

APPENDIX F

THE VOLUME OF BUSINESS OF ADMINISTRATIVE AGENCIES

It is generally appreciated that the great volume of decisions to be made by many administrative agencies precludes personal participation by the agencies' heads in every phase of every decision. The precise weight of the burden which is imposed by law on the chiefs of administrative agencies is not, however, commonly known. In this appendix an effort is made to set forth as accurately as possible a description of the work which must be performed, supervised, or delegated to others by the chiefs of some of the more prominent adjudicating agencies.

Insofar as the account is a statistical one, it perforce overlooks many qualitative factors which give perspective to the whole picture. Statistics fail to reflect the fact, for example, that a new agency operating in a novel field of control must pick its way warily through each case coming before it, so that a single matter may prove to be much more time consuming than dozens of cases which, in some older agency, fall into well-recognized patterns. So, too, in every agency individual matters arise which consume the attention and energies of heads and staff to a far greater measure than do the ordinary cases; a merely numerical analysis of an agency's work is inadequate to the extent that it is incapable of isolating the unusual from the accustomed category. The television problem at the Federal Communications Commission, for example, cannot be reflected in any statistical presentation of the Commission's work load. The telephone investigation consumed much of the time of one commissioner over a period of years.

Nor must it be overlooked that agency heads are responsible for much activity not directly connected with adjudication. Many administrative bodies perform substantial legislative functions. Always there is the pressure of at least some administrative tasks, such as personnel management. The amount of informal work, conferences, interviews, letter writing, and the like, may bulk large. Few, if any, agency heads can devote substantially all their time to adjudication; some whose adjudicatory burdens are heavy must spend their major efforts in other activities. The Maritime commissioners, for example, were able to spend only an estimated 15 percent of their time in adjudicatory work, since the Commission's major activity is the management of the subsidy program. Special circumstances of a nonrecurrent character may affect the intensity of the work pressures on an agency and its chiefs: A part of the energies of the National Labor Relations Board, for example, was devoted over a period of time to successive Congressional inquiries; for two months during the pendency of one of the President's reorganization plans the work of the Civil Aeronautics Authority was virtually halted while cases piled up on its docket.

Interstate Commerce Commission.—The volume of work of the Interstate Commerce Commission considerably exceeds that of any other

agency. In 1929, Commissioner Aitchison prepared a summary of the Commission's work load, as follows:⁴⁰

The law requires a record to be kept of all votes of the commission. In the year ending June 30, 1928, matters passed upon of a character requiring the entry of a minute record aggregated 20,553. For the year ending June 30, 1925, the corresponding total was 16,491; the increase was 24.6 percent. The detail of the classes of matters, and number in each class, for the later period follows:

Matters requiring exercise of commission's discretion:	
Reports, with or without orders.....	1,829
Petitions for rehearings, reconsideration, etc.....	371
Protests seeking suspension of tariffs.....	490
Released rates orders.....	38
Fourth section matters.....	260
Investigations instituted, other than suspension of tariffs.....	21
Tentative valuations adopted.....	21
Reports to committees of Congress.....	33
Prosecution for violation of law considered.....	63
Miscellaneous administrative.....	1,791
	4,917
Matters handled pro forma:	
Proceedings dismissed on motion (settled).....	160
Matters handled by subordinates under supervision, requiring commission approval:	
Reparation orders—	
On formal docket.....	293
On special docket.....	9,176
Applications to reduce statutory notice for filing schedules..	6,007
	15,476
Total.....	20,553

This indicates that 4,917 matters required the exercise of commission discretion. They were acted upon by an average of 6.33 commissioners. The 11 commissioners on an average each voted upon 2,829 matters involving the exercise of discretion. A multitude of matters handled by conference or exchange of memoranda, as to which no minute was necessary, finds no reflection in these figures. Nor do they on their face indicate the preparation and study which was necessary antecedent to their disposition. The fact that a commissioner, for instance, spent eight months' time hearing testimony in one proceeding is not made to appear in this statement, which relates only to matters concluded finally or at an intermediate stage of final disposition. The opinions in cases decided during this year aggregated 11,729 pages (rate, 5,494; finance, 1,906; and valuation, 4,329), equivalent to 15½ volumes of standard size, 750 pages exclusive of indexes.

