

IN THE MATTER OF
PITTSBURGH COAL CO. OF WISCONSIN ET AL.

COMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914,
AND OF SECTION 2 OF AN ACT OF CONGRESS APPROVED OCTOBER 15, 1914.

Docket 1010—March 19, 1925.

SYLLABUS.

Where a number of the largest distributing corporations engaged in the purchase and transportation of coal from Lake Erie ports via lake steamers to their docks on Lake Superior and Lake Michigan ports, and in its sale at wholesale throughout a substantial part of the Middle West, and at retail in St. Paul, Minneapolis, and Duluth, and the association of which they were members; for the purpose of eliminating price competition among themselves, and certain competitive practices, which they regarded as objectionable; in cooperation with one another, and through meetings, exchange of views and information, and otherwise,

- (a) Adopted and maintained a policy of (1) declining to grant concessions to jobbers, line yard companies, and other retail dealers, or to sell coal to concerns not equipped with sheds and scales and located outside the Twin Cities or Duluth, (2) recognizing all municipal steam business requiring team delivery, as the prospect of local retailers, and not soliciting such business directly, (3) refusing to enter into contracts with retailers for future delivery except where the coal concerned was required for delivery to public utilities, or for customers, under contract, with specific tonnage requirements, (4) using uniform contracts in the sale of coal to large consumers, restricting the use thereof to some particular plant, and (5) observing certain limits in bidding on contracts requiring British Thermal Unit guarantees;
- (b) Adopted rules requiring the standardizing of sizes, with the intent and effect of preventing intentional variations therein as a means of cutting prices;
- (c) Established a so-called Credit and Collection Bureau, which secured and disseminated information with respect, among other things, to the business equipment and trade practices of retailers outside the Twin Cities and Duluth;
- (d) Furnished and disseminated information in reference to their actions in declining, in accordance with the aforesaid competitive policies, to sell concerns, and also in reference to transactions by dealers or competitors contravening said policies;
- (e) Established the so-called "open price competition plan," having for its purpose the object "of competing under conditions which enabled each to know and fairly judge what the other is doing * * *" and "accomplish indirectly what the law does not permit us to accomplish by means of agreements," and involving the periodic furnishing and dissemination, daily and otherwise, of elaborate information in respect of their businesses, including data as to stocks on hand, shipments, costs, sales, prices, contracts, etc., and in connection therewith established a uniform system of cost accounting;

- (f) Discussed market and trade conditions and informed one another of prospective price changes, and exchanged with one another price lists which they anticipated issuing to the trade, and thereby kept their prices practically uniform;

With the result that jobbers, and consumers were deprived of the benefit of competition in price and service between said corporations, and competition generally in the retail trade in the territory concerned was substantially restricted and suppressed;

- (g) Reversed their former practice and made screenings from the run of mine coal dealt in by them, the basis of their price schedules, with the intent and effect of suppressing competition of Illinois steam coal in the Twin City Market, and with the result that prices of lump sizes for domestic use were increased to offset the low prices on screenings;

- (h) Discriminated in price in the sale of bituminous coal in car load lots and at retail between the Twin Cities and Duluth, for the purpose of driving Illinois and other all-rail coal, and its distributors, out of said market; and

- (i) Discriminated in price in connection with the sale of coal at retail in the Twin Cities;

With the result that Twin City retailers were forced to discontinue handling dock steam coal, to curtail their sales of Illinois steam coal, Duluth steam coal consumers were discriminated against in favor of Twin City consumers, freight rates considered, and domestic, bituminous users were forced to pay higher prices because of the low prices received for screenings; and

- (j) Cut prices without warning following discussions and negotiations in reference to the situation presented by a price cutting nonmember competitor, with the result that said competitor joined the association, former price levels were restored, and prices to retailers and consumers were enhanced:

Held, That such practices, substantially as described, constituted unfair methods of competition in violation of Section 5 of the Act of Congress approved September 26, 1914 and that said discrimination between cities constituted a violation of Section 2 of the Act of Congress approved October 15, 1914.

Mr. Everett F. Haycraft for the Commission.

Davis, Severance & Morgan of St. Paul, Minn., for respondent association and other respondents.

Bowler & Bowler of Sheboygan, Wis., for respondent C. Reiss Coal Co.

Boyesen, Otis, Brill & Faricy of St. Paul, Minn., for respondents Clarkson Coal and Dock Co. and Pittsburgh & Ashland Coal & Dock Co.

Lancaster, Simpson, Junell & Dorsey of Minneapolis, Minn., for respondent Pittsburgh Coal Co.

Complaint.

8 F. T. C.

COMPLAINT.

I.

Acting in the public interest pursuant to the provisions 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," the Federal Trade Commission charges that the various persons mentioned in the caption hereof and more particularly hereinafter described and hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce in violation of the provisions of Section 5 of said Act and states its charges in that respect as follows:

PARAGRAPH 1. Said respondent, Pittsburgh Coal Co. of Wisconsin is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin with principal business office in the city of Minneapolis, State of Minnesota. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to retail dealers throughout the territory comprising the States of Wisconsin, Minnesota, North and South Dakota and portions of the States of Iowa and Nebraska hereinafter referred to as the "northwest" territory, and of dealing in bituminous and anthracite coal at retail, selling directly to the consumers and through its retail yards in the cities of Duluth, St. Paul and Minneapolis, State of Minnesota.

PAR. 2. Said respondent Northwestern Fuel Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with principal business office in the city of St. Paul, State of Minnesota. It was at all times herein mentioned, and still is, engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory and of dealing in said coal at retail, selling directly to the consumers and through its retail yards in the cities of Superior and Washburn, in the State of Wisconsin, and the cities of Duluth, St. Paul and Minneapolis in the State of Minnesota.

