to have the connotation of an international business agreement. As an illustration, considerable evidence has been adduced to show that, before World War II, some of the greatest American corporations, in such fields as petroleum refining, rubber, and aluminum, had reached cartel agreements with the German dye trust (*I.G. Farben A.G.*) regarding the distribution of markets and particularly the exchange of technical information. It seems that through these cartels the Germans were able to limit American production and the building of new productive facilities by American enterprises while expanding their own, and managed

to obtain important knowledge about such matters as producing synthetic rubber from petroleum without contributing any significant data to the United States. Indeed, whereas the American firms regarded these cartels as economic arrangements, the Germans were exploiting them for political and military ends.

Trusts: A trust is a far more tightly bound combination of businesses than either a pool or a cartel. Under a trust structure, the participating companies surrender a portion of their stocks to a board of trustees, who then establish the policies of the member enterprises. Organizers of business combinations began using the trust rather than the pool after about the year 1880; and the following three decades saw the formation of the wealthiest trusts in the nation, such as the United States Steel Corporation. These groups were the targets of the antitrust legislation that Congress started to enact in 1890.

Holding Companies: A holding company is a business arrangement enabling a small group of persons with a limited monetary investment to control gigantic financial empires. The holding company itself produces nothing; it is solely a device for owning other companies. It draws its virtue from the fact that the person or group that owns as much as fifty-one per cent of the stock in a given company may direct the company; actually those who would dominate a company may need no more than five or ten per cent of its stock, since the owners of the remaining stock may be quite inactive in the management of the company. Holding companies once were pyramided one on top of the other to a height of six or eight levels, all organized by a small number of persons, so that a holding company capitalized at only a few millions of dollars might enable its chief stockholders to control an industrial realm valued at a billion dollars or more. This sort of control also enabled the directors to allocate the profits in such a way that they could enrich themselves while ruining the actual manufacturing concerns.

REGULATION OF BUSINESS ORGANIZATION

Antitrust laws

Government regulation of business organization is carried out chiefly through the antitrust laws. There are two outstanding statutes: the Sherman Act of 1890, and the Clayton Act of 1914. The Sherman Act prohibits combinations designed to restrain trade or fix prices, and declares that such acts shall be regarded as misdemeanors and be punishable by the courts. The Clayton Act outlaws specific so-called "unfair trade practices" such as prices that tend to discriminate between two purchasers; in addition, the Act bars interlocking directorates in corporations with a capital worth exceeding a stated value. It also makes corporation officials personally liable for any specified misdeeds of their organizations.

The enforcement of the Sherman and Clayton Acts has been very irregular. Like any other laws, they depend for their execution upon the determination of administrative officers to apply them. In the first decade

after its enactment the Sherman Act was rarely invoked. Moreover, in one of the rare cases in which the Act was applied, in a suit against the sugar trust, the Supreme Court ruled that the Act was of no force; although admitting that the sugar trust dominated the refining of sugar in the United States, the Court held that manufacturing was only incidental to commerce, and that whereas the Constitution empowers the federal government to regulate interstate commerce it does not authorize it to control manufacturing. Therefore, the Court argued, breaking up a monopoly of sugar-refining was not a proper function of the national government. This judgment, of course, reflected the then current predisposition of the Court not to interfere in business combinations. Furthermore, the federal courts soon discovered that the Sherman Act could be employed against labor unions, which might be defined as "conspiracies in restraint of trade," forbidden by the Sherman Act. To prevent this interpretation, the Clayton Act specifically exempts labor unions from its controls.

One other blow at the regulation of trusts was the "rule of reason" that the Supreme Court handed down. According to this principle (which was no new discovery, but an old doctrine of English common law), bigness in itself is not a crime; the concentration must only avoid imposing "unreasonable" restraints upon trade. This decision saddled the courts with the burden of determining what were, and what were not, "unreasonable" restraints upon trade. So long as the courts were generously inclined toward business combinations, the Sherman Act was likely to be ineffective. One aim of the Clayton Act was to define trade practices that are "unfair"—that, in short, comprise "unreasonable" restraints on trade.

Antitrust administration

The Sherman and Clayton Acts are administered by two agencies. One of these is the Antitrust Division of the Justice Department, which enforces the Sherman Act. A case usually arises out of a complaint by a small businessman that he is being forced to contend with a monopolistic combination. Such charges are first studied by the Federal Bureau of Investigation; if it appears that there are sufficient grounds, the Justice Department files a suit against the offender, with the aim of at least compelling him to cease his monopolistic activities. At most the Division may hope to persuade the court to sentence the guilty organization to pay a fine; no one has ever gone to jail for violating the Sherman Act. The Antitrust Division is almost entirely dependent upon Congress for its success, since that body appropriates the money for its work; ordinarily Congress does not give the Division much money, as can be seen from the fact that in January of 1956 it had but 434 employees. Figure 105 shows how one trust, the American Tobacco Company, was dissolved by government action based on the Sherman Law.

The other administrative agency associated with antitrust legislation is the Federal Trade Commission (FTC), established in 1914 to carry out the Clayton Act. The Commission is an independent agency made up of five

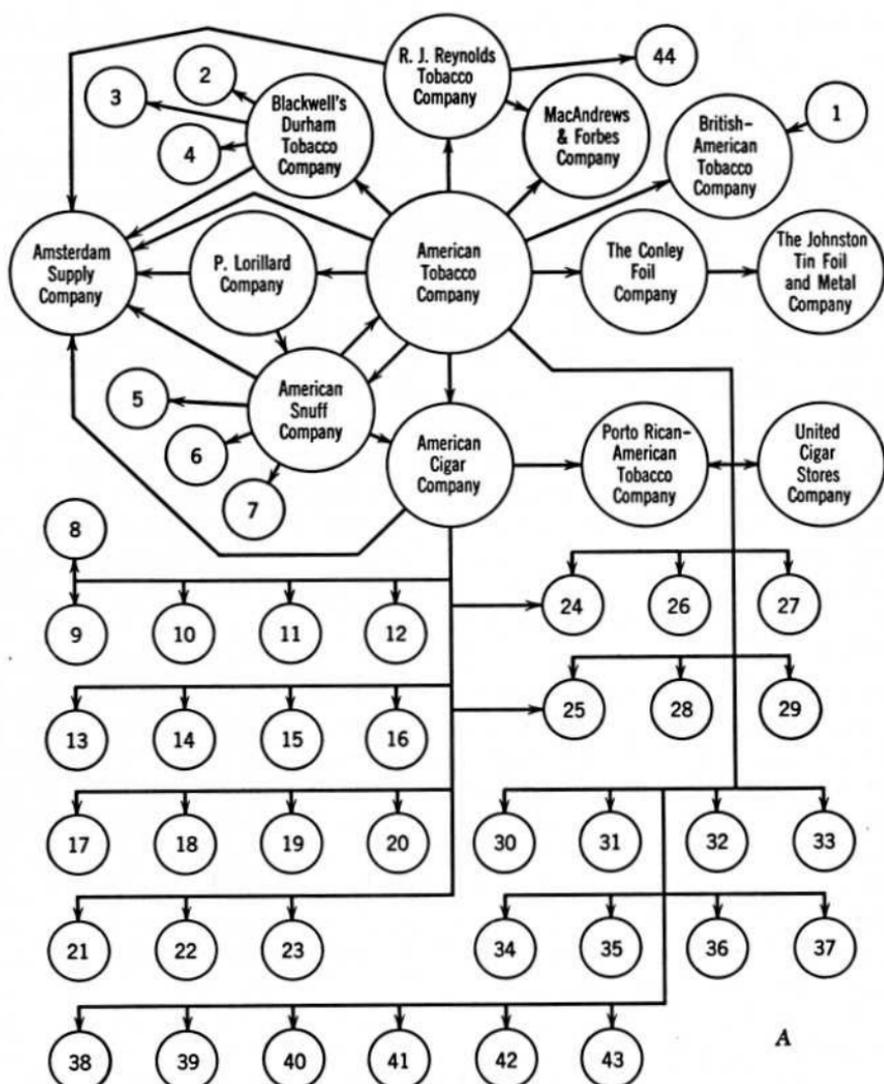
members, appointed by the President with the consent of the Senate, who serve overlapping seven-year terms. One of the chief desires of certain pressure groups, then, is to procure the nomination of commissioners favorable to their position on governmental regulation of business.

The Commission has authority over a number of different types of unfair trade practices, which are normally brought to its attention by the complaint of an affected businessman. The FTC has long been concerned with deceptive advertising; for example, it ordered one manufacturer of patent medicines to drop the word "liver" from the title of one of its products because, the FTC argued, the product had nothing to do with the liver. Parallel to this activity, the Commission has devoted considerable time to examining the animal-fur trade, since garment manufacturers have sometimes labeled furs in a manner suggesting that they came from valuable pelts when they were no better than rabbit. The FTC investigates charges that a manufacturer is selling his products to one industrial consumer for lower prices than he asks of other industrial consumers, because the manufacturer owns stock in the first consumer. The Commission also seeks to prevent one company from procuring the assets of another company, when this procurement might lessen competition.