Commissioner Woodlock in 1930 set forth in somewhat different fashion the same problem:⁴¹

Each commissioner serves on one or other of the four "rate divisions" and each division by rotation serves in its turn one month "on the bench" hearing arguments on the rate cases assigned to the division. In addition, each commissioner must "sit" on rate and other cases assigned to the entire commission, and members of Division 1 and Division 4 sit specially on "Valuation" and "Finance Dockets" respectively assigned to those divisions.

A rough analysis of the calendar indicates that a commissioner will be required in the course of the year's work to be "on the bench" either all day or part of the day on not less than 100 working days. Furthermore, during ten months of the year . . . the commission holds each month four all-day "conferences" at which commission business is transacted and commission cases are decided—40 days. Special conferences are also necessary from time to time.

Summing up, it is safe to say that of the 277 full working days the commissioner will be compelled to devote about 150 days wholly or in part to the "bench" and "conference" work, away from his office. That will leave him something over 127 full days for study on the "docket"—state it liberally, how-

⁴⁰ "Organization and Manner of Work of the Interstate Commerce Commission," a lecture delivered at Princeton University March 19, 1929, and reprinted as Sen. Doc. No. 8 (71st Cong., 1st Sess.).

⁴¹ Wall Street Journal, Oct. 6, 1930.

ever, at the equivalent of 150 full days. The governmental workday is officially seven hours.

Eliminating for the moment "valuation" and "finance" cases and considering only the "formal docket" (rate cases), the volume of business dispatched in the year ended October 31, 1929, will be illustrative of that docket's dimensions. In that period the commission disposed of 2,120 fully litigated cases (including subnumbers), and at the end of the year it had pending on its docket 2,477 similar cases. About 80% of these were "complaint" cases, the remaining being cases of "Investigation and Suspension" or "I. & S." cases, investigations on the commission's own motion and ex parte proceedings.

It may be assumed that each commissioner would, on the average, directly participate in the disposition of not less than one-third of the total cases, which would require him to acquaint himself thoroughly with not less than, say, 700 cases. If we reduce this further by one-third to allow for the "sub-numbers" included under the main docket numbers, disposition of which is included in disposition of the main docket, we get a minimum of, say, 460 complete cases to be studied in the 150 work-days which we have found to be available for "office" work. Thus on an average he must dispose of three "cases" each "office work-day"—say one for each two and one-half hours of "official" working time. This moreover is independent of the other matters distributed to the various divisions—valuation to Division 1, suspensions to Division 2, fourth section applications to Division 3, and "finance" to Division 4, to say nothing of other and numerous matters of internal and external administration allotted to Divisions 1 to 6.

In 1933 Commissioner Eastman discussed the burden of work of the Interstate Commerce Commission before the House Committee on Interstate and Foreign Commerce as follows:⁴²

To show you the extent of the work which now requires personal exercise of discretion by commissioners, our records for the year ended October 31, 1932, show the following:

Formal rate case decisions, not including subcomplaints.....	1, 175
Petitions for rehearing or reconsideration of such cases.....	509
Requests for suspension of tariff schedules.....	626
Applications for approval of released rates, dependent on value.....	30
Application for relief under section 4 or for modification of outstanding section 4 orders.....	667
Orders instituting investigations on commission's own motion.....	15
Tentative valuations adopted.....	65
Final valuations adopted.....	26
Tentative recapture reports approved for service.....	61
Final recapture reports adopted.....	8
Reports on bills to committees of Congress.....	65
Prosecutions for violations of law considered.....	122
Applications for medals of honor approved or rejected.....	3
Emergency service order.....	1
Orders as to regulation for transportation of explosives and other dangerous articles.....	5
Standard time zone act orders.....	3
Proposals of Postmaster General under parcel post act considered.....	1
Orders under railway mail pay act.....	1
Certificates of public convenience and necessity for construction, operation, acquisition, or abandonment.....	155
Authorization sought for acquisition of control of one carrier by another.....	31
Authorizations sought to consolidate telephone properties.....	18
Applications for approval of issue of securities or assumption of obligations.....	190
Applications for approval of interlocking directorates or offices.....	366
Claims for reimbursement of deficits during Federal Control period.....	5
Applications for loans under Reconstruction Finance Corporation Act considered.....	121
Total.....	4, 269

⁴² House Hearing on H. R. 7432, 72d Cong., 2d Sess. (Jan. 18, 1933), at pp. 7-9. Volume IV of Sharfman, *The Interstate Commerce Commission*, devotes a chapter to "The Pressure of the Administrative Burden," and quotes these statements of Messrs. Aitchison, Woodlock, and Eastman. See p. 278 *et seq.*

In addition there were 1,489 administrative and procedural matters requiring entry of minutes and the exercise of personal discretion by commissioners.