PAR. 3. Said respondent C. Reiss Coal Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin with principal office and place of business at Sheboygan in said State, and with a branch office in the city of Minneapolis, State of Minnesota. It was at all times herein mentioned and still is engaged in the business of dealing in bitumi-

nous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory and of dealing in said coal at retail selling directly to the consumers and through its retail yards in the cities of St. Paul and Minneapolis, State of Minnesota.

PAR. 4. Said respondent Clarkson Coal & Dock Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal business office in the city of St. Paul, State of Minnesota. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory and of dealing in said coal at retail selling direct to large consumers in the cities of St. Paul, Minneapolis, and Duluth and elsewhere in the State of Minnesota.

PAR. 5. Said respondent, M. A. Hanna Coal & Dock Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its principal business office in the city of Cleveland, State of Ohio, but with a branch office at the city of St. Paul, State of Minnesota. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory and also in the State of Illinois and in the Dominion of Canada, and of dealing in said coal at retail selling directly to the consumers and through its retail yards in the cities of Minneapolis and St. Paul, State of Minnesota.

PAR. 6. Said respondent Carnegie Dock & Fuel Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its principal business office in the city of Pittsburgh in said State, but with a branch office in the city of Minneapolis, State of Minnesota. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory, and of dealing in said coal at retail selling directly to the consumers and through its retail yards in the cities of St. Paul, Minneapolis and Duluth, Minn., and Superior, Wis.

PAR. 7. Respondent Berwind Fuel Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with principal office in the city of Chicago, State of Illinois, but with a branch office in the city of Minneapolis, State of Minnesota. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous coal at wholesale, selling to the retail dealers throughout said northwest territory, and dealing in said coal at retail selling directly to the consumers

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PAR. 4. Said respondent Clarkson Coal & Dock Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware with its principal business office in the city of St. Paul, State of Minnesota. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory and of dealing in said coal at retail selling direct to large consumers in the cities of St. Paul, Minneapolis, and Duluth and elsewhere in the State of Minnesota.

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PAR. 7. Respondent Berwind Fuel Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Wisconsin, with principal office in the city of Chicago, State of Illinois, but with a branch office in the city of Minneapolis, State of Minnesota. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous coal at wholesale, selling to the retail dealers throughout said northwest territory, and dealing in said coal at retail selling directly to the consumers

Complaint.

8 F. T. C.

and through its retail yards in the city of Minneapolis, State of Minnesota. .

PAR. 8. Said respondent Northern Coal & Dock Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its principal business office in the city of St. Paul, State of Minnesota. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory and of dealing in said coal at retail, selling directly to the consumers and through its retail yards in the cities of St. Paul and Minneapolis, in the State of Minnesota.

PAR. 9. Said respondent Great Lakes Coal & Dock Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota with principal business office in the city of Minneapolis in said State. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory, and dealing in said coal at retail, selling direct to the consumers and through its retail yards in the cities of Minneapolis and St. Paul, State of Minnesota.

PAR. 10. Said respondent Pittsburgh & Ashland Coal & Dock Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its principal business office in the city of Cleveland in said State, and with a branch office in the city of Minneapolis, State of Minnesota. It was at all times herein mentioned, and still is, engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory and of dealing in said coal at retail, selling directly to the consumers and through its retail yards in the city of Minneapolis, State of Minnesota.

PAR. 11. All of said respondent companies named in the caption hereof and described in paragraphs 1 to 10, inclusive, in the course and conduct of their said businesses at all times herein mentioned, have purchased and still purchase said bituminous and/or anthracite coal dealt in by them from the operators of mines located in the States of Pennsylvania, West Virginia, Ohio, and Kentucky, loaded on board steamers at Lake Erie ports and thereafter caused, and still cause said coal to be transported by steamer to their ports located at Duluth, Minn., and/or Washburn, and/or Ashland, and/or Superior, and/or Sheboygan, and/or Milwaukee, Wis., as the case may be, where said coal is unloaded on the docks of said respondent companies maintained by them for the receiving and storage of

said coal purchased by these said respondent companies for distribution at wholesale and retail in said northwest territory, as aforesaid, and there was at all times herein mentioned and still is a constant current of trade and commerce in said coal by these said respondent companies between and among the various States of the United States, and these said respondents were at all times herein mentioned and still are the largest distributors of bituminous and anthracite coal in the said northwest territory, handling in the aggregate approximately 80 per cent of all of the said bituminous and anthracite coal passing over the docks located at the said cities of Duluth, Minn., Washburn, Ashland, Superior, Sheboygan, and Milwaukee, Wis.; these said respondent companies were at all times herein mentioned in competition with smaller dock companies distributing anthracite and bituminous coal in the said northwest territory and with jobbers and retailers of coal shipped into said territory by rail from coal fields located in southern Illinois, Indiana, and Kentucky and elsewhere; these said respondent companies are all members of said respondent Northwestern Coal Dock Operators' Association and are also named as respondents herein as members of said association.

PAR. 12. Said respondent, Northwestern Coal Dock Operators Association, is a voluntary, unincorporated association of coal dock operators, organized by the respondent companies named in the caption of this complaint and described in paragraphs 1 to 10, inclusive, and others in the year 1914, under the laws of the State of Minnesota, with its principal office located in the city of Minneapolis in said State for the ostensible purpose of promoting their common interests and to "meet for conference and discussion and the exchange of information." The officers and directors of said respondent association are as follows:

Officers.—President, W. W. Broughton; vice president, J. L. McMahon; secretary, W. A. Prinsen.

