Marquette Law Review

Volume 46
Issue 1 *Summer 1962*

Article 2

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THE FEDERAL TRADE COMMISION: ITS FACT-FINDING RESPONSIBILITIES AND POWERS*

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The search for factual truth has always been the preeminent purpose and basic function of the Federal Trade Commission. Indeed, one of the main reasons for creating the Commission was the recognition of the need for a government agency adequately equipped to secure, evaluate and report facts which revealed the structure of our economy. Never, since its inception, has the Commission forgotten this.

As early as 1903 the need for industrial facts of this kind brought about the establishment of the predecessor of the Commission—the Bureau of Corporations in the Department of Commerce.[1] The Commissioner of Corporations, who was in charge of the Bureau, had the power to investigate the organization, conduct and management of corporations, and to compile and publish his findings. The Bureau could not prosecute; it could only investigate and advise.[2] For, it was believed that in most cases public disclosure of monopolistic or unfair competitive practices would be sufficient to result in their correction. In the event that publicity proved to be an inadequate remedy, the disclosed business evils could provide, of course, the basis for a proceeding under the Sherman Act by the Attorney General.

The Sherman Act was probably not out of its teens before it became generally realized that the statute could not prevent the increase in economic concentration which was occurring, principally for the reason that it could be invoked only after substantial restraint had actually occurred. Considerable agreement thereupon developed that legislation was needed which would prohibit anticompetitive practices in their incipiency and before they had that dire economic effect which made them cognizable under the Sherman Act.

To accomplish this objective, bills were introduced in the Congress in 1914. As the measures evolved in the legislative process they disclosed two approaches to the problem of economic concentration. One group wanted to define and prohibit certain specific practices which had been employed to injure or destroy competition. The second rejected this view, saying that man was so ingenius that any catalog of illegal

*Presented as an address at the Marquette Law School Annual Banquet on May 2, 1962.

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[1] Public Act. No. 87, 32 Pub. Laws 827.

[2] Rublee, *The Original Plan and Early History of the F.T.C.*, 11 PROC. ACADEMY OF POL. SCI. 666, 667.

practices would soon become obsolete because of the development and use of new and different schemes. This second group concluded that the situation required a broad and general prohibition, with an administrative agency to enforce it.

In the end both approaches were used. The Clayton Act[3] rendered illegal certain practices where it was shown that adverse competitive effects were probable. The Federal Trade Commission Act, on the other hand, in broad and flexible language, made unlawful "unfair methods of competition."[4] Later, "unfair or deceptive acts or practices" were added.[5]

The Commission alone was charged with the enforcement of the Federal Trade Commission Act, while the responsibility for enforcing the Clayton Act was divided among the Commission, the Department of Justice, and other agencies.

As originally introduced in the House of Representatives, the bill that became the Federal Trade Commission Act gave no regulatory power to the Commission. "It was to be an investigating and advisory body, hardly more than an amplification of the existing Bureau of Corporations."[6] The bill passed the House in this form and went to the Senate. There the view was that the Commission, in addition to being a fact-finding and reporting agency, also should have authority to correct the competitive evils which its investigations disclosed.

The Senate view prevailed, as we know, but the addition of the power to adjudicate did not change the fundamental character of the new agency as a fact-finding body. This is made evident by statutory provisions granting broad investigational powers, imposing duties to conduct investigations for the President and the Congress, and requiring that aid be given to the Attorney General. Additionally, enforcement proceedings based upon reason to believe that the law was being violated would require extensive investigations to support them. The fact-finding character of the agency is further emphasized by the provision that, in these adjudications, "The findings of the Commission as to the facts, if supported by evidence, shall be conclusive."[7] No similar provision was made as to the Commission's findings as to law.

The investigational work of the Commission falls into two broad

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[3] 38 Stat. 730 (1914).
[4] 38 Stat. 717 (1914); 15 U.S.C.A. §45.
[5] 52 Stat. 111 (1938).
[6] Rublee, *supra*, p. 667.
[7] Federal Trade Commission v. Algoma Lumber Co., 291 U.S. 67 (1934):
"The Court of Appeals, though professing adherence to this mandate, honored it, we think, with lip service only. In form the court determined that the finding of unfair competition had no support whatever. In fact what the court did was to make its own appraisal of the testimony, picking and choosing for itself among uncertain and conflicting inferences. Statute and decision (Federal Trade Commission v. Pacific States Paper Trade Assn., 273 U.S. 52, 61, 63) forbid that exercise of power." (At p. 73.)

categories. One comprises general investigations of conditions in, or practices affecting, certain industries or segments of the economy. The primary purpose of these general investigations is to reveal, rather than to remedy, but sometimes they disclose anticompetitive conditions or practices which require remedial action. The other category embraces investigations made in connection with the Commission's regulatory functions. Usually these are made to determine whether specific concerns are engaging in practices which violate any of the statutes administered by the Commission.