Of course some of these matters consumed more time than others. To illustrate what a comparatively small item may involve, however, I call your attention to one in which I have much personal interest as chairman of the legislative committee. You will note that 65 reports on bills were made to committees of Congress. These were written reports, and they all involved considerable time and study; but the item does not include the days spent in appearances and the presentation of testimony before committees of Congress, nor the very considerable time spent in preparation for such appearances. Nor does it include the time spent in preparing bills covering each and every one of our recommendations for legislation, which was done during the year in question.

A large number of the matters included in the list above involved the hearing of arguments before the commission or divisions thereof. There are very few days in each month when arguments are not scheduled, and frequently they last from 10 in the morning to 4 in the afternoon, or occasionally, even later. A very large number of the matters, also, necessitate conferences of the commission or of its divisions. Regular conferences of the commission are held on the first and second Mondays and Tuesdays of each month and usually last all day. Special conferences are also called quite often, and conferences of divisions are held from time to time. In the consideration of loans to railroads under the Reconstruction Finance Corporation act, division 4 of the commission has found it necessary to meet very frequently, both to confer upon loans and to hear those who are seeking them. In this respect it has functioned in much the same way as do directors of banks. Members of the commission usually are assigned to two or more divisions. The conflict in duties and engagements often makes it difficult to secure a conference of the members of a particular division without delay, a difficulty which this proposal would tend to avoid. Because, also of the large number of cases to be argued and the other engagements of the commissioners, it has been necessary to limit the time taken in arguments very severely, and often to the discontent of the lawyers who do the arguing.

In the year for which I have given statistics most of the commissioners devoted considerable time to the hearing of evidence in some of the larger and more important cases, often traveling for this purpose. Such hearing of evidence and traveling by commissioners is, in my judgment, highly desirable from every point of view. * * *

A further, and to my mind serious, effect of the continual drive of this routine of work is that it is difficult for commissioners to find time to study the essential statistics of railroad operations, to grasp the trend of events, and to ponder in quiet over the really big questions of policy and principle. There is, of course, in the last analysis no more important work than this which the commissioners can do.

Since these various statements about the Interstate Commerce Commission were made, the Commission's volume of formal railroad rate cases has slightly diminished, but the Motor Carrier Act of 1935 added to the Commission's duties an entire new field of regulation. The latest annual report of the Commission reveals that during the year ended October 31, 1939, the Section of Complaints of the Commission's Bureau of Motor Carriers conducted formal hearings in 5,212 cases. Between the time the Motor Carrier Act was enacted in 1935 and October 31, 1939, the Commission received a total of 98,734 applications for motor carrier certificates of convenience and necessity. This was in addition to numerous other types of cases involving regulation of motor carriers. The volume of the Commission's work is thus very substantially greater than it was when Commissioners Aitchison, Woodlock, and Eastman made the statements above quoted.

Securities and Exchange Commission.—The variety of matters coming before the Securities and Exchange Commission makes statistical presentation especially difficult. The figures set forth in the following pages are drawn in the main from the Commission's Fifth Annual Report, for the fiscal year ended June 30, 1939.

I

MATTERS COMING BEFORE THE COMMISSION

- A. Securities Act, July 1, 1938, to June 30, 1939:
1. Registration statements:
 - a. Filed, 375.
 - b. Became effective, 359.
 - c. Withdrawn with consent, 69.
 - d. Stop orders, 6.
 - e. Under examination at end of year, 60.
 - f. Amendments filed (exclusive of 463 delaying amendments), 1,275.
 - g. Prospectuses filed, 328.
 - h. Sets of supplemental prospectus material, 244.
 - i. Sets of 13 month prospectuses [sec. 10 (b) (1)], 413.

