v.

THE JOHN H. WILKINS CO., INC.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 509.—May 26, 1920.

SYLLABUS.

Where a corporation engaged in the purchase and sale of coffee, tea, sugar, and cocoa leased coffee urns to proprietors of cafés and restaurants in various cities, without other consideration than that such proprietors would purchase all or approximately all of their supplies of coffee from said corporation:

Held, That the use of such leases constituted, under the circumstances set forth, an unfair method of competition in violation of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission having reason to believe, from a preliminary investigation made by it, that The John H. Wilkins Co., Inc., hereinafter referred to as the re-

spondent, has within the year last past violated and is violating section 5 of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in this respect on information and belief as follows:

PARAGRAPH 1. That the respondent, The John H. Wilkins Co., Inc., is a corporation organized and existing under the laws of the District of Columbia, having its principal place of business in the city of Washington, District of Columbia, and is now and at all times hereinafter mentioned, has been engaged in the business of dealing in coffee, tea, and other commodities, purchasing same in wholesale quantities in the various States of the United States and in foreign countries, causing same to be transported from points outside the District of Columbia to its place of business in the District of Columbia, where said commodities are resold by respondent in wholesale quantities in the District of Columbia and in the States adjacent thereto, and there is continuously, and has been at all the times herein mentioned, a constant current of trade and commerce in the commodities dealt in by said respondent, as aforesaid, between the District of Columbia, the various States, and Territories of the United States and foreign countries; that said respondent in the conduct of its said business has been in direct active competition with other individuals, partnerships, and corporations similarly engaged.

PAR. 2. That said respondent in the conduct of its business, as set out in paragraph one herein, with the purpose, intent, and effect of stifling and suppressing competition in the sale of coffee and tea, has adopted the practice of leasing or loaning coffee urns to customers engaged in the business of conducting lunch rooms and restaurants, upon the expressed agreement that such customers would thereafter purchase from respondent all coffee and tea used by them in the conduct of their respective businesses and without other consideration therefor.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission, having issued and served its complaint herein wherein it is alleged that it had reason to believe that the above-named respondent, The John H. Wilkins Co., Inc., has been and now is using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and that a proceeding by it in that respect would be to the interest of the public, and fully stating its charges in this respect, and the respondent having entered its appearance by Frank J. Hogan, its attorney, and having filed its answer admitting certain of the allegations of the complaint to be true in the manner and form set forth, and denying others contained therein, and the matter having been referred to a duly authorized examiner of the Commission, and the evidence of the Commission and the respondent having been introduced pursuant to notice before said examiner, and counsel for the Commission and the respondent having submitted their respective briefs, and thereafter counsel for the Commission having submitted his argument in support of the charges in the complaint, and counsel for the respondent having waived the submission of argument in support of his answer, and the Commission being duly advised in the premises now makes and enters this its report, stating its findings as to the facts and its conclusions.

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondent, The John H. Wilkins Co., Inc., is a corporation organized and existing under the laws of the District of Columbia, having its principal office and place of business in the city of Washington, in said District, and is now and for more than four years last past has been engaged in the business of dealing in coffee, tea, and bakery and confectionery supplies in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That the respondent, The John H. Wilkins Co., Inc., in the conduct of its business purchases coffee, tea, and bakery and confectionery supplies in various States of the United States and in foreign countries, and causes the same to be transported from points outside the District of Columbia to its place of business in said city of Washington, where such commodities are resold by the respondent and shipped and delivered to customers thereof in the States of Virginia, Maryland, Pennsylvania, Delaware, West Virginia, and the District of Columbia.

PAR. 3. That for more than four years prior to the 1st day of March, A. D. 1920, the respondent, The John H. Wilkins Co., Inc., loaned coffee urns to proprietors of cafés and restaurants in the city of Washington in the District of Columbia upon the express or implied condition, agreement, or understanding and without other consideration than, that such proprietors would purchase all or approximately all of their supplies of coffee from the said respondent.

PAR. 4. That in pursuance to the aforesaid and above-mentioned agreements, conditions, or understanding 20 proprietors of cafés and restaurants in the city of Washington now and for more than four years last past have had the possession and beneficial use of coffee urns belonging to this respondent, and in consideration therefor have purchased and are now purchasing all or approximately all of their supplies of coffee from the respondent, The John H. Wilkins Co., Inc.

CONCLUSIONS.

That the methods of competition and the business practices set forth in the foregoing findings as to facts are, under the circumstances set forth therein, unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission having issued and served its complaint herein, and the respondent, The John H.

Wilkins Co., Inc., having entered its appearance and filed its answer, and the Commission having heretofore made and filed its report containing its findings as to the facts and its conclusions that the respondent has violated the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," which report, findings, and conclusions are hereby referred to and made a part hereof: Now, therefore,

It is ordered, That the respondent, The John H. Wilkins Co., Inc., of the District of Columbia, and its officers, directors, representatives, agents, servants, and employees, cease and desist from directly or indirectly—

1. Leasing or loaning coffee urns to customers upon the agreement, condition, or understanding, either expressed or implied, that such customers will thereafter purchase from the respondent all the coffee used by them in the conduct of their respective businesses.

2. From continuing to operate under any such contracts or agreements heretofore made and entered into.

3. From doing any matter or thing which would have the same unlawful effect as that resulting from the practice herein prohibited and by reason of which this order is made.

It is further ordered, That the respondent, The John H. Wilkins Co., Inc., shall file a report in writing with the Commission 90 days from notice hereof, stating in detail the manner in which this order has been complied with and conformed to.

FEDERAL TRADE COMMISSION

v.

THE LEVERING COFFEE CO.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26,