Directors.—W. W. Broughton, Peter Reiss, H. E. Smith, E. N. Saunders, jr., E. A. Uhrig, J. L. McMahon, F. G. Hartwell, W. H. Goodwin.

Said officers and directors have been duly and regularly elected by the members of said respondent association and are named herein as respondents, individually, as officers and directors of said respondent association charged with and engaged in the management and direction of its affairs, and as representing all the members of said association, including those not herein specifically named as respondents.

Complaint.

8 F. T. C.

and through its retail yards in the city of Minneapolis, State of Minnesota. .

PAR. 8. Said respondent Northern Coal & Dock Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its principal business office in the city of St. Paul, State of Minnesota. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory and of dealing in said coal at retail, selling directly to the consumers and through its retail yards in the cities of St. Paul and Minneapolis, in the State of Minnesota.

PAR. 9. Said respondent Great Lakes Coal & Dock Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Minnesota with principal business office in the city of Minneapolis in said State. It was at all times herein mentioned and still is engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory, and dealing in said coal at retail, selling direct to the consumers and through its retail yards in the cities of Minneapolis and St. Paul, State of Minnesota.

PAR. 10. Said respondent Pittsburgh & Ashland Coal & Dock Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its principal business office in the city of Cleveland in said State, and with a branch office in the city of Minneapolis, State of Minnesota. It was at all times herein mentioned, and still is, engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to the retail dealers throughout the said northwest territory and of dealing in said coal at retail, selling directly to the consumers and through its retail yards in the city of Minneapolis, State of Minnesota.

PAR. 11. All of said respondent companies named in the caption hereof and described in paragraphs 1 to 10, inclusive, in the course and conduct of their said businesses at all times herein mentioned, have purchased and still purchase said bituminous and/or anthracite coal dealt in by them from the operators of mines located in the States of Pennsylvania, West Virginia, Ohio, and Kentucky, loaded on board steamers at Lake Erie ports and thereafter caused, and still cause said coal to be transported by steamer to their ports located at Duluth, Minn., and/or Washburn, and/or Ashland, and/or Superior, and/or Sheboygan, and/or Milwaukee, Wis., as the case may be, where said coal is unloaded on the docks of said respondent companies maintained by them for the receiving and storage of

said coal purchased by these said respondent companies for distribution at wholesale and retail in said northwest territory, as aforesaid, and there was at all times herein mentioned and still is a constant current of trade and commerce in said coal by these said respondent companies between and among the various States of the United States, and these said respondents were at all times herein mentioned and still are the largest distributors of bituminous and anthracite coal in the said northwest territory, handling in the aggregate approximately 80 per cent of all of the said bituminous and anthracite coal passing over the docks located at the said cities of Duluth, Minn., Washburn, Ashland, Superior, Sheboygan, and Milwaukee, Wis.; these said respondent companies were at all times herein mentioned in competition with smaller dock companies distributing anthracite and bituminous coal in the said northwest territory and with jobbers and retailers of coal shipped into said territory by rail from coal fields located in southern Illinois, Indiana, and Kentucky and elsewhere; these said respondent companies are all members of said respondent Northwestern Coal Dock Operators' Association and are also named as respondents herein as members of said association.

PAR. 12. Said respondent, Northwestern Coal Dock Operators Association, is a voluntary, unincorporated association of coal dock operators, organized by the respondent companies named in the caption of this complaint and described in paragraphs 1 to 10, inclusive, and others in the year 1914, under the laws of the State of Minnesota, with its principal office located in the city of Minneapolis in said State for the ostensible purpose of promoting their common interests and to "meet for conference and discussion and the exchange of information." The officers and directors of said respondent association are as follows:

Officers.—President, W. W. Broughton; vice president, J. L. McMahon; secretary, W. A. Prinsen.

Directors.—W. W. Broughton, Peter Reiss, H. E. Smith, E. N. Saunders, jr., E. A. Uhrig, J. L. McMahon, F. G. Hartwell, W. H. Goodwin.

Said officers and directors have been duly and regularly elected by the members of said respondent association and are named herein as respondents, individually, as officers and directors of said respondent association charged with and engaged in the management and direction of its affairs, and as representing all the members of said association, including those not herein specifically named as respondents.

Complaint.

8 F. T. C.

Weekly, monthly and annual meetings of representatives of members of the respondent association, including the companies respondent named herein, are held and the secretary of said respondent association is required to secure and disseminate "as complete information as possible relative to market conditions"; maintain a credit bureau; advise members as to proposed legislation which may affect the interests of members and is authorized to examine the books of the members of said respondent association and to verify the information which each member is required to file with said secretary. Each member of said respondent association, including respondent companies named herein, are required to pay into the treasury of said respondent association, minimum annual dues of \$500 each but the secretary of the said respondent association is allowed to spend \$20,000 a year in the regular expenses of the association, assessments being levied against the members of said association to meet the increased expenses in proportion to the coal which is handled by each member over its docks.