Total for year, effective registrations of \$2,494,000,000 of securities.
 2. Exemption from registration (Regs. A, B, and B-T) July 1, 1938, to June 30, 1939:
 - a. Prospectuses for issues aggregating less than \$100,000 (Reg. A. Rule 202), 179 (\$13,352,323 representing mainly stocks).
 - b. Oil and gas offering sheets (Reg. B), 1,607 (c. \$25,000,000):
 - (1) amendments filed, 633.
 - (2) temporary suspension orders, 396.
 - (3) permanent suspension orders, 1.
 - (4) orders terminating proceeding after amendment, 246.
 - (5) orders consenting to withdrawal, 153.
 - (6) orders terminating effectiveness of sheet, 87.
 - (7) orders consenting to amendment, 282.
 - (8) orders for hearing, 1.
 - c. Oil royalty trust prospectuses (Reg. B-T), 2 (\$119,200):
 - (1) temporary suspension orders, 2.
 - (2) permanent suspension orders, 1.
 - (3) orders consenting to withdrawal, 1.
- B. Securities Exchange Act, July 1, 1938, to June 30, 1939:
1. Registration and exemption of exchanges: 0 (present number of exchanges, 20 registered; 7 exempted):
 - a. Amendments filed, 225.
 2. Registration of securities on exchanges:
 - a. Applications on basic forms, 281.
 - b. Applications for "when issued" trading, 19.
 - c. Exemption for issued warrants, 24.
 - d. Annual and current reports, 4,657.
 - e. Amendments to applications and reports, 3,210.
 - f. Annual reports of issues having securities listed on exempted exchanges, 125.
 - (1) Delisting by Commission under section 19 (a) (2):
 - Action instituted, 16.
 - Dismissed, 2.
 - Orders withdrawing from registration, 5.
 - Pending at end of year, 12.
 - (2) Striking from listing on applications of others under section 12 (d):
 - Applications, 54.
 - Granted, 60.
 - Pending at end of year, 15.
 - (3) Extension or termination of unlisted trading privileges:
 - Under 12 (f) (2):
 - Applications, 116.
 - Granted, 63.
 - Denied, 25.
 - Decision reserved, 2.
 - Withdrawn, 5.
 - Pending at end of year, 46.
 - Under 12 (f) (3):
 - Applications, 3.
 - Granted, 7.

- B. Securities Exchange Act, July 1, 1938, to June 30, 1939—Continued.
3. Registration of securities association:
 - a. Filed (7/20/39), 1.
 - b. Granted (8/7/39), 1.
 4. Registration of brokers and dealers:

Total effective at close of fiscal year, 6,796.

 - a. Filed, 1,135.
 - b. Applications withdrawn, 25.
 - c. Registrations withdrawn, 965.
 - d. Registrations cancelled, 131.
 - e. Registrations denied, 4.
 - f. Suspended, 6.
 - g. Revoked, 19.
 - h. Pending at end of year, 75.
 5. Proxies [sec. 14 (a)]:
 - a. Filings, 1,595.
 - b. Supplemental filings, 557.
- C. Holding Company Act, July 1, 1938, to June 30, 1939:
1. Issue and sale of securities:
 - a. Applications and declarations filed, 166.
 - b. Approved, 122 (\$1,449,810,000 of securities issued).
 - c. Denied, 0.
 - d. Withdrawn or dismissed, 13.
 - e. Pending, 60.
 2. Acquisition of securities:
 - a. Applications, 71.
 - b. Approved, 45.
 - c. Denied, 8.
 - d. Withdrawn or dismissed, 23.
 3. Integration and simplification proceedings:
 - a. Integration proceedings begun, 1.
 - b. Voluntary section 11 (e) plans:
 - (1) Received, 8.
 - (2) Approved, 2.
 - (3) Denied, 0.
 - (4) Pending at end of year, 7.
 4. Reorganization:
 - a. Plans:
 - (1) Received, 17.
 - (2) Approved, 10.
 - (3) Disapproved, 0.
 - (4) Withdrawn or dismissed, 4.
 - (5) Pending at end of year, 22.
 - b. Fees and expenses:
 - (1) Applications received, 57.
 - (2) Approved, 15.
 - (3) Denied, 1.
 - (4) Pending, 41.
 6. Service companies:
 - a. Applications received, 6.
 - b. Approved, 11.
 - c. Denied, 0.
 - d. Pending, 10.
 7. Exemptions:
 - a. Applications received, 23.
 - b. Approved, 15.
 - c. Denied, 8.
 - d. Withdrawn or dismissed, 51.
 - e. Pending, 79.
 8. Acquisition or redemption of own securities [sec. 12 (c)]:
 - a. Applications received, 17.
 - b. Approved, 10.
 - c. Denied, 0.
 - d. Withdrawn or dismissed, 1.
 - e. Pending, 9.