The Commission's general investigational work has a national importance and value which sometimes is not fully appreciated. Substantial benefits have accrued to the nation from the more than 100 general investigations which the Commission has conducted. In fact, many of them have resulted in, or formed the basis for, the enactment of important legislation.

The Commission's investigation of the packing industry led to the enactment of the Packers and Stockyards Act.[8] The Commission's recommendations, following its extensive investigation of the grain trade, became an integral part of the Grain Futures Act.[9] The investigation of the radio industry, conducted by the Commission pursuant to a resolution of the House of Representatives, contributed materially to the enactment of the Radio Act of 1927 and the Communications Act of 1934.[10] Moreover, the Security Act of 1933,[11] the Public Utility Holding Company Act of 1935,[12] and the Federal Power Act of 1935,[13] all resulted largely from exhaustive investigations and reports which the Commission made to Congress in response to its resolutions.

To make these investigations three compulsory processes are available to the Commission: subpoena power with respect to both witnesses and documents; right of visitation or access to documentary evidence of corporations; power to require corporations to file annual and special reports.

Before discussing each of these compulsory processes, I emphasize that in its investigational work the Commission wants, encourages, and, more often than not, gets the voluntary responses of businessmen to requests for information. The Commission would like to reserve compulsory processes exclusively for the recalcitrant; but, unfortunately, this has been impossible due to the necessities of the case in specific as well as in general investigations.[14]

[8] 42 Stat. 159 (1921).
[9] 42 Stat. 998 (1922), now cited as Commodity Exchange Act.
[10] 44 Stat. 1162 (1927); 48 Stat. 1064 (1934).
[11] 48 Stat. 74 (1933).
[12] 49 Stat. 803 (1935).
[13] 49 Stat. 847 (1935).
[14] §1.31, FEDERAL TRADE COMMISSION RULES OF PRACTICE, PROCEDURES AND ORGANIZATION:

In granting the right of visitation, Section 9 of the Federal Trade Commission Act provides that "the Commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any corporation being investigated or proceeded against."

The boundaries of this power were first examined by the Supreme Court in *Federal Trade Commission* v. *American Tobacco Company.*[15] This case arose out of an investigation of the tobacco industry undertaken by the Commission in 1921 pursuant to a Senate resolution. Asserting that under Section 9 it had "an unlimited right to access to the books and records of a corporation" being investigated, the Commission demanded "all letters and telegrams received by the company, * * * [and] all sent by it to all of its jobber customers" for a period of one year. In holding that Section 9 did not give the Commission the power it claimed, the Court stated:

> It is contrary to the chief principles of justice to allow a search through all the respondent's records, relevant or irrelevant, in the hope that something will turn up.

The Court emphasized that the right of access given by the state is to "documentary evidence—not to all documents, but to such documents as are evidence," observing that even a subpoena in the form of the Commission's demand would be bad. The Court further noted that the demand was not only general, "but extended to the records and correspondence concerning business done wholly within the State."

The Commission's visitation power again came before the courts in *Federal Trade Commission v. Baltimore Grain Co.*[16] In compliance with a Senate resolution, the Commission was here investigating margins between farm and export prices, market manipulations and other aspects of interstate and foreign trade in grain. Upon refusal of three grain companies to permit Commission representatives to examine their records, petitions for mandamus were filed in the district court. The petitions were denied largely on the lower court's decision in *American Tobacco.* The district judge said that to sustain any right of inspection "it must also appear that there is some reasonable proportion between the public value of the information likely to be obtained and the private annoyance and irritation it will occasion." The court also stated that the "investigation mentioned in the statute" was merely an inquiry to de-

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"The Commission encourages voluntary cooperation in its investigations where such can be effected without undue delay or without prejudice to the public interest."

[This rule was changed, effective June 1, 1962, to read: "The Commission encourages voluntary cooperation in its investigations. Where the public interest requires, however, the Commission may, in any matter under investigation, invoke any or all of the compulsory processes authorized by law."]

[15] 264 U.S. 298 (1924).