PAR. 13. Said respondent companies named in the caption hereof and described in paragraphs 1 to 10, inclusive, and the other members of said respondent association, in the period of the past eight years have entered into an agreement, combination and conspiracy among themselves and with and through said respondent association and with others, to restrict, restrain and suppress competition in the sale of bituminous and anthracite coal at wholesale and retail in the said northwest territory for the purpose and with the intent and effect of obtaining and retaining for themselves a monopoly in the sale of said bituminous and anthracite coal at wholesale and retail in said territory. Pursuant to, and in carrying out said agreement, combination and conspiracy, each and all of said respondents cooperating together and with and through said respondent association have performed, and still continue to perform, among others, the following acts and things:

(a) Said respondent companies have abolished all commissions theretofore paid to jobbers and line yards throughout said northwest territory;

(b) Said respondent companies recognize all municipal steam business requiring team delivery to be the prospect of the local retail dealer and do not solicit such business direct;

(c) Said respondent companies enter into no contracts with retail dealers except where the contract covers a public utility with a specific tonnage covered by contract between the public utility and the dealer;

(d) Said respondent companies have standardized the sizes of coal handled and the cost per ton through uniform grading and cost accounting, each respondent company furnishing detailed statements of the cost of operating its business to the secretary of said respondent association for that purpose;

(e) Said respondent companies refuse to sell and ship coal to retail dealers in the country trade outside of the cities of St. Paul, Minneapolis and Duluth in State of Minnesota, who are not equipped with sheds and scales and the usual equipment of a retail coal dealer;

(f) Said respondent companies have agreed that all accounts with retail coal dealers be considered due on the 15th of the month following shipment of the coal and file a list of all such accounts unpaid on the 15th day of the second month following shipment with the secretary of said association, who, upon receipt of such reports, prepares and disseminates among the respondent companies a consolidated list showing all accounts due to the several companies according to the information he has received;

(g) Said respondent companies use a uniform contract with retail coal dealers and large consumers containing a clause prohibiting the purchaser of the coal from diverting or using the coal for other purposes than outlined in the contract;

(h) Said respondent companies, in order to enforce agreements outlined in subparagraphs (e), (f) and (g), caused the secretary of said association to establish and maintain a so-called credit and collection bureau for the ostensible purpose of exchanging credit information and the collection of bad accounts. Through this bureau, however, each said respondent company furnishes the said secretary full information with respect to its refusal to sell a retail dealer because he was not properly equipped or because he violated his contract with said respondent company by diverting the shipment of coal and selling said coal below retail price of other retail dealers, or in some other manner violated the rules and regulations of said respondent companies, and said respondent companies caused said secretary to publish this information to the other members of said respondent association including the other said respondent companies and from time to time to furnish a complete list to said respondent companies of all retail dealers to whom the said respondent companies had refused to sell coal for any reason whatsoever, with a key thereto indicating the reason for such refusal;

(i) Said respondent companies, at the said weekly and monthly meetings of said respondent association discussed ways and means of standardizing selling prices of bituminous and anthracite coal and making them more uniform, and then and thereafter submitted

Complaint.

8 F. T. C.

Weekly, monthly and annual meetings of representatives of members of the respondent association, including the companies respondent named herein, are held and the secretary of said respondent association is required to secure and disseminate "as complete information as possible relative to market conditions"; maintain a credit bureau; advise members as to proposed legislation which may affect the interests of members and is authorized to examine the books of the members of said respondent association and to verify the information which each member is required to file with said secretary. Each member of said respondent association, including respondent companies named herein, are required to pay into the treasury of said respondent association, minimum annual dues of \$500 each but the secretary of the said respondent association is allowed to spend \$20,000 a year in the regular expenses of the association, assessments being levied against the members of said association to meet the increased expenses in proportion to the coal which is handled by each member over its docks.

PAR. 13. Said respondent companies named in the caption hereof and described in paragraphs 1 to 10, inclusive, and the other members of said respondent association, in the period of the past eight years have entered into an agreement, combination and conspiracy among themselves and with and through said respondent association and with others, to restrict, restrain and suppress competition in the sale of bituminous and anthracite coal at wholesale and retail in the said northwest territory for the purpose and with the intent and effect of obtaining and retaining for themselves a monopoly in the sale of said bituminous and anthracite coal at wholesale and retail in said territory. Pursuant to, and in carrying out said agreement, combination and conspiracy, each and all of said respondents cooperating together and with and through said respondent association have performed, and still continue to perform, among others, the following acts and things:

(a) Said respondent companies have abolished all commissions theretofore paid to jobbers and line yards throughout said northwest territory;

(b) Said respondent companies recognize all municipal steam business requiring team delivery to be the prospect of the local retail dealer and do not solicit such business direct;

(c) Said respondent companies enter into no contracts with retail dealers except where the contract covers a public utility with a specific tonnage covered by contract between the public utility and the dealer;

(d) Said respondent companies have standardized the sizes of coal handled and the cost per ton through uniform grading and cost accounting, each respondent company furnishing detailed statements of the cost of operating its business to the secretary of said respondent association for that purpose;

(e) Said respondent companies refuse to sell and ship coal to retail dealers in the country trade outside of the cities of St. Paul, Minneapolis and Duluth in State of Minnesota, who are not equipped with sheds and scales and the usual equipment of a retail coal dealer;

(f) Said respondent companies have agreed that all accounts with retail coal dealers be considered due on the 15th of the month following shipment of the coal and file a list of all such accounts unpaid on the 15th day of the second month following shipment with the secretary of said association, who, upon receipt of such reports, prepares and disseminates among the respondent companies a consolidated list showing all accounts due to the several companies according to the information he has received;

(g) Said respondent companies use a uniform contract with retail coal dealers and large consumers containing a clause prohibiting the purchaser of the coal from diverting or using the coal for other purposes than outlined in the contract;

(h) Said respondent companies, in order to enforce agreements outlined in subparagraphs (e), (f) and (g), caused the secretary of said association to establish and maintain a so-called credit and collection bureau for the ostensible purpose of exchanging credit information and the collection of bad accounts. Through this bureau, however, each said respondent company furnishes the said secretary full information with respect to its refusal to sell a retail dealer because he was not properly equipped or because he violated his contract with said respondent company by diverting the shipment of coal and selling said coal below retail price of other retail dealers, or in some other manner violated the rules and regulations of said respondent companies, and said respondent companies caused said secretary to publish this information to the other members of said respondent association including the other said respondent companies and from time to time to furnish a complete list to said respondent companies of all retail dealers to whom the said respondent companies had refused to sell coal for any reason whatsoever, with a key thereto indicating the reason for such refusal;

(i) Said respondent companies, at the said weekly and monthly meetings of said respondent association discussed ways and means of standardizing selling prices of bituminous and anthracite coal and making them more uniform, and then and thereafter submitted

Complaint.