C. Holding Company Act, July 1, 1938, to June 30, 1939—Continued.

9. Dividend declarations and payments:

- a. Applications received, 5.
- b. Approved, 7.
- c. Denied, 0.
- d. Pending, 1.

10. Sale of public utility securities and utility assets:

- a. Applications received, 78.
- b. Approved, 42.
- c. Denied, 0.
- d. Dismissed or withdrawn, 3.
- e. Pending at end of year, 39.

D. Confidential treatment cases:

	SA '33	SEA '34	HCA
Applications.....	21	101	16
Hearings.....		16	
Denied or withdrawn.....	1	57	
Granted.....	19	41	1
Pending.....	3		15

II

PUBLIC HEARINGS HELD

	July 1, 1935- June 30, 1937	July 1, 1937- June 30, 1938	July 1, 1938- June 30, 1939
SA '33.....	229	62	29
SEA '34.....	81	116	198
HCA.....	304	191	205
Total.....	614	369	522

III

FORMAL OPINIONS, JULY 1, 1938, TO JUNE 30, 1939

A. Securities Act.....	15
1. Fixing effective date of amendments to registration statement.....	1
2. Permanent suspension order.....	1
3. Stop orders.....	13
B. Securities Exchange Act.....	46
1. Broker-dealer registration.....	17
2. Manipulation.....	1
3. Unlisted trading.....	14
4. Withdrawal from registration.....	14
C. Holding Company Act.....	300
1. Acquisition of securities, assets, and the like.....	35
2. Acquisition of own securities.....	13
3. Fees, expenses, and remunerations.....	11
4. Declaring company not to be an electric utility.....	1
5. Declaring company not to be a holding company.....	12
6. Declaring company not to be a subsidiary.....	8
7. Declaring company to be a subsidiary.....	3
8. Dividend declarations and payments.....	8
9. Exemptions of companies.....	15

C. Holding Company Act—Continued.

10. Exemptions of issuance and sale of securities.....	47
11. Exemptions of acquisition of securities.....	1
12. Issue and sale of securities.....	66
13. Investment program for current funds.....	1
14. Mutual service companies.....	6
15. Reorganization and recapitalization plans.....	16
16. Sale of utility securities and assets.....	32
17. Sale of utility securities and assets to associates or affiliates.....	10
18. Solicitation and authorization in connection with reorganizations.....	9
19. Subsidiary service companies.....	6
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D. Total formal opinions.....	266
Total issues.....	342

IV

SAMPLE BREAKDOWN OF WORK-LOAD

The following are the statistics compiled by an observer in respect of 15 test cases, decided July 1, 1936, to June 30, 1937:

Decision (P)	Hearing P—Pages (P)	Examiner's report (P)	Briefs N—Number (P)	Exhibits (N)	Amendments (N)
9	303	13	-----	8	8
39	705	44	302	31	1
2	5	3	-----	-----	3
4	17	-----	-----	3	1
13	162	27	140	12	-----
2	7	-----	-----	5	2
4	19	7	-----	-----	-----
6	78	10	21	8	-----
3	48	12	-----	16	2
11	163	8	36	10	8
2	40	9	-----	7	6
6	13	-----	-----	17	-----
8	150	-----	-----	50	3
39	4,759	22	53	-----	-----
2	16	2	-----	18	2
150	6,475	157 (in 11)	542 (in 5)	185 (in 12)	50 (in 10)

Thus, the average case has, in this statistic, 10 pages of decision, 430 pages of hearing-transcript, 10 pages of examiner's reports, 35 pages of brief, 3 amendments, and 12.5 exhibits, and it lasts 2 weeks.

Considering that there were 183 cases in this period, there were a total of 178,690 pages of hearing-transcript, 1,830 pages of examiner's report, 6,405 pages of brief, 549 amendments, and 2,287.5 exhibits.

