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Business: Reform & Realism

(See front cover)

The Securities & Exchange Commission, now just one year old. has 659 employes, occupies most of the old Interstate Commerce Commission Building, and has won the distinction of being the most ably administered New Deal agency in Washington. Its prime purpose is to police the U. S. securities business. And, under the direction of four SECommissioners (there is one vacancy), it does.

In the year past the men whom President Roosevelt picked to administer what well may prove to be his most enduring reform have brought under their supervision every important stock exchange in the land. They have assumed control of new corporate issues, previously handled by the Federal Trade Commission. They have registered virtually all listed corporations and made a matter of public record the salaries, bonuses and stockholdings of their officials. They have launched an investigation of protective committees. They have secured injunctions, issued stop-orders and published hundreds of rules & regulations which for all practical purposes are laws of the land. And because they have behaved with sense and decency, they have so deflated their onetime critics that today their wide authority is seriously challenged nowhere in the land.

First Phase. Last week SEC ended its first historic phase without ceremony or celebration. Stock exchanges quietly dropped from trading all securities not permanently listed in Washington except a few involved cases where SEC had granted additional time. Despite wrathful predictions made when the Securities Exchange Act was passed, no major corporation had failed to file. Most of the securities delisted were small inactive issues. Only popular stock to leave the Big Board was Noranda Mines, heavily traded in Toronto. Thus by last week SEC had peacefully carried out the last of its major Businessmen discovered sympathy,

mandates upon which Congress had placed time limits.

When President Roosevelt picked his five SECommissioners, he found that the law did not provide for his designating one as chairman. Therefore he showed his personal preference by naming Joseph Patrick ("Joe") Kennedy for the longest term. The Commissioners took the hint, elected Mr. Kennedy chairman. But they must have done so with some misgivings. Chairman Kennedy was no New Dealer. He was not even a businessman. He was a Wall Street financier and a skillful practitioner of much that the New Deal deplored. During the 1920's he had been in the thick of cinematic mergers, deals and syndicates. Only a few months before his appointment, his fellow Commissioner. Ferdinand Pecora. had spread his name upon the record of the Senate Banking & Currency Committee as a member of a big and profitable pool that operated in alcohol stocks in the booming summer of 1933. But the President knew his man better than did anyone else in Washington.

Irish Policeman. Joe Kennedy's appointment was more than a reward for contributions to Democratic campaign funds and lesser political favors. The President was convinced that the shrewd, genial, red-headed Boston Irishman would make an ideal policeman for the securities business. Like any good Irish policeman, he would be kind where kindness was called for, harsh where harshness was needed. As to his Wall Street record, Joe Kennedy would get a lusty laugh out of catching one of his old friends off the reservation, gaily clap him in jail if he possibly could.

Harvard son of an East Boston ward boss, Joe Kennedy was a small bank president at 25 and assistant general manager of Bethlehem Steel's Fore River Shipbuilding Corp. during the War. Thus, unlike most New Deal administrators, he went to Washington a trained executive. His job was not only to make the securities laws work but to keep them from wrecking the world's most sensitive economic mechanism. His solution was ingenious and simple.

Zeal v. Experience. From the Commissioners down, SEC is organized on the old Persian principle of placing mutually jealous people side by side. Men drawn from Wall Street are set off against those whose former connections with the securities business, if any, were largely academic. New Deal zeal is balanced with Wall Street experience.

In the case of the Commissioners, Joe Kennedy has to hold his own against two lawyers and an accountant. James McCauley Landis was the lean, young Harvard Law School professor who helped write the Securities Act of 1933 while serving on the Federal Trade Commission. Since Ferdinand Pecora resigned to become a New York justice. Commissioner Landis has been the sole SECommissioner with authentic New Deal credentials. Businessmen used to be terrified by his brilliant mind and by his saturnine eyes. Lately they have found him more sympathetic (see cut). Under the Landis wing are SEC's research divisions.

Commissioner Robert E. Healy is a Vermonter and nominally a Republican but long service as counsel to the Federal Trade Commission's utility investigation gave him rather a jaundiced opinion of Big Business. His specialty is the legal division. Commissioner George C. Mathews is also a nominal Republican. President Roosevelt picked him for his record on Wisconsin's liberal public service body to serve on the Federal Trade Commission.

The vacant SEC seat is slated to go to young Benjamin Cohen as soon as that New Deal legalite finishes drafting Administration bills for Congress to rubber stamp.

Below the Commissioners, zeal and experience are more evenly balanced. General Counsel John J. Burns, like Commissioner Landis, was a Harvard Law School professor. Self-made son of Boston Irish immigrants, he was elevated to the Massachusetts Superior Court bench before he was 30, quitting three years later to join the New Deal.

Director of Registration Baldwin Bane came from the Federal Trade Commission, is known as a protegé of Senator Carter Glass. He it is who issues SEC's "stop-orders," which amount to injunctions shuting off the output of new securities. Since the Securities Act of 1933 was signed, he has passed 1,124 issues, stopped 58.

David Saperstein, director of SEC's Trading & Exchange Division, is an old-time Pecoraman. Smart, he has hired Wall Streeters steeped in the lore of the tape to watch the ticker day in, day out for signs of manipulation. Whenever his tape readers smell a pool, squads of SEC investigators swarm into action. Technical Adviser Paul Gourrich was trained in Kuhn, Loeb & Co.

Money, Old & New. Most conspicuous result of Chairman Kennedy's prime policy of blending the high spirit of reform with the realism of the market place was his famed new registration form for old-line companies. After consultation with practicing lawyers and accountants, it was promulgated last winter, promptly released a flood of corporate financing that is still rising (TIME, March 13). Commenting on this simplified form, Accounting Review declared: "The SEC has in one month set effective and, on the whole, reasonable standards for the [accounting] profession which years of futile committee work within professional societies have not been able to produce or even begin to produce."