8 F. T. C.

Weekly, monthly and annual meetings of representatives of members of the respondent association, including the companies respondent named herein, are held and the secretary of said respondent association is required to secure and disseminate "as complete information as possible relative to market conditions"; maintain a credit bureau; advise members as to proposed legislation which may affect the interests of members and is authorized to examine the books of the members of said respondent association and to verify the information which each member is required to file with said secretary. Each member of said respondent association, including respondent companies named herein, are required to pay into the treasury of said respondent association, minimum annual dues of \$500 each but the secretary of the said respondent association is allowed to spend \$20,000 a year in the regular expenses of the association, assessments being levied against the members of said association to meet the increased expenses in proportion to the coal which is handled by each member over its docks.

PAR. 13. Said respondent companies named in the caption hereof and described in paragraphs 1 to 10, inclusive, and the other members of said respondent association, in the period of the past eight years have entered into an agreement, combination and conspiracy among themselves and with and through said respondent association and with others, to restrict, restrain and suppress competition in the sale of bituminous and anthracite coal at wholesale and retail in the said northwest territory for the purpose and with the intent and effect of obtaining and retaining for themselves a monopoly in the sale of said bituminous and anthracite coal at wholesale and retail in said territory. Pursuant to, and in carrying out said agreement, combination and conspiracy, each and all of said respondents cooperating together and with and through said respondent association have performed, and still continue to perform, among others, the following acts and things:

(a) Said respondent companies have abolished all commissions theretofore paid to jobbers and line yards throughout said northwest territory;

(b) Said respondent companies recognize all municipal steam business requiring team delivery to be the prospect of the local retail dealer and do not solicit such business direct;

(c) Said respondent companies enter into no contracts with retail dealers except where the contract covers a public utility with a specific tonnage covered by contract between the public utility and the dealer;

(d) Said respondent companies have standardized the sizes of coal handled and the cost per ton through uniform grading and cost accounting, each respondent company furnishing detailed statements of the cost of operating its business to the secretary of said respondent association for that purpose;

(e) Said respondent companies refuse to sell and ship coal to retail dealers in the country trade outside of the cities of St. Paul, Minneapolis and Duluth in State of Minnesota, who are not equipped with sheds and scales and the usual equipment of a retail coal dealer;

(f) Said respondent companies have agreed that all accounts with retail coal dealers be considered due on the 15th of the month following shipment of the coal and file a list of all such accounts unpaid on the 15th day of the second month following shipment with the secretary of said association, who, upon receipt of such reports, prepares and disseminates among the respondent companies a consolidated list showing all accounts due to the several companies according to the information he has received;

(g) Said respondent companies use a uniform contract with retail coal dealers and large consumers containing a clause prohibiting the purchaser of the coal from diverting or using the coal for other purposes than outlined in the contract;

(h) Said respondent companies, in order to enforce agreements outlined in subparagraphs (e), (f) and (g), caused the secretary of said association to establish and maintain a so-called credit and collection bureau for the ostensible purpose of exchanging credit information and the collection of bad accounts. Through this bureau, however, each said respondent company furnishes the said secretary full information with respect to its refusal to sell a retail dealer because he was not properly equipped or because he violated his contract with said respondent company by diverting the shipment of coal and selling said coal below retail price of other retail dealers, or in some other manner violated the rules and regulations of said respondent companies, and said respondent companies caused said secretary to publish this information to the other members of said respondent association including the other said respondent companies and from time to time to furnish a complete list to said respondent companies of all retail dealers to whom the said respondent companies had refused to sell coal for any reason whatsoever, with a key thereto indicating the reason for such refusal;

(i) Said respondent companies, at the said weekly and monthly meetings of said respondent association discussed ways and means of standardizing selling prices of bituminous and anthracite coal and making them more uniform, and then and thereafter submitted

Complaint.

8 F. T. C.

to each other and circulated among themselves suggested price lists and official price lists before they were actually issued, it being generally understood that the prices so submitted would be maintained by the respondent company issuing same;

(j) Said respondent companies during and since the year 1919 have sold bituminous coal in carload lots and at retail in the cities of St. Paul and Minneapolis, State of Minnesota, and contiguous territory, at prices less than said companies received for the same grades of coal at the same time in the same quantities in car lots and at retail in the city of Duluth, State of Minnesota, and contiguous territory, selling said coal in the said cities of St. Paul and Minneapolis and contiguous territory at less than cost at the dock plus cost of transportation, overhead and yardage expenses;

(k) Said respondent companies during and since the year 1919, have supplied bituminous coal to their retail departments at prices substantially lower than the dock price of said coal which the retail dealers in the cities of St. Paul and Minneapolis, State of Minnesota, were required by said respondent companies, to pay for the same kind grade and quality of coal;

(l) Said respondent companies, during the year 1919 and since, have sold bituminous coal at wholesale to so-called wagon dealers who have no yards or sheds in the said cities of St. Paul and Minneapolis, at prices less than the dock price on said coal plus cost of transportation to said cities of St. Paul and Minneapolis, and unloading charges so that the cost of said coal to retail dealers equipped with yards and sheds in said cities was more than the said wagon dealers were required to pay for the same grade and quantity of coal.