The action of the FTC, when it finds that charges of unfair trade practices are borne out by the facts, is to issue a cease and desist order, a command that is more or less equivalent to an injunction save that it emanates from an administrative rather than a judicial body. The plaintiff may appeal such an order to a federal court of appeals and even to the Supreme Court. The Commission, finally, is empowered to supervise the execution of its orders by inspection of the businesses concerned. The scope of its work may be seen from the fact that during fiscal 1955 the FTC issued thirty-six antimonopoly complaints and eighty-two orders to cease and desist deceptive practices; and that on June 30, 1955, the FTC had 264 antimonopoly investigations pending.

Monopolies among public utilities

Government regulation of monopolistic practices by any of the public utilities is based not on the Sherman and Clayton Acts but on other laws passed especially to control the individual utilities. If it is necessary, both the Sherman and Clayton Acts can be invoked and applied. However, there are particular kinds of business restraints among utilities that are detected and prosecuted by the independent agencies that have been created to supervise the utilities. For instance, railroads are forbidden to transport any goods (with a few exceptions) in which they have an immediate financial interest; furthermore, they may not invest in, or operate, a water carrier that competes with them. Telegraph and telephone companies are prohibited from discriminating against any of their users. Commercial airlines are denied ". . . unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices." Yet it must be emphasized that these restrictions, although analogous to those fixed



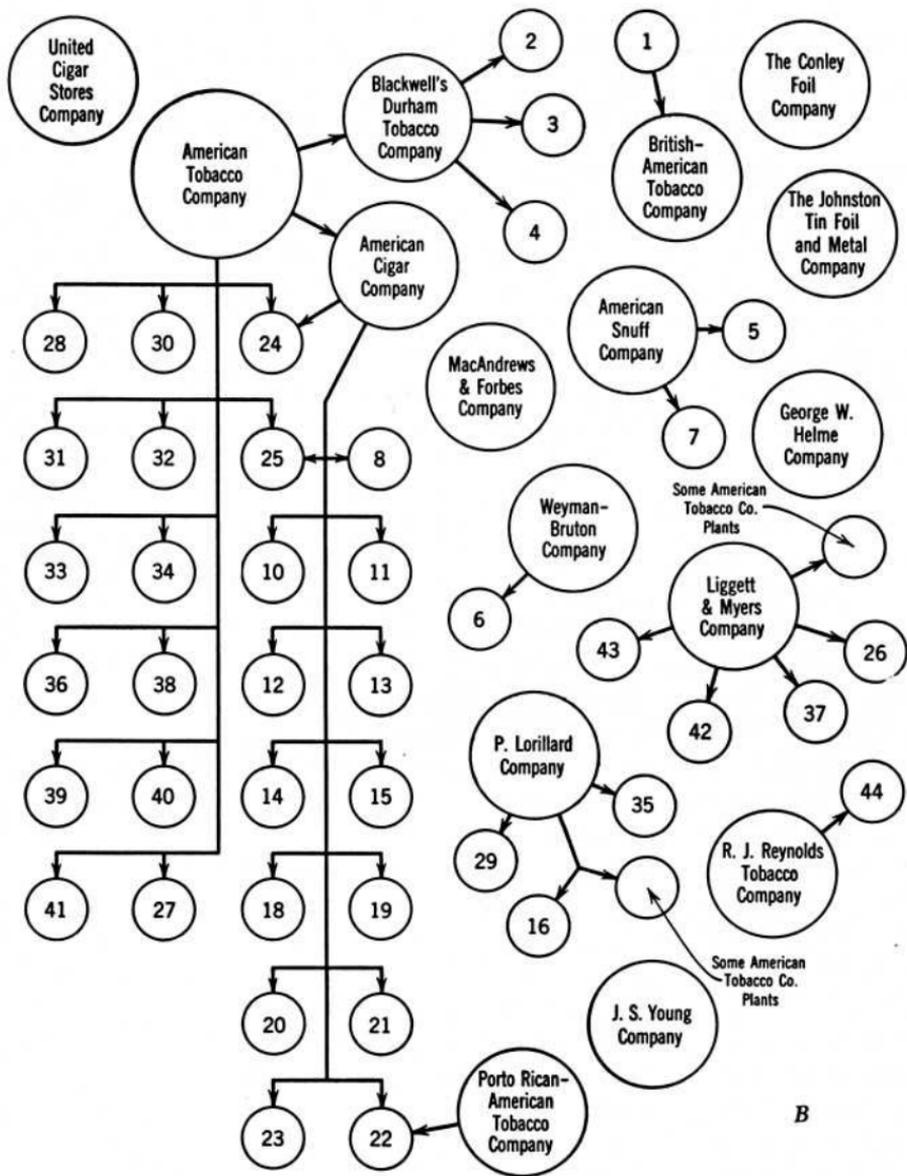
Analysis of information contained in "Decrees and Judgments in Civil Federal Anti-Trust Cases"

Figure 105. American Tobacco Company Before and After Antitrust Action.
 A. Before. B. After.

THE AMERICAN TOBACCO COMPANY (before and after antitrust action)

(Arrows point from stockholding company to company part or all of whose stock is held.)

- | | |
|------------------------------------|---|
| 1. Imperial Tobacco Company | 9. American Stogie Company |
| 2. F. R. Penn Tobacco Company | 10. M. Blaskower Company |
| 3. Scotten-Dillon Company | 11. Cliff Weil Cigar Company |
| 4. Wells-Whitehead Tobacco Company | 12. Cuban Land and Leaf Tobacco Company |
| 5. H. Bolander | 13. Havana Tobacco Company |
| 6. De Voe Snuff Company | 14. Dusel, Goodloe & Co. |
| 7. Standard Snuff Company | 15. J. J. Goodrum Tobacco Company |
| 8. R. D. Burnett Cigar Company | |



- 16. Federal Cigar Real Estate Company
- 17. Havana American Company
- 18. Louisiana Tobacco Company, Limited
- 19. Jordan, Gibson, & Baum, Incorporated
- 20. The J. B. Moos Company
- 21. Corporation J. B. Moos
- 22. Porto-Rican Leaf Tobacco Company
- 23. The Smokers' Paradise Corporation
- 24. The Kentucky Tobacco Product Company
- 25. International Cigar Machinery Company
- 26. The John Bollman Company
- 27. Jno. W. Carroll Tobacco Company
- 28. F. F. Adams Tobacco Company
- 29. S. Anargyros

- 30. Crescent Cigar & Tobacco Company
- 31. Thomas Cusack Company
- 32. Day and Night Tobacco Company
- 33. Garson Vending Machine Company
- 34. Golden Belt Manufacturing Company
- 35. Luhman & Wilbern Tobacco Company
- 36. Manhattan Briar Pipe Company
- 37. Nall & Williams Tobacco Company
- 38. Mengal Box Company
- 39. Monopol Tobacco Works
- 40. Nashville Tobacco Works
- 41. R. A. Patterson Tobacco Company
- 42. Pinkerton Tobacco Company
- 43. Spaulding & Merrick
- 44. Lippert-Scales Company

B

by the Sherman and Clayton Acts, are not identical to them; as suggested in the introductory paragraph to this chapter, words such as "monopoly" and "competition" when applied to transportation and communication have a different meaning than when applied to manufacturing.

Limits on antitrust legislation

Antitrust legislation has numerous limitations. Since it was first adopted it has been attacked from many sides. As noted before, the Department of Justice often has been slow to enforce these laws; courts have interpreted them in a hostile manner; Congress has appropriated insufficient money to enable investigators to probe alleged abuses; business interests have striven to procure the naming of sympathetic commissioners.

It should also be pointed out that Congress has made important exceptions to the antitrust laws. Fair-trade laws, which allow manufacturers to set minimum prices for their goods, are authorized by a congressional act that suspends the antitrust laws with reference to trade-marked wares in interstate commerce. By the Esch-Cummins Act of 1920, Congress frankly encouraged railroads to consolidate; subsequently plans were drafted for uniting all railroads into nineteen regional systems (in 1920 there were 1,085 operating railways). It should be remembered that railroads are a type of distributive industry in which, owing to the tremendous investment in roadbeds, stations, and equipment, competition is very expensive; consequently, many arguments may be advanced on behalf of using regulation to keep costs and prices down rather than to stimulate competition among railroads. Yet it was largely because of the objections of the railroads themselves that little of this consolidation was realized (however, by 1952 there were only 454 operating railways). Later, thanks to the Reed-Bulwinkle Act of 1948, railroads were allowed to collaborate in fixing their rates, without fear of prosecution.

The Webb-Pomerene Export Trade Act permits the formation of exporters' associations which, provided that they adhere to certain regulations enforced by the FTC, are exempt from the antitrust laws. In the face of a Supreme Court decision holding that insurance companies play a role in interstate commerce, Congress exempted them from the antitrust laws. Certainly the most widespread of all antitrust law suspensions was that authorized by the National Industrial Recovery Act of 1933 (NIRA), which obliged enterprisers in several hundred fields to combine into trade associations for the purpose of setting prices and standards. The NIRA was declared unconstitutional in 1935.

The chief factor in the enforcement of antitrust legislation seems to be the conclusion reached by interest groups, and by the government officials over whom the groups have the strongest influence, as to whether or not a competitive situation is advantageous to themselves. In recent years it has seemed that many groups, or at least major individual enterprisers, have opposed competition, and have managed to have their will prevail in the government.