[16] 284 Fed. 886 (1922).

termine whether the particular corporation was engaged in unlawful practices and not a general investigation "in which some great department of commerce is carried on." The Supreme Court, in a per curiam decision, affirmed the lower court, on the authority of *American Tobacco.* (*Sub nom. Federal Trade Commission* v. *Hammond, Snyder & Co.*)[17]

Baltimore Grain is the last case dealing with access under Section 9; but, *American Tobacco,* while never reversed, has been clarified and placed in proper perspective by later cases not involving the Commission. It now appears clear that a Commission demand for access to corporate records will be sustained at least for the records that are properly described and reasonably relevant to the purpose of the investigation.[18]

Another problem regarding access also has arisen in connection with current investigations of compliance with 56 significant antitrust decrees issued since 1940 which the Attorney General early in 1961 requested the Commission to make under Section 6(c) of the FTC Act. Providing that the Commission on its own initiative may, and that upon application of the Attorney General, it must undertake such investigations, the section has been virtually unused until now.

In *United States* v. *International Nickel Co. of Canada,* S.D.N.Y. (March 30, 1962), the court interpreted the "access" provision in one of the decrees being investigated. The court held that the grant in the decree of access to documents "relating to matters contained in the judgment" extended only to relevant records and did not give the Government "the right to be present when files are examined to see the documents that defendants consider relevant." While the court discussed access cases involving Section 9 of the FTC Act, it carefully stated that "neither the applicability nor the interpretation of Section 9 is involved."

The object of these decree investigations is not only to detect violations, but also, and equally important, to find out whether the judgment has been effective in eliminating the trade restraints to which it was directed. Because of this dual purpose and since a good many of the decrees encompass all or substantially all of the important members of

[17] 267 U.S. 586 (1925).

[18] United States v. Alabama Highway Express, Inc., 46 F. Supp. 450 (1942); Fleming v. Montgomery Ward & Co., 114 F.2d 384 (1940), *cert. denied,* 311 U.S. 690 (1940); Porter v. Gantner & Mattern Co., 156 F.2d 886 (1946). In the Montgomery Ward case, the court stated:
"When Congress, acting in the public interest has the power to regulate and supervise the conduct of any particular business under the commerce clause, an administrative agency may be authorized to inspect books and records and to require disclosure of information regardless of whether the business is a public utility, and regardless of whether there is any presently existing probable cause for believing that there has been a violation of law. Neither of the foregoing elements enters into the question of the reasonableness of the investigation." (At p. 390.)

an industry, investigations of them involve exceedingly complex problems. The Commission, however, is singularly well equipped to undertake them, not only because of the expertness of its staff, but also because of the scope of its investigatory powers. The Commission has completed investigations of several of the decrees, and as required by the statute, has transmitted to the Attorney General reports containing its findings and recommendations.

Now, when it appears that formal specification of documents will be necessary in the exercise of the power of visitation, the Commission has more and more supplemented that power by the exercise of its authority to require the filing of reports and by the issuance of subpoenas.

Section 6(b) of the FTC Act provides in substance that the Commission shall have power to require, by general or special orders, corporations engaged in commerce, excepting banks and common carriers, to file with the Commission, in such form as the Commission may prescribe, annual or special reports or answers, in writing to specific questions concerning their organization, conduct, practices, and relation to other business entities. It also provides that the reports and answers shall be made under oath, or otherwise, as the Commission may prescribe.

Legislative history indicates that these reports were to be the Commission's principal means of gathering information, particularly in general investigations; but in *Claire Furnace Co.* v. *Federal Trade Commission*,[19] the early efforts of the Commission to utilize this investigational power were also frustrated. The Commission, at the request of Congress, had initiated an investigation to ascertain the causes for the increased cost of living following World War I. Directing special attention to conditions and practices in basic industries, the Commission issued orders requiring special reports from coal and steel companies. Thereupon, they instituted a suit in the Supreme Court of the District of Columbia to enjoin the Commission from enforcing its orders. An injunction was issued and an appeal was ultimately taken to the Supreme Court.

There the case was argued twice. Almost 17 months after the reargument the Court issued its decision, holding that the injunction had been improvidently issued. The Court said that the Commission's demand for a special report could only be enforced by action of the Attorney General and that, if he brought such an action, the respondents would have, in that proceeding, a full and adequate opportunity to present a defense.