(m) Said respondent companies, in December, 1921, arbitrarily cut the price of bituminous coal \$1 per ton to compel competitors to join said respondent association and to cease selling below respondent's list prices and then in February, 1922, said respondent companies arbitrarily raised the price of bituminous coal \$1 per ton shortly after said competitors had joined said respondent association and had ceased selling bituminous coal at prices less than the list prices of said respondent companies.

PAR. 14. As a result of the acts and conduct of said respondent companies and said respondent association, its officers, directors and members, as set out in paragraph 13 hereof, competition in the sale of bituminous and anthracite coal at wholesale and retail in the said northwest territory has been and now is unduly restricted, restrained and suppressed and a monopoly in the sale of bituminous and anthracite coal at wholesale and retail in the said northwest territory is

being obtained and retained by said respondent companies and other members of said respondent association.

PAR. 15. The above alleged acts and things done by said respondents, as aforesaid, are all to the prejudice of the public and respondent's competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

II.

And the Federal Trade Commission, having reason to believe from a preliminary investigation made by it, that the various persons mentioned in the caption hereof and more particularly hereinafter described and hereinafter referred to as respondents, have been and are now violating the provisions of Section 2 of an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes," issues this complaint stating its charges in that respect as follows:

PARAGRAPH 1. For grounds of said complaint said Commission relies upon the matters and things set out in paragraphs 1 to 14, inclusive, with particular reference to subparagraph (j) of paragraph 13 of that part of this complaint which relates to the alleged violation of Section 5 of the Act of Congress approved September 26, 1914, to the same extent as though same were set out at length herein, and said paragraphs 1 to 14, inclusive, are incorporated herein by reference and adopted as a part of the allegations relating to alleged violation of Section 2 of the Act of Congress approved October 15, 1914.

PAR. 2. As a result of the acts and conduct of said respondent companies and said respondent association, its officers, directors and members, as set forth by reference in paragraph 1 hereof, said respondent companies have discriminated in price between different purchasers of commodities, which commodities were sold for use, consumption or resale within the United States and the effect of such discrimination has been to substantially lessen competition in the sale of bituminous and anthracite coal at wholesale and retail in the said northwest territory and has tended to create a monopoly in the sale of bituminous and anthracite coal in said territory in the hands of said respondent companies and other members of said respondent association; and said discrimination in price between purchasers of bituminous and anthracite coal by said respondent companies was not

Findings.

8 F. T. C.

made on account of differences in the grade, quality or quantity of the commodities sold, nor did it make only due allowance for difference in the cost of selling or transportation, nor was it made in good faith to meet competition and in the selection of customers in bona fide transactions.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions 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 an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," the Federal Trade Commission issued and served a complaint against respondents, Pittsburgh Coal Co., of Wisconsin, a corporation; Northwestern Fuel Co., a corporation; C. Reiss Coal Co., a corporation; Clarkson Coal & Dock Co., a corporation; M. A. Hanna Coal & Dock Co., a corporation; Carnegie Dock & Fuel Co., a corporation; Berwind Fuel Co., a corporation; Northern Coal & Dock Co., a corporation; Great Lakes Coal & Dock Co., a corporation; Pittsburgh & Ashland Coal & Dock Co., a corporation, and Northwestern Coal Dock Operators Association, its officers, directors and members, charging them with the use of unfair methods of competition in commerce in violation of the provisions of Section 5 of said Act of Congress approved September 26, 1914, and with violation of the provisions of Section 2 of said Act of Congress approved October 15, 1914.

Respondents having entered their appearance and filed their answers, hearings were had and oral and documentary testimony introduced in support of the complaint and of the answers of respondents before Web Woodfill and John W. Addison, examiners heretofore duly appointed. At these hearings Everett F. Haycraft appeared for the Commission; Davis, Severance & Morgan for all respondents; Bowler & Bowler appeared for respondent C. Reiss Coal Co.; Boyesen, Otis, Brill & Faricy appeared for respondents Clarkson Coal & Dock Co., and Pittsburgh & Ashland Coal & Dock Co., and Lancaster, Simpson, Junell & Dorsey appeared for respondent Pittsburgh Coal Co.

This proceeding having come on for final hearing and the Commission having heard argument of counsel and duly considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusions:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, Northwestern Coal Dock Operators' Association is a voluntary unincorporated association of coal dock operators organized by coal dealers, including the ten respondent companies named in the foregoing caption and described in paragraph 2 hereof, except said Clarkson Coal & Dock Company and said Pittsburgh & Ashland Coal & Dock Company (each of the two last-named companies, however, is successor to another company of the same name that it now bears and both of these predecessor companies were among the organizers or early members of said association in the year 1914), with its principal office located in the city of Minneapolis, in the State of Minnesota. Its duly and regularly elected secretaries since March 1, 1916, have been W. H. Groverman, who held office from said date to July, 1921; W. A. Prinsen, who held office from July, 1921, to December, 1922, and W. P. Ellis, who is the present secretary and has held office since August 1, 1923. At the date of the complaint in this proceeding, J. L. McMahon, of the Youghioghenny & Ohio Coal Company, owner of the respondent, Northern Coal & Dock Co., was its vice president, and Henry E. Smith, of the M. A. Hanna Coal & Dock Co., was its president and had held this office since July 11, 1922. He was preceded in said office by W. W. Broughton, president of the Pittsburgh Coal Company. Its directors when the complaint was issued, who together with said officers are charged with, and engaged in, the management and direction of its affairs and in this behalf represent all its members, were Peter Reiss, of the C. Reiss Coal Co.; Henry E. Smith; E. M. Saunders, jr., of the Northwestern Fuel Company; J. L. McMahon; F. G. Hartwell of the Berwind Fuel Company; W. H. Godwin, of the Carnegie Dock & Fuel Company; E. E. Heiner of the Superior Coal & Dock Company; and E. S. Kendrick, of the Inland Coal & Dock Company. Said Heiner and Kendrick, however, had held office only since July 11, 1922, when they were elected to succeed W. W. Broughton and E. A. Uhrig. Among the declared purposes of said association are (1) to promote the interests of its members and their employees, (2) to meet in conference for the discussion and dissemination of information relative to the best methods of conducting business from the standpoint of practical experience, and (3) to secure and disseminate as complete information as possible relative to market conditions. Annual, monthly and weekly meetings of representatives of respondent companies and of other members of respondent association are held. A credit bureau is main-