CONTROL OF FINANCIAL OPERATIONS

During the past twenty years the federal government has actively intervened into the financial operations of American businesses, especially corporations, to protect the public against improper financial behavior. The corporate structure lends itself singularly well to such behavior: ownership of a corporation is so widely diffused, and often is so isolated from its management, that the directors of a corporation have been able to manipulate company funds so as to enrich themselves while begging the stockholders. A classic demonstration of such a proceeding occurred during the construction of the Union Pacific Railroad from Omaha, Nebraska, to Ogden, Utah. The promoters of the railroad established as a construction firm a corporation known as the Credit Mobilier, whose stock the promoters themselves owned almost entirely, with the exception of a few shares distributed so as to blind the eyes of inquisitive government officials. Using the money invested by the public in the railroad, they paid extravagant prices to the Credit Mobilier for construction materials; the upshot was that the investors in the railroad received no dividends, whereas the owners of the Credit Mobilier harvested enormous profits.

Another favorite device of directors was to sell stock to the public, then fail to invest the monetary returns in equipment. Hence the total amount of stock in circulation far exceeded the true worth of the company; it was diluted, or "watered." Business organizers also might exaggerate the prospects of new corporations, inducing people to invest their money in undertakings that would profit only their creators. Moreover, the holding company displayed itself as a superb mechanism for fleecing investors. Wealthy individuals vied with one another in speculating upon food commodities, especially grains, regardless of the interests of smaller investors or of those who depended upon a "normal" return from commodities for their livelihood. The collapse of the stock market in 1929 convinced federal officers that such varied operations must be regulated; hence in F. D. Roosevelt's first term Congress enacted laws setting restrictions upon stock markets, holding companies, and commodity exchanges.

Stock markets

Through the Securities Act of 1933 and the Securities Exchange Act of 1934, the national government today regulates stock markets and virtually the entire procedure of selling stocks and bonds in order to obtain funds for business activities. The principal administrative agency involved in these regulative proceedings is the Securities and Exchange Commission (SEC), made up of five members appointed by the President and confirmed by the Senate to serve five-year terms, one of which ends each year. The SEC is intended to be a typical quasi-judicial body exempt from political control; no more than three of its members may belong to the same political party. The decisions of the SEC may be reviewed by a

federal court of appeals. It is of course under great pressure, both from those who support government regulation and from those who deplore it.

The government makes numerous demands upon businesses in order to regulate them. Any business that plans to issue stocks for sale in interstate commerce in excess of \$300,000 must register with the SEC and must provide the SEC with a sample of the information it proposes to give the public. The SEC conducts an examination to determine whether the information is true or false; however, registration with the SEC in itself is not proof that the information is true. In any case, it is unlawful to submit false statements to potential investors. The SEC does not guarantee that the business will succeed; its guiding purpose is to assure the public of some essential, financially true facts about the enterprise. Companies must also furnish the SEC with statements about their financial condition. Likewise, all persons engaged in the sale of securities must register with the SEC; the Commission seeks to prevent such persons from committing deceptions and misrepresentations in the vending process.

Furthermore, the SEC supervises investment trusts, which are companies that invest money lent or subscribed to them by individuals or by other companies. The chief justifications for an investment trust are that its officials are apt to know more about profitable stocks than the individual investor can, and that owing to its diversified holdings it can usually provide a safe return. The SEC also regulates investment counsellors, who are paid advisers to people on the worth of stocks and bonds. It is evident from these functions that the federal government intends to guarantee the small investor who may be rather innocent of stock-market wiles from the less reputable practices of some brokers and corporation directors.

Holding companies

The federal government regulates some holding companies, also through the Securities and Exchange Commission, under the terms of the Public Utility Holding Company Act of 1935. The nature and purposes of holding companies have already been dealt with. In accordance with this Act the SEC regulates the financial relationships between the companies and the public utilities they control. The law forbids the erection of holding companies above the "second level"; that is, the pyramid legally may not rise above a holding company dominating other holding companies that control public utilities. The SEC also imposes geographic limits upon holding companies by restricting their control to "physically integrated and coordinated properties." To phrase it otherwise, a holding company may not found a combination of utility companies that is united only financially; the combination must have functional unity as well.

Commodity exchanges

A commodity exchange is a market for the buying and selling of agricultural products, especially staple foods, such as corn and Irish potatoes, and textile sources, such as cotton. The Chicago Board of Trade is a commodity exchange. The particular activity on commodity exchanges

that is regulated by the federal government is the trade in so-called "futures." A future is either one of two things: it may be an agreement to sell a given commodity in the future, at a price arranged in the present; on the other hand, it may be an agreement to buy a given commodity in the future, at a price arranged in the present. When legitimately employed, trading in futures by either the growers or the processors of these commodities is known as "hedging." Hedging is a method whereby a grower or a processor protects himself against either a rise or a fall in commodity prices, whichever would be disadvantageous to him. The grower, since he enters the exchange as a seller, hedges against a fall in prices; the processor, entering the exchange as a buyer, hedges against a rise. In reality most growers and processors have neither the time, money, nor ability to engage in continuous hedging operations. Rather, many persons who own not a bushel of corn nor a bale of cotton enter the exchange to buy or sell futures for the sole aim of speculating on rises or drops in prices. Such speculators perform a useful function when they compete against one another so successfully that they cause the price of a commodity to move along in a stable way. However, speculators can, through dealing in futures, effect price changes that bear no relationship to the genuine supply and demand situation of the given commodity. It is argued that the sudden drop in grain prices during 1947 and 1948 resulted largely from the doings of speculators.

In order to prevent this type of speculation the federal government has created two agencies for the supervision of commodity exchanges. One of these is the Commodity Exchange Commission, established in 1922, which has three members: the Secretary of Agriculture, the Secretary of Commerce, and the Attorney General. The other agency is the Commodity Exchange Authority, which is an office in the Department of Agriculture, under the Assistant Secretary for Marketing and Foreign Agriculture. Of the two, the Authority is the more important; this fact leads to the inference that since it is a branch of a political agency, the Agriculture Department—being in that respect quite different from the formally non-political Securities and Exchange Commission—it is designed to serve a vocational-interest group, the farmers, and not the public as a whole. In its functioning, however, the Commodity Exchange Authority often does protect the public against extreme food costs. Its principal tasks are to protect those who hedge against the market, to prevent the spreading of false information about crops that may influence prices, and to block the establishment of corners on agricultural commodities. The Commodities Exchange Commission works through the Authority. It deals with violations by commodity exchanges of the Commodity Exchange Act of 1936, and may set limits upon the amount of trading in futures.

REGULATION FOR CONSUMERS' WELFARE

The government regulation of business that aims at protecting the welfare of consumers takes one or the other of two major forms. On the

one hand, the government regulates prices; or, to state the matter somewhat more precisely, since the regulation is applied primarily to means of transportation and of communication, the government fixes *rates*. On the other hand, the government establishes certain standards of *quality*, whether of performance or of materials.

Rates

The Basis of Rate-Fixing: The process of rate-fixing is based primarily on a formula devised many years ago: rates must be just and reasonable, giving a fair return on the value of the property. The leading difficulty is to judge what shall be a "fair return" on the value of the property. Once one has decided what the value of the property is, one may conclude that a certain percentage of the value comprises a fair return upon it. However, there are several means for computing the value of a property. It is unnecessary here to discuss all of these means, but two may be singled out to illustrate the complexity of rate-fixing. One means for valuation employs the original cost of the property; a fair return, then, would be a percentage of what the property cost when built. A second means for valuation utilizes the replacement cost; a fair return under these circumstances would be a percentage of what it would cost to replace the property.

Now, suppose that the rates are to be fixed during an inflationary era, that is, one in which prices have gone up. The owners of the property would argue for rates based upon replacement costs, since they would yield a higher return; consumers would ask for an original cost valuation, so as to obtain lower rates. By contrast, it may be that rates are to be fixed in a deflationary era, one in which prices have dropped. Now the owners may ask for an original cost valuation, whereas the consumers will demand a replacement cost valuation.

It is evident that there will be conflict among the various groups interested in the rate-fixing process; it is likely that whichever means for valuation is used will provide the identity of the stronger group or groups. Today even the principle of a fair return on the value of the property is being challenged. Within the past fifteen years the federal Supreme Court has ruled that a just and reasonable rate might be set even though it were insufficient to provide a fair return; this decision would hold that the leading function of a public utility is to furnish services to the consumer rather than give profits to its owners.

The Pattern of Rate-Fixing: The Interstate Commerce Commission (ICC), through various acts of Congress, today fixes the rates of most forms of transportation engaged in interstate commerce: railroads, ships, buses, trucks, pipelines (save those for natural gas and for water), ferries, express companies, and the like. The railroads were the first mode of transportation whose rates were subjected to ICC determination. From the date of its creation, in 1887, the ICC has been authorized to prohibit unjust and unreasonable rates; it was only through laws passed in 1906 and 1920 that the ICC was empowered to fix the rates directly. Even today, however, the ICC is largely dependent upon the railroads for establishing the rates.

That is, a railroad or group of railroads that believes it should earn more money files a petition with the ICC for an increase in rates, and the ICC must to some extent rely upon the data provided by railroads to attain a decision.

The federal government strives to prevent railroads from discriminating against some shippers in favor of others. For example, it prohibits railroads from giving rebates, which are the return of part of the cost of transportation to a shipper; at one time the Standard Oil Company shipped so much oil by rail that it was able, by threatening to give its business to another line, to collect rebates not only on its own shipments but also on those of other oil producers. Such rebates were a manifest discrimination against the competitors of the Standard Oil Company.