SEC's purpose was to cut down on the mass of irrelevant corporate information which was of no interest to anyone—least of all investors, who can hardly be persuaded to read a four-page prospectus in large type. A statement filed on the old form by Republic Steel weighed more than 50 Ib. On the new form Bethlehem Steel registered a $5,.000,000 bond issue in one volume, weighing 5 Ib.

No one knows better than Chairman Kennedy that even the new form involves the killing of cows for a pint of milk. To obtain a copy of Armour & Co.'s 121-page statement, filed a few weeks ago, an interested investor would have to pay SEC $17.10 in photostatting. Charges—15¢ per page for the first 100 pages, 110¢ per page for the rest.

Nevertheless U. S. Business responded to Chairman Kennedy's helpful hand by bursting forth with the greatest volume of financing since 1931. During the first half of 1935, total registrations amounted to $1,365,000,000, not far short of the figure for the previous 18 months. Even more impressive were the Financial Chronicle's authoritative statistics on securities actually offered to the public. Many registered issues have not yet been sold or are held for future use. Total corporate financing for the first six months footed up to $569,000,000 as against $201,000,000 in the same period of last year. Some $300,000,000 will probably be offered in the next few weeks alone. Pending issues include: $75,000,000 for Consolidated Oil; $70,000,000 for Duquesne Light; $53,000,000 for Edison Electric Illuminating of Boston; $28,000,000 for B. F. Goodrich; $25,000,000 for Commercial Investment Trust, notable because it is a preferred stock issue not bonds. More than four-fifths of all current financing is refunding—swapping expensive money raised in the past for the abnormally cheap money of today. Usually the ratio is the reverse, refunding accounting for only one-fifth of total corporate financing. In 1925, a typical year, U. S. corporations required $4,100,000,000 for development and expansion, $637,000,000 for treasury operations.

"Wee." But even Joe Kennedy with his Olympian police powers cannot go forth within his precinct and command companies to borrow money that they do not need. All he can do, as he has done, is to make it easy for the honest. He has stumped the land proclaiming his credo: "No honest business need fear the SEC." He has been not only a good policeman, but also a polite one, insisting that all SEC subordinates be courteous and cooperative. Doing business is infinitely more difficult than before the New Deal but bankers now know that it can be done.

Making it hard for the shady is as prime an SEC principle as making it easy for the honest. Bucket shops, boiler rooms and the sell-&-switch racket are for the first time up against toothy Federal laws. But the downright crook is not so annoying as the shady dealer operating on the frontiers of legality. Last week Director of Registration Bane cracked down with a stop-order suspending sale of stock in a Tulsa concern called Wee Investors Royalty Co. Wee Investors proposed to sell its stock on a chain-letter basis. In the studied understatement of Mr. Bane's phraseology the proposition appeared to be "misleading." And last week Counsel Burns obtained injunctions against two security dealers, one of which was blandly assuring prospective investors that "the Government and John D. Rockefeller were behind all oil properties."

Over-the-Counter. SEC's chief difficulty in policing the borders of the legitimate securities business is its lack of control of over-the-counter markets, a vast and undefined realm composed of perhaps 8,000 dealers. Congress provided SEC with powers to regulate over-the-counter by "such rules & regulations as the Commission may prescribe as necessary or appropriate in the public interest." Just what would be necessary or appropriate no one knew, and Commissioner Landis and his researchers have been groping diligently ever since. SEC's first step was a census: all dealers must be registered before Aug. i or cease business. So far about 4,500 have filed.

In size, over-the-counter dealers range from a single individual with desk. space and a telephone to the big unlisted Wall Street houses with the capital and prestige of a first-flight member of the Stock Exchange. They make the markets for the nation's unlisted issues, varying from active Manhattan bank stocks to local real-estate mortgages. All the listed issues on. all U. S. stock exchanges foot up to only 7,000. The roster of unlisted issues may be as high as 500,000.

At Potomac, Over all these SEC activities Chairman Kennedy keeps a sharp blue eye. In the Commission's Division of Labor, he personally reviews each & every appointment. But he drops into hearings, does the liaison work with other Govern-ment agencies, sees the President frequently, confers with his colleagues twice each day. No Federal official rides the airlines more than SEChairman Kennedy. In the last year he has flown more than 65,000 miles. Lately in one week he flew to San Francisco for the opening of a regional branch office, on to Los Angeles (with a stop-over at San Simeon to chat with William Randolph Hearst) and back to Washington via Pittsburgh. At the week's end he hopped to Manhattan. About once a fortnight he manages to week-end with his wife and as many of his nine children as he can collect—in the winter at Palm Beach, in the summer at Hyannis Port on Cape Cod.

In Washington he cultivates perspective by living about 20 miles outside the city at Potomac, Md. There he leased a lane luxurious house commanding two wide sweeps of the Potomac River, occupies it with an old Boston friend, Edward E. Moore, who serves as his assistant. On the terraces "Joe" Kennedy plays the urbane host at small dinners famed throughout the Capital for the excellence of cave and cuisine. In the private cinema theatre he may later entertain friends like Senator Wheeler, Legalite Cohen, General Counsel Burns. In the mornings before breakfast he takes a dip, naked, in the swimming pool.

Having set up the SEC machine, and got it running smoothly, Chairman Kennedy wanted to return to private life last spring. But. on the very day that he planned to take his resignation to the White House, the Supreme Court rocked the New Deal with its NRA decision. Loyally pocketing his resignation, Mr. Kennedy went back to work because he was too good a policeman to desert his post when the sky seemed to be falling on the White House.

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