Findings.

8 F. T. C.

made on account of differences in the grade, quality or quantity of the commodities sold, nor did it make only due allowance for difference in the cost of selling or transportation, nor was it made in good faith to meet competition and in the selection of customers in bona fide transactions.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions 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 an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," the Federal Trade Commission issued and served a complaint against respondents, Pittsburgh Coal Co., of Wisconsin, a corporation; Northwestern Fuel Co., a corporation; C. Reiss Coal Co., a corporation; Clarkson Coal & Dock Co., a corporation; M. A. Hanna Coal & Dock Co., a corporation; Carnegie Dock & Fuel Co., a corporation; Berwind Fuel Co., a corporation; Northern Coal & Dock Co., a corporation; Great Lakes Coal & Dock Co., a corporation; Pittsburgh & Ashland Coal & Dock Co., a corporation, and Northwestern Coal Dock Operators Association, its officers, directors and members, charging them with the use of unfair methods of competition in commerce in violation of the provisions of Section 5 of said Act of Congress approved September 26, 1914, and with violation of the provisions of Section 2 of said Act of Congress approved October 15, 1914.

Respondents having entered their appearance and filed their answers, hearings were had and oral and documentary testimony introduced in support of the complaint and of the answers of respondents before Web Woodfill and John W. Addison, examiners heretofore duly appointed. At these hearings Everett F. Haycraft appeared for the Commission; Davis, Severance & Morgan for all respondents; Bowler & Bowler appeared for respondent C. Reiss Coal Co.; Boyesen, Otis, Brill & Faricy appeared for respondents Clarkson Coal & Dock Co., and Pittsburgh & Ashland Coal & Dock Co., and Lancaster, Simpson, Junell & Dorsey appeared for respondent Pittsburgh Coal Co.

This proceeding having come on for final hearing and the Commission having heard argument of counsel and duly considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusions:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, Northwestern Coal Dock Operators' Association is a voluntary unincorporated association of coal dock operators organized by coal dealers, including the ten respondent companies named in the foregoing caption and described in paragraph 2 hereof, except said Clarkson Coal & Dock Company and said Pittsburgh & Ashland Coal & Dock Company (each of the two last-named companies, however, is successor to another company of the same name that it now bears and both of these predecessor companies were among the organizers or early members of said association in the year 1914), with its principal office located in the city of Minneapolis, in the State of Minnesota. Its duly and regularly elected secretaries since March 1, 1916, have been W. H. Groverman, who held office from said date to July, 1921; W. A. Prinsen, who held office from July, 1921, to December, 1922, and W. P. Ellis, who is the present secretary and has held office since August 1, 1923. At the date of the complaint in this proceeding, J. L. McMahon, of the Youghioghenny & Ohio Coal Company, owner of the respondent, Northern Coal & Dock Co., was its vice president, and Henry E. Smith, of the M. A. Hanna Coal & Dock Co., was its president and had held this office since July 11, 1922. He was preceded in said office by W. W. Broughton, president of the Pittsburgh Coal Company. Its directors when the complaint was issued, who together with said officers are charged with, and engaged in, the management and direction of its affairs and in this behalf represent all its members, were Peter Reiss, of the C. Reiss Coal Co.; Henry E. Smith; E. M. Saunders, jr., of the Northwestern Fuel Company; J. L. McMahon; F. G. Hartwell of the Berwind Fuel Company; W. H. Godwin, of the Carnegie Dock & Fuel Company; E. E. Heiner of the Superior Coal & Dock Company; and E. S. Kendrick, of the Inland Coal & Dock Company. Said Heiner and Kendrick, however, had held office only since July 11, 1922, when they were elected to succeed W. W. Broughton and E. A. Uhrig. Among the declared purposes of said association are (1) to promote the interests of its members and their employees, (2) to meet in conference for the discussion and dissemination of information relative to the best methods of conducting business from the standpoint of practical experience, and (3) to secure and disseminate as complete information as possible relative to market conditions. Annual, monthly and weekly meetings of representatives of respondent companies and of other members of respondent association are held. A credit bureau is main-

Findings.