The federal government also forbids railroads to charge more for a short haul than for a long haul, seeking to ban discrimination arising out of competition between the railroads themselves. The following type of situation actually has existed in the past: Railroads *A* and *B* link Chicago and New York. Only *A* serves Cleveland, and only *B* serves Pittsburgh. Hence *A* and *B* compete for shipments between Chicago and New York; however, *A* has a monopoly between Chicago and Cleveland, and *B* has a monopoly between Chicago and Pittsburgh. Therefore in vying for the commerce between Chicago and New York, each railroad may lower its rates to the point where it is losing money; *A* will make up its losses by charging high, monopolistic rates between Chicago and Cleveland (and between New York and Cleveland, for that matter), and *B* will recoup its losses through monopolistic rates between Chicago and Pittsburgh and between New York and Pittsburgh. Even today there are railroads that charge the *same* rate for a short haul as for a long haul; this practice is not illegal. Indeed, these somewhat discriminatory rates may be aimed at competing on the long haul not with another railroad but with the airlines.

It is noteworthy that although the federal Constitution authorizes the federal government to legislate only with respect to interstate commerce, today the government has found justification for major controls over intrastate rates as well. Ordinarily railroad rates in intrastate commerce would be fixed by a commission in each State comparable to the ICC. Let us assume, however, that there are factories in Schenectady, New York, and in Toledo, Ohio, that produce an item needed by a large concern in Buffalo, New York. Toledo and Schenectady are about the same distance from Buffalo; in the one case the commerce is interstate, but in the other it is intrastate. Now, quite possibly stimulated by the Schenectady manufacturer, the public utility commission of New York State might fix a railroad rate between Buffalo and Schenectady lower than that between Buffalo and Toledo, so as to favor the Schenectady firm at the expense of the Toledo firm. However, long ago the Supreme Court ruled such an act unconstitutional, on the ground that it discriminated against interstate commerce, which is controlled by the federal government. Hence in effect the ICC establishes rates for intrastate commerce wherever that commerce com-

petes with interstate commerce. Thus the States have almost no power over railroad rates save those on commuter passenger trains.

The federal government establishes rates collected by all other "common carriers," or means of transportation that are for hire by any person, operating in interstate commerce. Those regulated by the ICC have already been enumerated. Rates for commercial airlines today are fixed by the Civil Aeronautics Board (CAB), a typical independent administrative agency comprising five members appointed by the President with the consent of the Senate. Rates for pipelines transmitting oil are set by the ICC; on the other hand, rates for pipelines carrying natural gas are fixed by the Federal Power Commission (FPC), another independent agency, made up of five members chosen by the President and confirmed by the Senate. One of the most vigorous legislative contests in recent years has been that in Congress over a proposed statute that would exempt natural gas producers from FPC control. The federal government also controls rates charged by the telephone and telegraph companies for interstate communications; the task is specifically delegated to the Federal Communications Commission. However, although the FCC has considerable powers over the radio broadcasting industry, it does not have the power to establish the rates that radio broadcasters charge advertisers, for radio stations are not considered to be "common carriers" by Congress or the courts.

Quality

Transportation and Communication: The federal government regulates the quality of transportation and communication in several ways. In the first place, the government requires that those who would enter the fields of interstate transportation and communication obtain a license from the appropriate authority; a license is a grant of liberty to undertake an activity that is otherwise forbidden. Federal transportation and communication licenses are not issued until it can be shown that the public convenience and necessity will be served. For instance, motor truck carriers procure their licenses from the ICC; radio broadcasting stations, from the FCC; private hydroelectric power interests, from the FPC; and airlines, from the CAB.

The granting or denying of these licenses may be accompanied by considerable political maneuvering. Advocates of federally owned hydroelectric plants, for instance, will lobby against issuing a license to a private concern. In recent years one airline has managed to secure most American overseas air traffic (excepting that carried by foreign countries); it is famed for its vigilance and for the pressure it brings whenever petitions from other airlines come before the CAB. The airline also enlisted the aid of a prominent Senator, whom it retained as its lawyer, at a handsome fee.

Moreover, not only must these concerns obtain licenses from the government in order to enter business; they must also secure permission, from the appropriate agency, to discontinue service. In recent years the

most important applications have been made by the railroads, which have sought leave to abandon unprofitable lines. Here the ICC has had to consider both the good of the railroads, whose financial status might be improved if they were allowed to cease operations, and of the communities involved, which might be economically damaged for lack of transportation, as well as the railroad brotherhoods, whose members might thus be deprived of employment.

The federal government also is deeply concerned with the installation of safety devices, and the adoption of safety practices, on the modes of transportation under its control. Railroads have been the particular targets of this form of regulation. A not often recognized fact is that railroading is a hazardous employment; for instance; in 1953, when forty-nine railroad passengers were killed in accidents, 343 railroad employees were killed. Hence the railroad brotherhoods have been among the most powerful forces for the adoption of safety devices; the railroads themselves, usually in the name of economy, have vigorously fought the brotherhoods and the ICC, which has decreed the use of these safety devices. Indeed, the ICC maintains a Bureau of Safety and Service, which in 1954 found more than ten per cent of all steam locomotives defective. Also, partly in order to increase the safety of passengers and wares, the federal government has set the maximum number of consecutive hours that operating employees in the various types of transportation may work. Finally, the several administrative agencies are empowered to investigate all accidents on the carriers under their jurisdiction.

Industry: Government regulations of industry are generally designed to ensure that the consumer obtains the level of quality he has paid for in making a purchase. At the same time these regulations protect the honest manufacturer against the dishonest one; for this reason the federal regulation of industrial standards is sometimes supported by reputable manufacturers.

One type of particular consumer service has already been noted, that performed by the Federal Trade Commission in controlling the labeling of animal pelts. The Federal Trade Commission is a versatile agency; it can examine correspondence courses as well as furs. Thus in April, 1955, the FTC announced that a certain musical studio had been compelled to cease its claims that "its home study courses enable people to play the piano," without "disclosing that such playing is limited to single note melodies with one hand and a simple bass chord accompaniment with the other."

Another sort of business regulation is that of the marketing service programs in the Agriculture Department, setting grades such as "U.S. Choice" for various commodities, the use of some of which is mandatory. The same Department also had compulsory inspection laws for specified farm products, fixing their requirements on such bases as the United States Cotton Standards and the United States Grain Standards. Too, the Department enforces the so-called "truth-in-labelling statutes," such as the Federal Seed Act. Perhaps the largest agency for carrying out this

sort of consumers' services is the Food and Drug Administration in the Health, Education, and Welfare Department. The Administration is founded on the Food and Drugs Act of 1906, whose enactment apparently was stimulated by the revelations in Upton Sinclair's novel of the Chicago stockyards, *The Jungle*. The Administration looks into the materials used in the processing of foods, drugs, and cosmetics; the cleanliness of the manufacturing environment; the processing techniques; and the labeling of the products. The Administration is an important laboratory, carrying on research into the commodities under its jurisdiction. It is especially watchful over the distribution, prescription, and efficacy of new drugs, such as streptomycin and aureomycin.

From the nature of these variegated regulations, one might assume that the federal government would better satisfy many interest groups by direct ownership of industrial facilities. At the same time, the flexibility of the regulatory system is shown in the shifting character of the rules; sometimes they are stringent, and sometimes they are lax. Outright government ownership and management of businesses that are now closely regulated would forego such flexibility once and for all; rarely has a government-owned business been transferred back to private hands. Partly in order to keep the door open to changing beliefs, the American national government has itself undertaken relatively few businesses. This governmental participation in business is the topic of the following chapter.

QUESTIONS AND PROBLEMS

1. Why is it difficult to distinguish between government promotion and government regulation of business?
2. Define briefly the following forms of organization: corporation; pool; cartel; trust; holding company.
3. Describe the nature of the Sherman and Clayton Acts and the limitations of their meanings that have occurred up to the present time, both by the courts and by Congress.
4. Describe the work occurring in a commodity exchange. Why has the government regulated the exchanges?
5. How does politics enter the question of deciding what shall be a "fair return" on the value of property?
6. Describe the activities of the ICC in regulating rates.
7. Suppose that a railroad offered to lower its rates on shipping books and newspapers across the country, over the protests of the ICC. Might it appeal to the courts on the ground that the ICC, by demanding uniform, higher rates was interfering with liberty of speech and of the press? What arguments do you suppose could be advanced by the ICC and by the railroad?
8. What are some important types of licensing activities of federal agencies?
9. By what techniques does the FTC exercise its powers?
10. What are the functions of the SEC?

43. Government Participation in Business



The President's Water Resources Policy Commission

THE American federal government participates directly in business. According to the Bureau of the Budget, in 1956 the government was engaged in 19,771 commercial and industrial activities producing goods and services; they represented capital assets of \$11.9 billions. By comparison with most other countries of the globe, the government of the United States has title to only a small fraction of the national investment in the production and distribution of goods. In communist countries, for example, the government in one way or another owns all but the most minor sort of business undertakings. The governments in most non-communist countries, especially those of western Europe and of certain Latin-American states, own a greater share of the national economy than the American federal government does. Even American States and cities are more active commercially than the national government is. Yet the extent of federal business holdings in absolute terms is great; if the government sold its enterprises and could use the money thus obtained to buy merchant ships, it could buy every ship on the Seven Seas.