The same observer makes the following estimate of the daily work-load of the commissioners: 6 Exhibits, 1.5 amendments, 15 pages of brief, 3 pages of trial examiner's reports, 210 pages of transcripts of hearing, 0.5 oral arguments, 1.5 complaints of alleged violations, 1.8 prospectuses of issues, 3.6 oil offering sheets, 0.6 stop, consent, refusal, or withdrawal orders, and 24 pages of decision. In addition, there must be joint or individual discussion with other members of the staff or outsiders, speeches, hiring of non-civil-service employees, and similar executive and administrative duties.

National Labor Relations Board.—The National Labor Relations Board during the fiscal year ended June 30, 1939, held hearings in 1,048 cases, and rendered formal decisions in 512 representation cases and in 381 unfair labor practice cases, a total of 893 formal deci-

sions in one year. In addition, 2,942 cases were settled before the beginning of any formal action and 127 cases were settled after formal action was begun, but before the issuance of a Board decision. The cases dismissed, withdrawn, and otherwise closed before formal action (including cases settled) totaled 5,534. Petitions filed for review of dismissals numbered 143, and rehearing petitions, 50.

Federal Trade Commission.—The Federal Trade Commission during the year ended June 30, 1938, passed upon 2,015 investigated cases, for the purpose of determining whether or not a complaint should issue, whether or not a stipulation to cease and desist should be accepted without further action, or whether or not the case should be closed without action beyond investigation. Of the 246 cases culminating in cease and desist orders, about 200 involved decision by the Commission of contested cases.

Federal Power Commission.—Cases before the Federal Power Commission vary in importance from applications for permission to install a small water wheel for the use of the licensee alone, to the complicated utility valuation and rate cases which sometimes require attention for months or even years. Hence, the following statistics must be interpreted cautiously:

Declarations of intentions and licenses under Pt. I of the Federal Power Act

	Total 1920-39	Filed or applied for in fiscal year 1939	Issued or granted in fiscal year 1939	Pending July 1939	Licenses outstand- ing July 1, 1939
Declarations of intention for licenses and preliminary permits.....	150	6		4	
Applications (excluding renewals).....	1,601	102		181	
Licenses:					
Major projects.....		14	11	33	124
Minor projects.....		14	21	10	145
Minor parts of major projects.....				2	32
Transmission lines.....		68	27	115	341
Preliminary permits.....		6	1	8	3
Renewals.....		10		13	
Applications for amendments to licenses.....		62	38		
Applications for transfer of licenses.....		15	14	25	
Applications, miscellaneous.....		38		30	
Applications to restore public lands to entry and settlement.....		74	191		

¹ Acted upon, but disposition not indicated.

Fees and charges amounting to \$730,978.19 were collected from licensees by the Commission in 1939. Hundreds of rate schedules under both the Power Act and the Gas Act have been filed and examined, and up to June 30, 1939, 1,286 proposed changes in gas and electric rates had been submitted. These changes included 5 increases and 42 decreases in electric rates, and 52 increases and 5 decreases in gas rates. Seventeen applications for authority to merge, consolidate, or otherwise dispose of electric facilities, and 9 applications for authority to issue securities or for approval of credit contracts were received in the fiscal year 1939. Several hundred projects have been reported to the Commission as operating without appropriate authority. What proportion of such projects are subject to the licensing provisions of the Federal Power Act is not known, although investigation is continuing.

Under the Natural Gas Act, 44 formal proceedings, including 28 rate cases, had been instituted up to June 30, 1939. Six applications for certificates of public convenience and necessity (involving approximately 2,000 miles of pipe line) had been filed, 1 had been granted and 1 withdrawn. Six applications for permission to export and 1 to import natural gas had been filed.