The original demand in *Claire Furnace* had been served by the Commission in 1919 but the Supreme Court's decision was not entered until some eight years later. This delay had rendered the Commission's orders

[19] Sup. Ct. of D.C., Equity No. 37954 (1922), 285 Fed. 936 (D.C. Cir. 1923), 274 U.S. 160 (1927).

wholly futile. True, the injunction was vacated in a decision that was helpful in illuminating some aspects of the law, yet the Court's opinion decided nothing as to the Commission's power to demand reports. Moreover, other efforts to require special reports in connection with investigations were similarly frustrated as a result of suits for injunctions, and none of the decisions dealt squarely with the Commission's power under Section 6(b).

Disheartened, perhaps, by these exercises in futility, the Commission made little effort to utilize reports until after World War II. But, finally, in 1950 the authority of the Commission to require annual or special reports was sustained and clarified by the Supreme Court in *United States* v. *Morton Salt Co.*[20] This case was concerned with Commission demands for special reports from several salt companies to determine whether they were complying with an existing Commission order to cease and desist from certain price-fixing activities issued in an adjudication under Section 5 of the F.T.C. Act. In earlier cases involving the applicability of Section 6(b) in general investigations, respondents had argued vehemently that reports could only be required in connection with Commission proceedings under Section 5. Interestingly, now that the Commission in *Morton Salt* was seeking to require Section 6(b) reports in such a formal proceeding, the respondents contended with equal fervor that they could be demanded only in general investigations.

Specifically, *Morton Salt* held that the Commission has the power to issue demands for special reports under Section 6(b) of the Federal Trade Commission Act "for any purpose within the duties of the Commission"—to obtain information for use in reports to the President, the Congress, or the Attorney General; to determine whether a violation of laws administered by the Commission exists preliminary to the issuance of a formal complaint; or to determine whether a corporate respondent is complying with a cease-and-desist order previously issued by the Commission.

The Court had no difficulty in rejecting a contention that the Commission was engaged in a "fishing expedition." In doing so, it distinguished between the Commission's "power to get information from those who best can give it and who are most interested in not doing so" and the judicial power to summon evidence in the course of litigation, saying that the Commission—

> . . . has a power of inquisition, if one chooses to call it that, which is not derived from the judicial function. It is more analogous to the Grand Jury, which does not depend on a case or a controversy for power to get evidence but can investigate merely on suspicion that the law is being violated, or even because it wants assurance that it is not.

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[20] 80 F. Supp. 419; 174 F.2d 703 (7th Cir. 1949); 338 U.S. 632 (1950).

Holding that the order of the Commission requiring the filing of a special report did not transgress the Fourth and Fifth Amendments, the Court stated:

> Even if one were to regard the request for information in this case as caused by nothing more than official curiosity, nevertheless law-enforcing agencies have a legitimate right to satisfy themselves that corporate behavior is consistent with the law and the public interest.
>
> Of course, a governmental investigation into corporate matters may be of such a sweeping nature and so unrelated to the matter under inquiry to exceed the investigatory power. . . . But it is sufficient if the inquiry is within the authority of the agency, the demand is not too indefinite and the information sought is reasonably relevant.

The recent decision of the Supreme Court in *St. Regis Paper Co.* v. *Federal Trade Commission*[21] further clarifies the Commission's power to require special reports from corporations. This case grew out of an investigation by the Commission to determine whether certain acquisitions by the paper company constituted a violation of the antimerger section of the Clayton Act. After the company had failed to furnish voluntarily information which had been requested, the Commission issued orders directing it to submit reports. Concluding that some of the Commission's requests were unenforceable because of vagueness and that others had been sufficiently answered, the district court directed the corporation to answer the remaining questions. Because of its holding that certain requests were unenforceable, the district court did not award any statutory forfeitures.[22] The court of appeals affirmed the action of the lower court in directing that answers be made to certain questions but reversed its holding that no statutory penalties were recoverable.[23] The Supreme Court affirmed.

Among the grounds for reversal asserted before the Supreme Court by St. Regis were (1) that the orders unlawfully required the company to furnish to the Commission copies of confidential reports which it had made to the Census Bureau; (2) that the statutory forfeiture of $100 a day was not applicable because the demand called for answers to specific questions; and (3) that no forfeiture could be imposed because the orders were only partially enforceable. The Court rejected each of these contentions.