Outside the communist nations, when governments invade the realm of business ownership they usually do so in the sector of the distributive industries. For instance, both the British and the French governments own the railroads in their respective countries. Many American city governments own water systems, electric power generating companies, and public transportation networks. It is in this realm that the national government has to some extent penetrated, for its operations in the main are confined to the power industry and to transportation facilities. Apart from these undertakings the federal government also owns and operates the Post Office and the Government Printing Office. In its territorial possessions the national government manages some large and important properties. Finally, the armed forces own and operate some special manufacturing and distributive enterprises.

The government sometimes during a war acquires business properties, then sells them after the war. During World War I, for example, the government built and operated a fleet of merchant vessels, then sold them to shipping lines after the close of hostilities. During World War II the government created a number of establishments for the production of synthetic rubber; afterward, in August 1953, Congress set up the Rubber Producing Facilities Disposal Commission, an independent agency, to sell these establishments. In 1955 the government sold twenty-four such plants in a single transaction.

This chapter will endeavor to discuss the most important aspects of government participation in business that have not been dealt with elsewhere in the text. The aspects that have been previously described include national credit agencies, federal housing projects, and the Panama and Soo Canals. Save for the housing projects, they were created primarily in order to promote business. This chapter will confine itself to the Post Office, the Government Printing Office, the Tennessee Valley Authority and other electric power undertakings, the Atomic Energy Commission, such territorial enterprises as the Panama Canal Company, and the business operations of the armed forces.

THE POST OFFICE

The United States Post Office executes one of the oldest types of government functions in the world. Governments have had postal services for thousands of years; there is evidence that the Babylonian Empire had this service as early as the year 3800 B.C. The original purpose of this service appears to have been to supply the government itself with a means for carrying official messages, such as instructions from the central administration to a provincial governor, or commands from the ruler to a military leader. Government control was more common than private ownership, because the government alone had the force to protect the mails. Given the usefulness of controlling what was in the mails, the government preferred that, if the mails were to be used for

anyone, they would be used for the state. Neither argument is as strong today as it once was. There was a postal service in the British colonies of North America; one of the first acts of the Confederation government was to found a post office. Today the Post Office reaches into every hamlet in the nation.

The chief executive of the Post Office Department is the Postmaster General, a member of the Cabinet, appointed by the President and confirmed by the Senate. There is a tradition that this official shall be a major political figure, often the past chairman of the administration party. This tradition may have arisen because the office supposedly is a sinecure, a post whose administration does not require any especial talents. Too, at one time many thousands of the best government positions outside the classified civil service were in the Post Office—the local postmasterships. It may have been felt that the party chairman should be named Postmaster General as the person best acquainted with the devotion of party followers. A third possibility is that since the position does in fact offer opportunities for the display of great administrative ability, it may be given to a party chieftain because he has revealed sufficient administrative ability to organize the party that has won a national election.

Under the Postmaster General are a Deputy Postmaster General and five Assistant Postmasters General, one each to head the Bureaus of Personnel, Facilities, Finance, Transportation, and Post Office Operations. The hub of Post Office activities, of course, is the individual Post Office situated in cities, towns, and villages. The Post Office is the largest civilian executive Department; on January 1, 1956, it had 509,032 employees.

Unlike any other Department, the Post Office conducts itself as a business; it is the only Department that receives a steady income for the services it performs. Indeed, the United States Post Office may be the largest business in the world, at least in non-communist countries. In 1955 there were 38,316 individual post offices (a considerable reduction from the year 1900, when there were 76,688). The Post Office handled over fifty-five billion pieces of mail, the majority of them first class. It delivered almost eleven billion pounds of mail, three-fifths of the weight being parcel post. It issued \$5.8 billions worth of money orders. The Post Office in this year had a gross revenue of more than \$2.3 billions, and gross expenditures of more than \$2.7 billions; the annual deficit amounted to about \$362 millions.

The Post Office deficit is a matter of great displeasure for persons both inside and outside the government. Actually for most of the last century the Post Office has operated at a deficit, save during two world wars of the present century. Hence each year Congress must vote a deficiency appropriation to give the Post Office enough money to perform its duties. The handling of this deficit, and its causes, have given rise to severe criticism of the Department. The deficit has also furnished opponents of federally owned enterprises with evidence that the government is not competent to participate in business. Indeed, according to its own reports the Post Office today does not show a profit on any type of mail—not even letters.

At the same time it must be realized that the Post Office carries out numerous valuable functions for business. The national economy could hardly operate unless businessmen had some means for exchanging information and for communicating with the public. In several ways the Post Office subsidizes businesses. For instance, it pays merchant ships and commercial airlines far more than their actual costs for transporting mail. It carries periodicals such as newspapers and magazines as "second-class" mail, which in fiscal 1954 yielded a loss of more than \$218 millions, a sum that may be accounted a subsidy to publishing firms. The Post Office has established a category termed "third-class" mail, for circular matter, advertising, and the like, which is also a boon to private enterprise; in 1954 it yielded a loss of \$147 millions, which might also be described as a subsidy.

There are few people who would suggest that the government turn the postal service over to private hands, and fewer still who would suggest that the government run the Post Office just as the States maintain highways, as a service without fees, paid for out of general tax receipts. Abandoning any of the various kinds of subsidies would bring protests from the groups affected. The only means for ending the deficit that would not bring loud protests appears to be the installation of greater economies in operations.

The Post Office also serves as a bank for individual depositors, through the Postal Savings System. At the end of fiscal 1955 the System had total deposits of more than \$2 billions, with over 2.7 million depositors. These deposits draw two per cent interest, and are protected by the credit of the national government. The System is administered by a board of trustees made up of the Postmaster General, the Secretary of the Treasury, and the Attorney General, which invests the funds after they have been deposited. The funds of comparable systems in other countries are usually invested in government bonds; in the United States, by contrast, they are placed in "reputable" banks, preferably members of the Federal Reserve System.

That the Post Office should act as a savings bank has sometimes been questioned. At one time, private banks were less safe, perhaps, and did not welcome the smallest accounts; too, it was considered good policy to encourage everyone to save, even though few would recommend that the government engage itself deeply in encouraging every desirable impulse. It is unlikely that the System would be adopted today, if it were being proposed for the first time; however, it now stands firmly rooted in history.

THE GOVERNMENT PRINTING OFFICE

The United States Government Printing Office is probably the largest printing house in the world. The Office is supervised by Congress; hence it is not an administrative or executive division. The leading figure in the Office is the Public Printer, who "is required to be a practical printer,

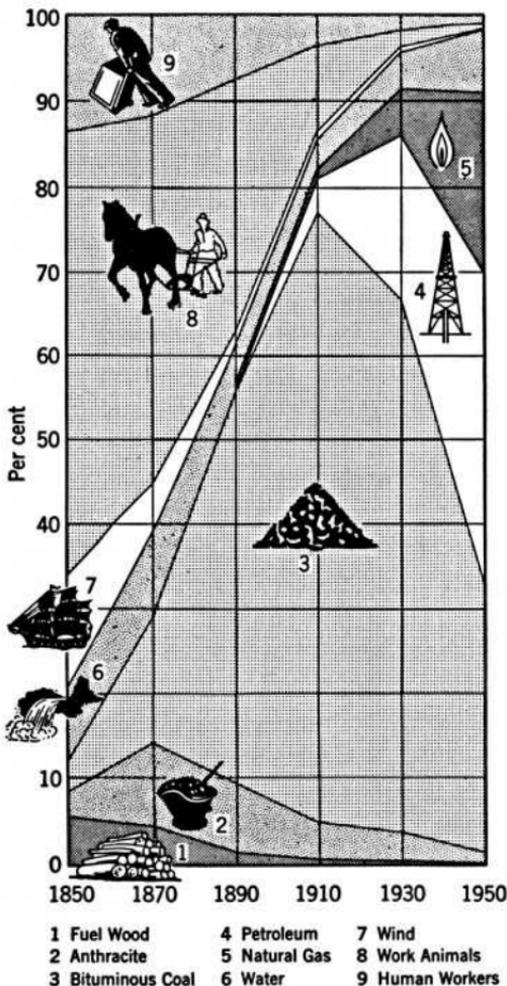
versed in the art of bookbinding." He is appointed by the President and confirmed by the Senate, but to a large degree he is responsible to the Joint Congressional Committee on Printing. The Office prints all the state papers of the federal government save those of a confidential nature. The sale of these publications is administered by the Superintendent of Documents; he also sends copies of these documents to the many libraries that are termed "depositories," which have been chosen to receive a copy of most publications. Finally, the Superintendent prepares catalogues of the materials that the Office has for sale.

Just as in the case of the Postal Savings System, an advocate of private enterprise might disagree that the government should engage in such extensive printing operations. Few would deny that the government has the elementary function of publishing congressional debates and legal documents, although the earliest of such records, here and in England, were privately printed. Yet a great part of the work of the Printing Office consists of printing, binding, advertising, and selling materials of the "how-to-do-it" character, together with a host of special studies that do not have legal force, such as analyses of the coal-mining industry. A critic may ask: "If the government wishes to publish a study it has made of the coal industry, why cannot it contract with a commercial publishing firm to print and sell the work, with or without subsidy?" Such a course of action would be more complicated and troublesome than the present arrangement, although it might promote the publishing business.