Federal Communications Commission.—The report of the Federal Communications Commission for the fiscal year ended June 30, 1939, reveals that the Commission in 1 year rendered formal decisions in "more than" 200 radio application cases. During the year the Commission received 7,334 applications for various types of authorizations for stations in the broadcast services. Of these, 1,652 were formal applications for new or increased facilities or for modification of existing authorizations, and 2,290 were for renewals of existing authorizations. The remaining 3,392 were informal or routine requests for authorizations for use of broadcast facilities in emergencies, for temporary use of facilities beyond the terms of existing licenses, for experimental authorizations giving promise of substantial contribution to the advancement of the radio-broadcast art, and for other miscellaneous authorizations. During the year, 15 formal investigations were conducted; these cases are usually especially large ones which consume much time. In the regulation of telephone and telegraph, 16,746 tariff publications were filed; 28 of these were rejected for failure to comply with statutory requirements; only 4 schedules of charges were suspended. In addition, the Commission handled what the annual report calls "a considerable number" of complaint cases. The Commission also engaged in numerous miscellaneous activities.

Civil Aeronautics Board.—The Civil Aeronautics Board especially well illustrates the inadequacy of statistical presentations as measures of the burden of work upon agency heads. The tasks of the members of the Board appear to have been particularly exacting; yet the absolute numbers of cases are small. The "grandfather" applications were 63; new route applications, 63, with only 6 hearings; applications to amend certificates, 27; air mail rate cases, 10; applications to publish rates on short notice, 74; unification cases, 2; interlocking directorate cases, 48, with 7 formal hearings; complaint cases, 2; agreements filed, 126; hearings on suspension or revocation of certificates, 25 (hearings were waived in a considerable number of disciplinary proceedings).

Social Security Board, Railroad Retirement Board, Veterans' Administration.—Agencies such as the Social Security Board, Railroad Retirement Board, and Veterans' Administration have a decentralized administration which is such that the great bulk of the cases are not considered at all by the heads of the agencies. For example, in the Social Security Board the initial adjudication in old-age insurance cases is made by subordinates called adjudicators and reviewed by others called reviewers. Hearings are held before referees in contested cases, and appeals are taken to an appeals council of three members. The Social Security Board itself makes no decisions in specific cases arising in the administration of the old-age insurance provisions. The fact that literally hundreds of thousands of claims

will be made annually therefore does not indicate a heavy burden upon the Board members. The same is true of the 100,000 cases handled annually by the Veterans' Administration, as the number of cases considered by the Administrator personally is negligible. But the burden still exists, even though it is shifted. Between December 1, 1933, and August 12, 1939, 131,000 cases were appealed to the Board of Veterans' Appeals, and there were hearings before this Board in 46,000 of these cases. The appeals council of the Railroad Retirement Board has had difficulty in keeping abreast of its docket; in 1938, 240 appeals were filed and the council rendered 126 decisions. During the first 8 months of 1939, 370 appeals were filed and 184 decisions issued. In the first 18 months of the operation of the appeals council, twice as many cases have been appealed as have been decided. Here again, bare statistics do not reflect the full work load; the appeals council of the Railroad Retirement Board has issued about three decisions every 4 days, but a section of the Board of Veterans' Appeals is said to dispose of as many as 10 cases a day. The novelty of the problems and the extent to which the problems have become standardized is all-important in attempting to measure the work load.

Department of Agriculture.—The Department of Agriculture administers over a score of statutes under which the Department is either authorized or required to give notice and hearing. Despite the number of statutes administered, the volume of adjudication or formal rule-making of the Department of Agriculture is comparatively small. The following table shows the volume of business during the calendar year 1938 and 1939 under the five principal acts:

Volume of records in formal proceedings before the Secretary of Agriculture

	Number of dockets Jan. 1, 1938 to Dec. 12, 1939	Average number ¹ pages of transcript	Average number exhibits at hearing
Packers and Stockyards Act:			
Trade practice.....	54	141	7
Rates.....	4	5,000	70
Reparation.....	53	57	6
Poultry license.....	88	20	2
Perishable Agricultural Commodities Act reparation cases (sec. 6c):			
Hearing cases.....	53	55	6
Shortened procedure.....	446		
License cases (4 (b) (2), (4) (d)) (sample of 3).....	16	73	12
Disciplinary cases (sec. 8 (b) (c)) (13 samples, but only 3 had hearings).....	43	26	8
Commodity Exchange Act ²	10	24	3
Agricultural Marketing Agreement Act:			
A-O Series.....	66	550	22
D Series (petitions) (77 petitions were docketed, but many did not result in proceedings).....	77	109	7
E Series (citations).....	11	12	
Sugar Act of 1937.....	17	572	16

¹ Except where otherwise indicated, all averages in this table are based upon from 10 to 15 sample cases chosen at random, not necessarily from the period covered by this report.