Although the Census Act contains an explicit prohibition against disclosure of information in census reports by the Department of Commerce or its employees, the Court said that this did not "generally clothe census information with secrecy," but merely restricted its use while in

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[21] 368 U.S. 208 (1961).
[22] 181 F. Supp. 862 (1960).
[23] 285 F.2d 607 (2d Cir. 1960).

the hands of those receiving it. The Court also observed that the Commission, itself, could require the corporation to file reports furnishing from its files the same information that appeared in its reports to Census.

The second contention—that there could be no forfeiture for failing to answer specific questions—was based on the variance between Section 6(b) which grants the report power and that part of Section 10 which specifies the sanction.

Section 6(b) speaks of both "reports" ("annual or special") and "answers in writing to specific questions." But Section 10 only imposes a forfeiture "of $100 for each and every day" there is a failure "to file any annual or special report," and says nothing about failures to file "answers in writing to specific questions."

With the observation that it would be anomalous for Congress to have provided a penalty for refusal to file a report, or to appear and testify and not to provide a penalty for refusing to answer questions in writing, the Court held that the forfeiture provisions also applied to refusals to answer questions.

The Court also saw no merit in the contention that no forfeiture could be imposed for failure to comply with valid requests because certain others had been found by the district court to be unenforceable. In disposing of the matter it said:

> The various requests were severable, and the [district] court's order was not in substitution of the Commission's orders but merely an enforcement of them, in accordance with §9 of the F.T.C.A. authorizing the court to compel obedience to lawful Commission orders.

Subpoena power, the third compulsory investigational process available to the Commission, unlike its report and access powers, is not restricted to use in connection with corporations but can also be exercised to get information from individuals in the form of both testimony and documents.

In *Oklahoma Press Publishing Co.* v. *Walling*,[24] a landmark decision, the Supreme Court dispelled much of the confusion and doubt that had existed concerning the use of subpoenas during the course of administrative investigations. In this case the Administrator of the Fair Labor Standards Act sought judicial enforcement of subpoenas *duces tecum* calling for the production of documents to determine whether the newspaper publisher was violating the Act, including records relating to its coverage by the Act. The section of the Act under which they were issued incorporated the enforcement provisions of Section 9 and 10 of the Trade Commission's statute. The publisher asserted that the Act was not applicable to newspapers for constitutional and other reasons

[24] 327 U.S. 186 (1946).

and that, moreover, the question of coverage must be adjudicated before the subpoenas could be enforced.

In rejecting the contention concerning the necessity for prior adjudication of coverage, the Court pointed out that the subpoena power conferred by Section 9 of the Federal Trade Commission Act is given in aid of investigation and that district courts are called upon to enforce it "without express condition requiring showing of coverage." The Court added:

> The very purpose of the subpoena and of the order, as of the authorized investigation, is to discover and procure evidence, not to prove a pending charge or complaint, but upon which to make one if, in the Administrator's judgment, the facts thus discovered should justify doing so.

The Court stated the applicable criteria in these words:

> It is not necessary, as in the case of a warrant, that a specific charge or complaint of violation of law be pending or that the order be made pursuant to one. It is enough that the investigation be for a lawfully authorized purpose, within the power of Congress to command. . . . The requirement of 'probable cause,' literally applicable in the case of a warrant, is satisfied in that of an order for production by the court's determination that the *investigation is authorized by Congress, is for a purpose Congress can order, and the documents sought are relevant to the inquiry* (Italics supplied.)

Subsequent court decisions show that the FTC's subpoena power is as effectual in investigations as it is in adjudications. Investigational subpoenas are not invalid because they are returnable before the attorney-examiner who is conducting the investigation rather than before an independent hearing examiner.[25] They properly may be issued in connection with an investigation to determine compliance with a previously issued cease-and-desist order.[26] Further, the Commission may lawfully direct an investigational subpoena to the respondent in a pending adjudicative proceeding calling for information closely related to the adjudication.[27]

Under the Commission's Rules of Practice, investigational hearings may be held before the Commission, one or more Commissioners, or a duly designated representative. The rules also provide that the hearings shall be stenographically reported but shall not be public unless otherwise ordered by the Commission. Persons required to testify or submit

[25] Federal Trade Commission v. Hallmark, Inc., 265 F.2d 433 (7th Cir. 1959).

[26] Federal Trade Commission v. Scientific Living, Inc., 15 F. Supp. 495; 254 F.2d 598 (3d Cir. 1958), *cert. denied* 355 U.S. 940 (1958).