POWER

The federal government in the past two decades has entered the field of power generation, especially the areas of electric power and atomic power. These two fields in one sense are radically different; that is, the generation of electric power was practiced long before the federal government began to participate in it, but essentially the generation of atomic power was discovered under the auspices of the federal government. The sources of energy in the United States are constantly changing (see Figure 106). A century ago man-power and horse-power were major sources of energy for farms and factories. Coal then became the chief source of energy; now its use is declining. Atomic energy is now coming to the fore; probably by 1970 it will supply an important part of all energy consumed in the United States. Solar energy, obtained from the sun's rays, is also in the initial stages of practical development.

The generation of power by federal enterprise has given birth to harsh controversy; whereas there is little dispute that the postal service is a proper governmental function, heated debate occurs for and against the belief that the government should undertake power generation. For several years after its inception atomic power was a monopoly of the government, largely for reasons of national security but also because of the influence of those who professed fear that a few great corporations might establish a private monopoly if facts and materials were released



J. Frederic Dewhurst and Associates, "America's Needs and Resources: A New Survey" (New York, Twentieth Century Fund, 1955), Figure 104

Figure 106. Percentage of Total Work Output Obtained from Different Sources of Energy in the United States, 1850-1950.

to the public. With the passage of time, it became apparent that information regarding atomic power was available to other countries; hence a government monopoly for the sake of national security had become unimportant. Furthermore, powerful industrial interests brought pressure upon the government to surrender part of its knowledge. Under the Eisenhower administration, Congress enacted legislation making it possible for private industry to obtain fissionable materials, attempting to hedge about the law with protections against monopoly.

Occasionally it is urged that the federal government sell its electric power generating plants to private business; these spokesmen have especially aimed at dissolving the Tennessee Valley Authority. At present, however, it appears that not only will the government retain these properties but also it plans to build many more such facilities. Certainly private

enterprise has not despaired of erecting such facilities, nor have municipal governments; the graph in Figure 107, showing the percentage of electricity generated by federally owned utility stations, discloses that between 1945 and 1950 the federal share actually declined. The future proportions between private and public facilities will be decided by the victors in many political struggles to come; the arenas of debate can be imagined from the distribution of potential hydroelectric plants drawn in Figure 108.

Electric power

Tennessee Valley Authority: The Tennessee Valley Authority (TVA) is the outstanding example of a government electric power project in the United States. The TVA is a government corporation created in 1933 for the purposes of improving navigation on the Tennessee River and its tributaries, controlling floods in the Tennessee River basin, manufacturing fertilizer and other nitrate and phosphate products, and generating and distributing hydroelectric power. The TVA is administered by a three-member board of directors appointed by the President with the consent of the Senate. The TVA has expanded as the years have gone by, so that it has become an illustration of regional planning and general river-basin development. For instance, it concerns itself with the conservation of forests; it has linked its fertilizer production with a program of general agricultural improvement; it attends to the health and welfare of all persons living under its jurisdiction. It has great economic influence over an area of about 41,000 square miles (about the size of Ohio or of Tennessee itself) and the lives of its roughly 3.5 million residents. The map in Figure 109 shows the location and scope of the TVA region.

The foundation of TVA activities is the system of twenty dams and reservoirs on the Tennessee River and its confluents. These dams serve

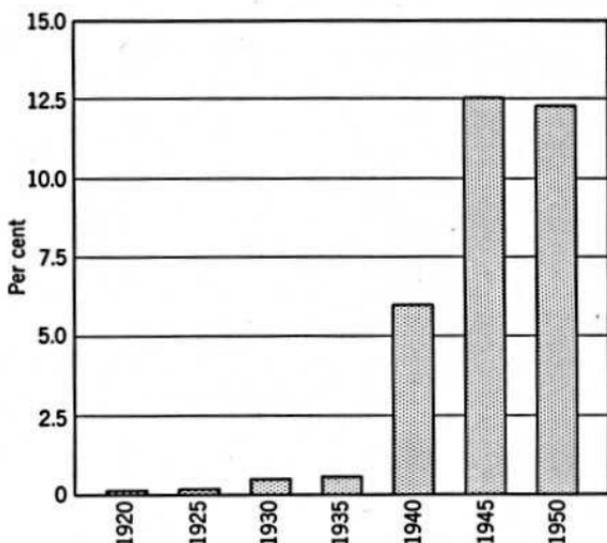
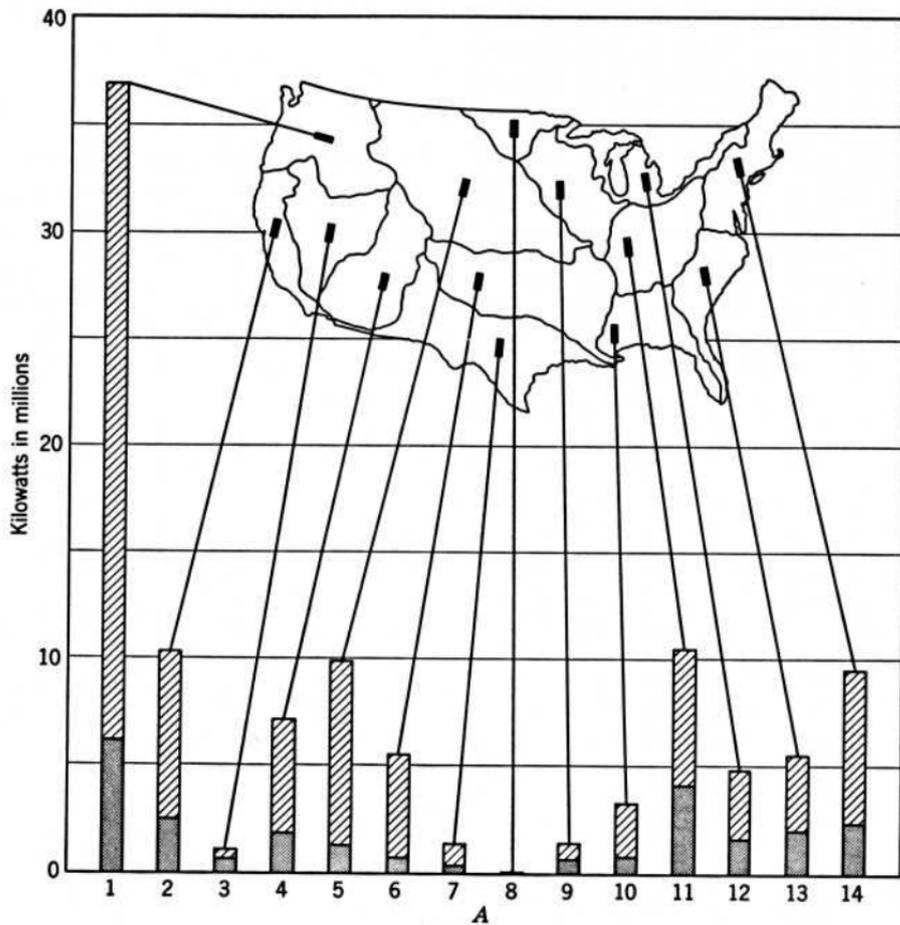
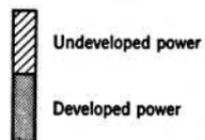
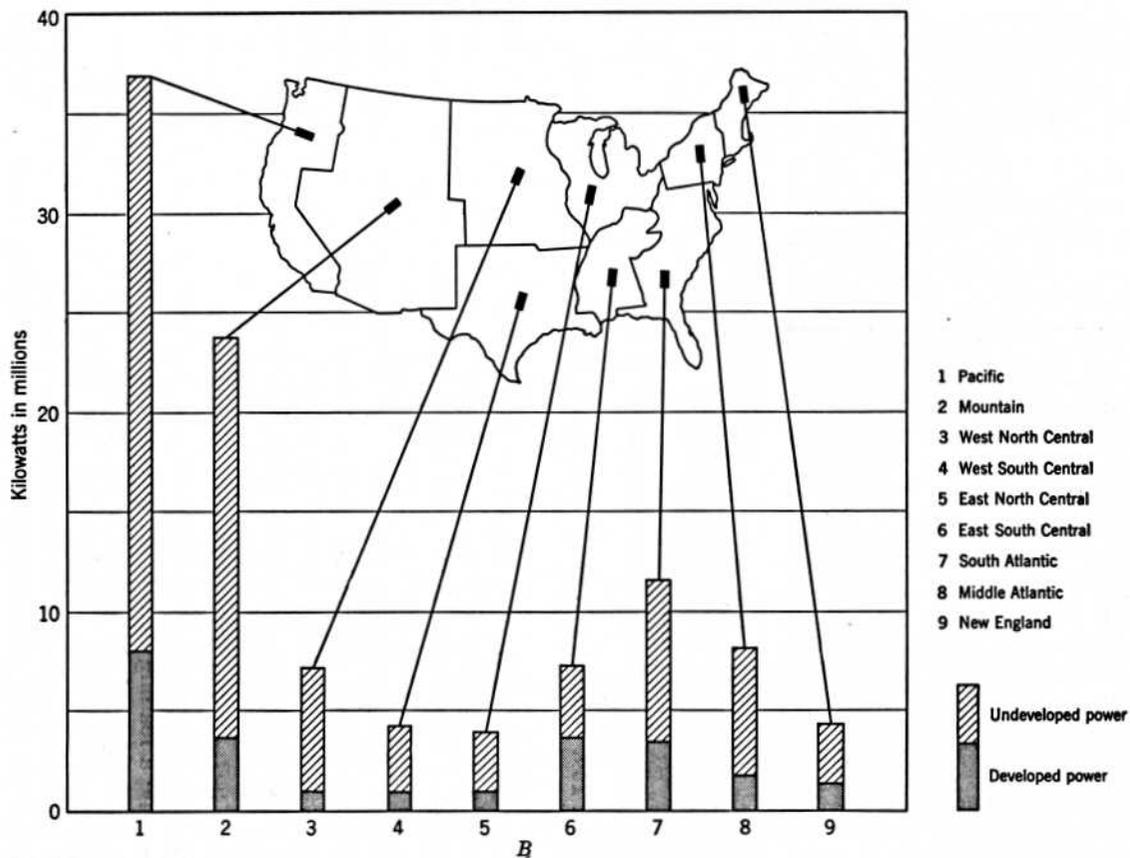


Figure 107. Percentage of Electric Power Generated by Federally Owned Plants, 1920 to 1950.



