

MEMORANDUM:

Re: Federal Trade Commission as Agency
to Administer the National Securities
Exchange Act of 1934

1. The Federal Trade Commission has evolved, dating from the establishment of the Bureau of Corporations in 1903, which was its genesis, a well-defined technique with regard to investigating corporate affairs and practices and evaluating the same according to established principles of law and equity. It thus possesses a cumulative experience in this enlarged field of governmental concern which, with the experience of the past year in administering the Securities Act of 1933, now includes supervision of traffic in investment securities in interstate commerce.

2. The use of the Federal Trade Commission to administer the National Securities Exchange Act will obviate the creation of an additional department of Government and thereby effect a great economy in the national expenditure. The merit of the former is evident in view of the great multiplication of necessary governmental agencies on account of the national emergency, and the merit of the latter consideration would seem to be apparent from a survey of what structural requirements the establishment of a new agency would entail. The mechanical units alone, which involve no questions of policy in their administration, such units as are involved in conducting the business affairs of a new commission for instance, and which are usually found in governmental establishments, include units to look after accounts and personnel, disbursements, the unit for docketing of all registrations and communications, for publications and editorial service, mails and files, supplies, stenographic and library, would involve a large expenditure of money. It is estimated that such units in the Federal Trade Commission could handle the requirements of the proposed National Securities Exchange Act by moderate increase

in personnel and funds, whereas if such work were to be performed by the establishment of an independent secretariat, it would cost the Government at least 50% more in both personnel and other funds. To mention but one of such services,--the library service--there are now in the Federal Trade Commission Library some 20,000 volumes of books on the economic side alone. There is in addition a fairly large working legal library. It is estimated that it would require an expenditure of \$100,000 to duplicate such a library for the service of a new commission. The merits of all the foregoing considerations are shown by the fact that the Securities Act was put into operation and has been administered through the use of the facilities of what might be termed the secretariat of the Federal Trade Commission at fully 50% saving to the Government from what it would have cost had this secretariat been set up in an independent agency.

3. The proposed National Exchange bills give tacit recognition to the features for the registration of exchanges and brokers and dealers and, in the general field which it seeks to regulate through the special powers given to the commission, to the experience and practices of the Federal Trade Commission which have been evolved during its twenty years' experience as a unit of Government and the experience of the Bureau of Corporations, which was merged in the Commission, eleven years prior thereto. In the functions to perform and in the problems to be handled there is a marked similitude between those of the proposed Securities Exchange and the work of the Commission under the Clayton Act and other federal acts, the work of the Economic Division and its general inquiries, whether directed by the President, by Congress, or the Attorney General or the Commission itself, such as current investigations regarding utilities, chain-store systems, price bases, the Securities Law of 1933, etc.

4. /Related problems and problems which are to be handled by similar divisions should, it is submitted, in the interests of economy and governmental expenditure and the vast

saving for such handling of the best evolved practices and experiences of Government, be handled by the same agency wherever possible. The content or subject matter of a governmental problem does not differentiate it as much as does the method to be employed in supervision. A lawyer's competency is not tested by his knowledge of the subject matter of the case so much as it is by his ability to border and define that problem according to established principles of law with the authority that has jurisdiction.

5. Finally, the Federal Trade Commission will bring to the administration of the proposed National Securities Exchange Act not only the accumulative experience it has gained through 31 years in the handling of cognate problems but a certain confidence of the community at large which would be largely lost if a new agency were established to administer the Act. Questions of policy are, as they always should be, exercised by an executive through his appointed commissioners, but it is suggested that the directive force of policy needs always the background and experience of the field in which it is to function, and when such is available it should be made use of.

April 30, 1934.
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