² Docket No. CE-A 11, *Cargill v. Chicago Board of Trade*, was not used as a sample, since it is not completed and since it is doubtful whether it could be considered representative as to length.

The total number of dockets indicated by the table is 938, or 469 per year. But all cases which are docketed are not heard. The number of hearings is substantially smaller, as shown by the following table:

Record of hearings held before the Secretary of Agriculture during the period from July 1, 1937, to June 30, 1940

ADJUDICATION

	Number of hearings	Number of pages
Under the virus-serum-toxin provisions of the act of Mar. 4, 1913 (37 Stat. 832).....	1	309
Under the Plant Quarantine Act.....	None	-----
Under the Grain Standards Act.....	1	25
Under the Capper-Volstead Act.....	None	-----
Under the Packers and Stockyards Act:		
Rate proceedings.....	11	13, 117
Reparation proceedings.....	54	3, 090
Trade practice and disciplinary proceedings.....	308	19, 168
Under the Perishable Agricultural Commodities Act:		
(a) To refuse, suspend, or revoke licenses of commission merchants, dealers, or brokers in the fresh fruits and fresh vegetables trade (secs. 4, 8, 9, and 13).....	43	2, 489
(b) Reparation proceedings (secs. 6 and 7).....	122	6, 920
Under the Agricultural Marketing Agreement Act of 1937.....	82	4, 472
Under the Commodity Exchange Act.....	9	5, 965
Under the Federal Seed Act.....	None	-----

RULE-MAKING

Under the Insecticide Act.....	None	-----
Under the Plant Quarantine Act:		
(a) To promulgate regulations restricting the importation of plants, etc., other than "nursery stock" (sec. 5).....	None	-----
(b) To promulgate regulations restricting importation of plants, etc. (including nursery stock), from insect-infested localities (sec. 7).....	1	36
(c) To establish quarantine areas and to promulgate regulations governing the interstate movement of plants, etc. (including nursery stock), from quarantined areas (sec. 8).....	1	68
Under the Grain Standards Act.....	None	-----
Under the United States Warehouse Act.....	None	-----
Under the Naval Stores Act.....	None	-----
Under the United States Cotton Standards Act.....	None	-----
Under the Export Apple and Pear Act.....	None	-----
Under the Anti-Hog-Cholera Serum and Hog-Cholera Virus Act: To enter into marketing agreements and to issue marketing orders (secs. 57 and 59).....	1	685
Under the Commodity Exchange Act: To fix a period for the delivery of the actual cash commodity in settlement of futures contracts, or to extend the time for giving notice of delivery (sec. 5a (4) and (5)).....	1	246
Under the Agricultural Marketing Agreement Act of 1937: To enter into marketing agreements and to issue marketing orders (secs. 1 (d) and 1 (e) (3)).....	96	56, 981
Under the Sugar Act of 1937:		
(a) To make allotments of sugar quotas (sec. 205).....	8	1, 918
(b) To determine, under the conditional-payment provisions of the Act, fair and reasonable wages to be paid by producers (sec. 301).....	19	10, 961
Under the Federal Seed Act: To promulgate any and all rules and regulations issued under the Act (sec. 402).....	1	164
Under the Packers and Stockyards Act: To prescribe manner of keeping books (sec. 401).....	(None except with other hearings.)	-----

The total number of cases heard in the Department of Agriculture between July 1, 1937, and June 30, 1940, was 760, or 253 and a fraction per year. But a strikingly large portion of the cases which are heard either result in consent orders or the parties do not choose to file exceptions to the examiners' reports. Between July 1, 1939, and June 30, 1940, examiners' reports were issued in only 93 cases, and

exceptions were filed in only 37 cases, as shown by the following table:

	Examiners reports	Exceptions filed
Commodities and Exchange Act.....	5	2
Sugar Act.....	2	2
Agricultural Marketing Act.....	20	11
Food Products Inspection Act.....	1	---
Packers and Stockyards Act.....	54	17
Perishable Agricultural Commodities Act.....	11	5
Total.....	63	37

Although the policy of the Department is to grant virtually all requests for oral argument, from January 1 until mid-July 1940 only eight oral arguments were held.

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