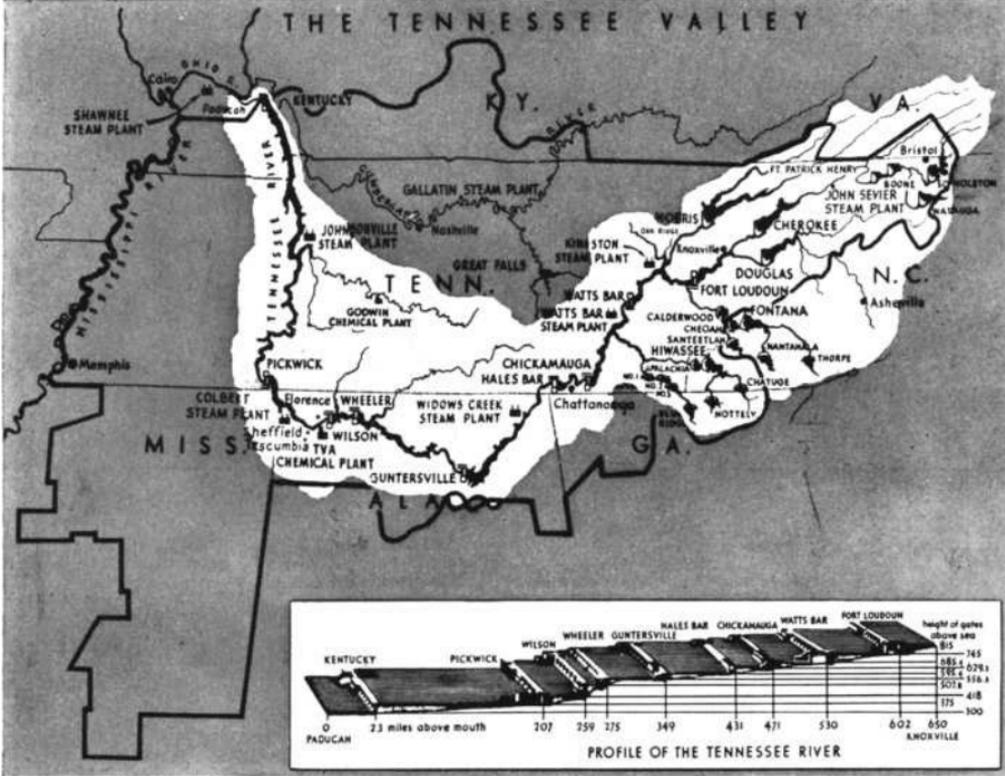
- 1 North Pacific
- 2 South Pacific
- 3 Great Basin
- 4 Colorado River
- 5 Missouri River
- 6 Lower Mississippi River
- 7 Western Gulf
- 8 Hudson Bay
- 9 Upper Mississippi River
- 10 Eastern Gulf
- 11 Ohio River
- 12 Great Lakes-St. Lawrence
- 13 South Atlantic
- 14 North Atlantic





Federal Power Commission

Figure 108. Developed and Undeveloped Hydroelectric Power. A. By major drainages. B. By geographic divisions.



Tennessee Valley Authority

Figure 109. Regional Development by the Tennessee Valley Authority.

to control floods, and, since they convert the river into a series of lakes, to provide a freight waterway from Paducah, Kentucky, to Knoxville, Tennessee, a distance of more than 600 miles. These are multi-purpose dams, for the government has built hydroelectric generating plants on their sites. The electricity produced here is sold to federal agencies, public and private power companies, and to industries. The most important consumer is the Atomic Energy Commission, which buys power for its plants at Oak Ridge, Tennessee, and at Paducah. This power is also retailed to the inhabitants of the region through the many local distributors that buy it from the TVA. Electric power is cheaper in the TVA area than it is in the nation as a whole; also for the past two decades the area has become a leading market for electrical appliances.

The cheapness of the power in the region is the first great merit cited on behalf of the TVA. Many other benefits have been brought to the entire region through such means as spreading information about conservation practices and good farming techniques. Advocates of the TVA also point out that the per capita use of electricity in the area is exceptionally high. They further assert that the per capita income of those living in the TVA domain has since 1929 risen proportionately more than the per capita income of the nation. This is an incontrovertible fact. However, it is also a fact that per capita income in all southern States has risen sharply since 1929, that this rise seems to be the consequence of several

factors, and that the TVA is probably but one of the factors. Indeed, South Carolina, whose 310% per capita income rise between 1929 and 1955 was by far the greatest for any State in the country, is not considered a TVA State.

The TVA has been subject to some unfriendly criticisms. One important charge, based on the recent activities of the TVA, is that it has become a spearhead for government invasion of the whole power-generating field. Initially the TVA produced only hydroelectric power. Now, this type of power might be viewed as a "by-product" of the other functions of the TVA; that is, one might assume that the principal tasks of the TVA are to build dams that control floods and improve navigation, and that it has undertaken the generation of hydroelectric power simply because the dams make an excellent potential for that generation. However, in the past few years the TVA has constructed a number of huge coal-powered steam-generating plants; and the 1955 annual *Report* of the TVA disclosed that the TVA now generates more electricity at its steam plants than at its water plants.

Of course, in this respect the TVA is adapting itself to the national pattern; in 1950 only 29.1% of all electric power in public utilities was generated at hydroelectric plants, and the percentage had dropped from 40.3% in 1935. However, by no stretch of the imagination could one term steam-generated electricity a "by-product"; it is the single and direct purpose of these stations. TVA administrators contend that they must erect these plants in order to satisfy the demands for electric power in the region; future plans of the TVA call for the building of more steam-powered generators. Apparently a great demand for low-cost electricity is still developing in the region. Perhaps a final complaint may be recorded that has some relation to the costs of power. It has been alleged that the TVA buys non-union, "scab" coal for power generation, so as to keep expenditures low.

Another set of criticisms has revolved about the financing and accounting methods of the TVA. One goal of the TVA is supposedly to establish a "yardstick" of electric power rates with which privately owned utility rates may be compared. In this respect the TVA fares well; its rates are low. However, it is pointed out that the TVA has some important advantages over the private enterprises with which it competes. First, the TVA pays very low interest rates on the money lent it by the government, by contrast with the high interest rates their competitors must pay on the bonds sold to the public. Secondly, the TVA pays no taxes; however, it is now obliged to pay a certain sum to the government each year in lieu of taxes, but this sum does not equal as high a proportion of its income as the taxes paid by privately owned concerns are of their incomes.

The most severe criticism along this line is that the TVA employs deceptive accounting methods. TVA dams have three main purposes: flood control, navigation improvement, and power generation. Each of these purposes levies certain costs upon the enterprise. Only one of these purposes, that of power generation, has a monetary return, through

the sale of electricity; the other purposes must be financed through government money, as shown by the fact that in fiscal 1954 Congress appropriated more than \$188 millions for the TVA. The problem arises from the allocation of costs among the various functions. Hostile critics allege that the TVA manages to show an annual profit by allocating too little of its actual costs to power generation, and too much to flood control and navigation improvement. By this means, it is asserted, the cost of generating power is made to seem less than it really is. Hence, these observers say, only through bookkeeping devices can the TVA appear a "yardstick"; the fact is, they aver, that the true costs are far higher, and that the power is subsidized by appropriations which only on paper are spent for purposes other than power generation.

Whatever the validity of these criticisms, the majority of the people living in the TVA region endorse the project; industry is moving into the area so as to profit from the low power rates; national officeholders from the States concerned support the TVA; and the TVA has contributed immensely to the national security by providing the power necessary for refining fissionable materials. Looking backward to the discouraged and narrow-visioned thinking of the leadership in the area before Senator Norris and the TVA task force moved in on the economic problems of the valley, it is difficult to assure oneself that all of this development would have happened in any case.

Other Electric Power Facilities: The federal government owns and operates many other electric power generating stations in the country. Most of these have been erected in the period since the beginning of the depression in 1929; indeed, some of the earliest undertakings, such as the Hoover Dam, were intended to make work for the unemployed. Today, however, these plants are erected for the services they will yield.