[27] Federal Trade Commission v. Waltham Watch Co., 169 F. Supp. 614 (1959): ". . . there is nothing in the Federal Trade Commission Act which limits or circumscribes the investigatory functions of the Commission during the course of an adjudicative proceeding. Nor is there anything in the Administrative Procedure Act which so provides." (At p. 620.)

documentary evidence may obtain, under the rules, a copy of the transcript upon payment of the prescribed cost and also may be accompanied and advised by counsel, who may not, as a matter of right, otherwise participate in the investigation.[28]

Investigational subpoenas may be returnable, and hearings held on their return, at any of the Commission's offices, at the offices of the proposed respondent, or elsewhere. When a subpoena calls for the production of a substantial number of documents, it is sometimes made returnable at the place where they are located. With respect to corporations, it is the usual practice first to subpoena their records and later to require their officials to testify in explanation and amplification of the documents.

Until quite recently all investigational hearings have been conducted by members of the Commission's staff and have not been public.

On December 28, 1961, however, the first public investigational hearing was conducted. Moreover, it was held before the Commission itself.

This hearing was a continuation of the investigation being made in the *St. Regis* matter, concerning which the Supreme Court had only shortly before sustained the Commission's orders for special reports. It was a further effort by the Commission to determine if there was reason for it to believe that St. Regis had violated Section 7 of the Clayton Act in making acquisitions, and also whether the company had fully complied with certain outstanding orders to file special reports as it had purported to do. Returnable at this hearing were subpoenas *duces tecum* and *ad testificandum* directed to six officials of St. Regis.

During March of this year, a second public investigational hearing was held. It was conducted by the staff to aid the Commission to determine expeditiously whether pricing practices in the sale of milk should be made the subject of a formal adjudication.

Both of these public investigational hearings were conducted in accordance with the Commission's Rules of Practice which I have summarized. This procedure occasioned comments that were most critical of the Commission.

To answer these critics it is enough to quote the following paragraph from *Hannah v. Larche,* 363 U.S. 420 (1960), a case in which the Court considered the procedures of the Civil Rights Commission:

> A typical agency is the Federal Trade Commission. Its rules draw a clear distinction between adjudicative proceedings and investigative proceedings. . . . Although the latter are frequently initiated by complaints from undisclosed informants, . . . and although the Commission may use the information obtained during investigations to initiate adjudicative proceedings, . . . nevertheless, persons summoned to appear before investigative proceed-

[28] §1.34-§1.41, inclusive, FEDERAL TRADE COMMISSION RULES OF PRACTICE, PROCEDURES AND ORGANIZATION.

> ings are entitled only to a general notice of "the purpose and scope of the investigation," . . . and while they may have the advice of counsel, "counsel may not, as a matter of right, otherwise participate in the investigation." . . . The reason for these rules is obvious. The Federal Trade Commission could not conduct an efficient investigation if persons being investigated were permitted to convert the investigation into a trial. We have found no authorities suggesting that the rules governing Federal Trade Commission investigations violate the Constitution, and this is understandable since any person investigated by the Federal Trade Commission will be accorded all the traditional judicial safeguards at a subsequent adjudicative proceeding, just as any person investigated by the Civil Rights Commission will have all of these safeguards, should some type of adjudicative proceeding subsequently be instituted. (At p. 446.)

Sections 9 and 10 of the FTC Act also set forth the methods for commanding obedience to its investigative demands.

Subpoenas may be enforced upon application by the Commission to district courts for appropriate orders, failure to obey which is punishable as a contempt.

All other orders, including demands for reports and access, are enforced by mandamus, the writs being issued by district courts upon application of the Attorney General at the request of the Commission.

Both civil and criminal penalties are also provided. In the *St. Regis* case we saw the assessment of the statutory civil penalty of $100 a day for failure to file reports. This penalty starts to accrue if the failure continues for thirty days after the Commission has served a notice of default. The penalty is recoverable in civil suits brought in the name of the United States by the Attorney General.

Willful disobedience both of subpoenas and of other "lawful requirements," as well as refusal to grant access, are all criminal offenses, each punishable by fines of from $1,000 to $5,000, or imprisonment, or both.

It is also a criminal offense, with similar penalties, for a person to make false statements in a report, to make false entries in corporate records, to fail to make true and complete corporate records, and to destroy, mutilate or falsify corporate documentary evidence.

The Commission, with its manifold and heavy duties as essentially a fact-finding body, appears to be entering an era where, at long last, its investigative tools, sharpened by judicial decision and by administrative interpretation, will have and maintain cutting edges so keen that they can function not only with dispatch but with fairness to all interests—including, most importantly, the public interest.