The other federally owned plants differ from the TVA in that they do not embrace regional planning as well. Like those of the TVA, the other dams are multi-purpose, including such matters as flood control, navigation improvement, irrigation, and electric power generation. However, these are the sole purposes of these dams; there are no organized undertakings for the bettering of an entire river system. Moreover, these dams are not the property of a government corporation; instead, they are erected either by the Army Engineers Corps or by the Bureau of Reclamation, two agencies that often enter into spirited competition for the prestige of building one of these projects.

The merchandising of power from these stations is entrusted chiefly to three administrative agencies, all in the Department of the Interior: (1) the Bonneville Power Administration, which handles power generated in the Columbia River Valley, notably that from Bonneville, Grand Coulee, and Hungry Horse Dams, and a number of other structures across the Columbia, Willamette, Snake, Pend Oreille, and Kootenai Rivers, embracing parts of Washington, Oregon, Idaho, and Montana; (2) the Southwestern Power Administration, which sells power produced at federal dams in all of Arkansas and Louisiana and in parts of Kansas, Missouri, Oklahoma,

and Texas; and (3) the Southeastern Power Administration, which markets surplus electricity generated at dams owned by the Department of the Army in Kentucky, Tennessee, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, and West Virginia. These organizations are all to abide by "sound business principles," and to deal with "federal agencies, public bodies, rural electric cooperatives, and privately owned companies."

Of the three areas, that serviced by the Bonneville Power Administration appears to have enjoyed the greatest benefits. This area, too, is experiencing the gravest shortage of power, owing both to its exceptional population increase and to the movement of industry into the area. Plans have been considered for the establishment of other regional systems akin to the TVA, especially for the Missouri Valley; however, to the present no comparable agency has been created, because of both the pressure of affected interests and the reluctance of Congress.

Atomic power

Agencies Controlling Atomic Power: Atomic power in the United States until the very recent past has been entirely produced and controlled by the federal government; even today the federal government licenses all civilian users of fissionable materials. The principal agency for these operations has been the Atomic Energy Commission (AEC), sometimes termed "an island of socialism in an ocean of capitalism." The AEC was created in 1946 as a civilian group to take over what had hitherto been a military project, the Manhattan Engineer District, which had created the atomic bomb. The Commission is made up of a five-member board, named by the President and confirmed by the Senate. The Commission appoints a General Manager as the administrative chief for its activities. The Commission itself is assisted by three permanent committees, with which it frequently consults: (1) the General Advisory Committee, comprising nine civilians chosen by the President, for recommendations concerning scientific and technical affairs; (2) the Military Liaison Committee, representing the Department of Defense, for advice on matters regarding the armed forces; and (3) the Joint Committee on Atomic Energy, including nine Senators and nine Representatives, as a link with Congress.

Functioning of the AEC: The AEC is designed to encourage private research into atomic energy; to control information related to the production of atomic energy, looking forward to an era when national security will allow its publication; to carry out research for the federal government; to manage government control, use, and ownership of materials for atomic energy; and to administer affairs related to atomic energy in a manner consistent with the national requirements and international obligations of the United States. The AEC is one of the largest of the independent agencies, having 6,234 employees on January 1, 1956. In fiscal 1954 its expenditures were almost \$1.9 billions; in fiscal 1955, over \$1.85 billions. The AEC supervises numerous important laboratories and production facilities, among which the leading ones are those at Oak Ridge and at

Hanford, Washington; the AEC also cooperates with, and depends upon, atomic research studies at such institutions of higher learning as Iowa State College and the University of California, and at such industries as the General Electric Corporation in Schenectady. The AEC built and manages the towns of Oak Ridge and Richland; however, legislation, backed by the Republican administration, was introduced in 1955 for the purpose of ending their government ownership and management.

Today the AEC no longer exercises a monopoly over the development of power by devices using atomic materials. Legislation has been enacted permitting individual enterprises to employ these materials for the generation of power. Hence, for example, the Westinghouse Electric Corporation is erecting an atomically powered electric generating plant near Pittsburgh.

TERRITORIAL ENTERPRISES

The federal government owns and operates a number of business enterprises in its territorial possessions. These enterprises seem to have brought the territories concerned much closer than the United States to a type of socialist economy. The federal government has the power to organize such territorial businesses through the constitutional authorization given Congress “. . . to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States. . . .” (Art. IV, sec. 3, cl. 2). It is significant, too, that there are few if any powerful interest groups in the territories that could oppose these government enterprises. Furthermore, since whatever groups there may be do not elect congressmen or cast electoral votes, they lack the essential means for expressing their opposition.

The Panama Canal Company

The Panama Canal Company is a government corporation functioning as an independent agency whose chief purpose is to operate the Panama Canal, but which also carries out many other business tasks associated with the operation of the Canal. Apart from the Canal, the Company maintains and operates “. . . a steamship line between New York and the Isthmus of Panama; a railroad across the Isthmus; the cargo docks and piers and harbor terminal facilities on the Isthmus; a coaling plant for ships; an oil handling plant; commissary stores, including cold storage plants, supplying employees and ships; a hotel; electric power, water, and telephone systems; procurement and storehouse facilities; motor transportation services, a printing plant; restaurants, theaters, bowling alleys, and miscellaneous merchandising activities; marine and general repair shops; and an employees' housing system.” The Company is associated with the administration of the Canal Zone, since its chief executive, the President of the corporation, is also the Governor of the Canal Zone. The United States government is represented in the corporation by the Secretary of the Army, and he appoints the board of directors for the Company.

The Alaska Railroad

The Alaska Railroad is a government corporation in the Office of Territories in the Interior Department. It operates the only railroad in Alaska, about 500 miles long; it transports both passengers and freight. The Railroad also owns river boats and barges for use on the Yukon and Tanana Rivers, and it is part owner of the Knik Arm electric power plant. Initially the railroad was constructed to aid in the settlement and the development of agriculture and industry in Alaska; today it plays an important role in the national security program of the United States, for Alaska is recognized as a probable battle zone in the event of war between the United States and the Soviet Union.

The Virgin Islands Corporation

The Virgin Islands Corporation is a second government corporation in the Office of Territories. The Corporation is under the general supervision of the Secretary of the Interior. It is managed by a seven-man board of directors, including the Secretary of the Interior, the Secretary of Agriculture, an Assistant Secretary of the Treasury, the Governor of the Virgin Islands, and three American businessmen chosen by the President of the United States. The Corporation is intended to foster the economic welfare of the Virgin Islands. To execute this mission it performs a number of tasks. It raises sugar cane for the production of raw sugar and molasses. It generates, distributes, and sells electric power to the whole island of St. Croix; it serves a growing total of consumers, and is conducting the business at a profit. In 1952 it bought the private company that had been supplying electric power to the island of St. Thomas, and is now operating and improving these facilities. It has, however, sold its hotel there and its rum distillery. It also conducts important experiments in agricultural technology, in an especial effort to determine whether some crop besides sugar can be profitably cultivated. Finally, the Corporation makes grants for land and water conservation undertakings on St. Croix.

ARMED FORCES ENTERPRISES

The business operations of the armed forces are little known but are large and varied in character. That they are not well publicized is owing to the impression of the public that whatever is undertaken by the armed forces must be within the special and undisputed province of national defense. The Hoover Commission on Organization of the Executive Branch of Government, 1953-1955, assailed the logic of this impression on two counts: first, the Commission said that the military effort can be subjected to the same examination for efficiency as any other agency of the government; and second, that the military forces ought not extend their province freely into all the kinds of businesses that supply its needs. For example, until 1955 the Navy operated a coffee-roasting plant that it had started in 1858

because the quality and cost of commercial coffee were unacceptable. It also owned the Boston Ropewalk, a cordage factory that it had begun in 1834 because good rope was not being made or sold in America. Both kinds of business today are done by many private concerns. Hence, some argue, why maintain such irrelevant functions in the armed forces, which are already so huge as to be difficult to administer?

As pressure mounted through the Eisenhower administration and the Hoover Commission reports, more and more civilian-type businesses were terminated. It was reported in 1955 that the Defense Department had closed down seven bakeries, nine laundries, twenty-four scrap-metal operations, four cement-mixing plants, a caustic-soda plant, four ice plants, two garden nurseries, a clothing factory, and a chain factory. The fate of 168 ice-cream plants in thirty-six States was in doubt. More work was being shifted from government shipyards to private ones, from Air Force maintenance shops to private ones, and from Army air, sea, and motor transportation to private carriers. In short, so far as the armed forces are concerned, the government is "going out of business" in a number of fields.

QUESTIONS AND PROBLEMS

1. Summarize the extent of the participation of the federal government in business, including such activities as are treated in other chapters of the text.
2. Could the Post Office be operated by private enterprise? What would be the effects, in your opinion, of a transfer of title from public to private ownership?
3. Describe the ways in which the Post Office and the TVA promote private business.
4. What have been the results of TVA in the region of its operations? Could or would these results have been achieved by private individuals or groups? Explain your opinion.
5. Name and locate several major river development plans of the federal government.
6. What reasons might explain the many business enterprises of the federal government in the Panama Canal Zone, the Virgin Islands, and Alaska?
7. What rule or principle would you suggest adopting for distinguishing between the business operations of the armed forces that are "necessary for defense" and those that are "unnecessary" and could be abandoned?