8 F. T. C.

made on account of differences in the grade, quality or quantity of the commodities sold, nor did it make only due allowance for difference in the cost of selling or transportation, nor was it made in good faith to meet competition and in the selection of customers in bona fide transactions.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions 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 an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," the Federal Trade Commission issued and served a complaint against respondents, Pittsburgh Coal Co., of Wisconsin, a corporation; Northwestern Fuel Co., a corporation; C. Reiss Coal Co., a corporation; Clarkson Coal & Dock Co., a corporation; M. A. Hanna Coal & Dock Co., a corporation; Carnegie Dock & Fuel Co., a corporation; Berwind Fuel Co., a corporation; Northern Coal & Dock Co., a corporation; Great Lakes Coal & Dock Co., a corporation; Pittsburgh & Ashland Coal & Dock Co., a corporation, and Northwestern Coal Dock Operators Association, its officers, directors and members, charging them with the use of unfair methods of competition in commerce in violation of the provisions of Section 5 of said Act of Congress approved September 26, 1914, and with violation of the provisions of Section 2 of said Act of Congress approved October 15, 1914.

Respondents having entered their appearance and filed their answers, hearings were had and oral and documentary testimony introduced in support of the complaint and of the answers of respondents before Web Woodfill and John W. Addison, examiners heretofore duly appointed. At these hearings Everett F. Haycraft appeared for the Commission; Davis, Severance & Morgan for all respondents; Bowler & Bowler appeared for respondent C. Reiss Coal Co.; Boyesen, Otis, Brill & Faricy appeared for respondents Clarkson Coal & Dock Co., and Pittsburgh & Ashland Coal & Dock Co., and Lancaster, Simpson, Junell & Dorsey appeared for respondent Pittsburgh Coal Co.

This proceeding having come on for final hearing and the Commission having heard argument of counsel and duly considered the record and being now fully advised in the premises, makes this its findings as to the facts and conclusions:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent, Northwestern Coal Dock Operators' Association is a voluntary unincorporated association of coal dock operators organized by coal dealers, including the ten respondent companies named in the foregoing caption and described in paragraph 2 hereof, except said Clarkson Coal & Dock Company and said Pittsburgh & Ashland Coal & Dock Company (each of the two last-named companies, however, is successor to another company of the same name that it now bears and both of these predecessor companies were among the organizers or early members of said association in the year 1914), with its principal office located in the city of Minneapolis, in the State of Minnesota. Its duly and regularly elected secretaries since March 1, 1916, have been W. H. Groverman, who held office from said date to July, 1921; W. A. Prinsen, who held office from July, 1921, to December, 1922, and W. P. Ellis, who is the present secretary and has held office since August 1, 1923. At the date of the complaint in this proceeding, J. L. McMahon, of the Youghioghenny & Ohio Coal Company, owner of the respondent, Northern Coal & Dock Co., was its vice president, and Henry E. Smith, of the M. A. Hanna Coal & Dock Co., was its president and had held this office since July 11, 1922. He was preceded in said office by W. W. Broughton, president of the Pittsburgh Coal Company. Its directors when the complaint was issued, who together with said officers are charged with, and engaged in, the management and direction of its affairs and in this behalf represent all its members, were Peter Reiss, of the C. Reiss Coal Co.; Henry E. Smith; E. M. Saunders, jr., of the Northwestern Fuel Company; J. L. McMahon; F. G. Hartwell of the Berwind Fuel Company; W. H. Godwin, of the Carnegie Dock & Fuel Company; E. E. Heiner of the Superior Coal & Dock Company; and E. S. Kendrick, of the Inland Coal & Dock Company. Said Heiner and Kendrick, however, had held office only since July 11, 1922, when they were elected to succeed W. W. Broughton and E. A. Uhrig. Among the declared purposes of said association are (1) to promote the interests of its members and their employees, (2) to meet in conference for the discussion and dissemination of information relative to the best methods of conducting business from the standpoint of practical experience, and (3) to secure and disseminate as complete information as possible relative to market conditions. Annual, monthly and weekly meetings of representatives of respondent companies and of other members of respondent association are held. A credit bureau is main-

Findings.

8 F. T. C.

tained and the secretary of respondent association is required to advise, and occasionally does advise, members as to proposed legislation which may affect their interests, and said secretary is authorized to examine the books of the members of said respondent association and to verify the information which each member is required to file with said secretary, although the authority to examine books has not been exercised. Said respondent companies and other members of respondent association are required to pay into the treasury of said respondent association minimum annual dues of \$500 each and such further assessments in proportion to the tonnage of coal handled by each member over its docks as may be levied to cover the expenses of the association. The dues and assessments collected from the larger individual companies have exceeded \$9,000 each in some years and the total dues and assessments collected by said respondent association for the year ended July 1, 1920, exceeded \$50,000 and \$40,000 each in the preceding and succeeding year. In 1921 the salary of the secretary was reduced to \$5,000 a year and revised by-laws limited the total normal association expenses to \$20,000 per year and provided that special expenses for other purposes must be specifically authorized by the board of directors and approved by the members, but the dues and assessments collected exceeded \$23,000 for the following year and \$25,000 for the year ended July 1, 1923.

PAR. 2. Said respondent companies are all members of said respondent association and are corporations organized under the laws of the States, and having their respective principal business offices at the places indicated below:

	State of incorporation	Principal office
Pittsburgh Coal Co. of Wisconsin.....	Wisconsin.....	Minneapolis, Minn.
Northwestern Fuel Co.	Wisconsin.....	St. Paul, Minn.
C. Reiss Coal Co.	Wisconsin.....	Sheboygan, Wis.
Clarkson Coal & Dock Co.	Delaware.....	St. Paul, Minn.
M. A. Hanna Coal & Dock Co.	Ohio.....	Cleveland, Ohio.
Carnegie Dock & Fuel Co.	Pennsylvania.....	Pittsburgh, Pa.
Berwind Fuel Co.	Wisconsin.....	Chicago, Ill.
Northern Coal & Dock Co.	Ohio.....	St. Paul, Minn.
Great Lakes Coal & Dock Co.	Minnesota.....	Minneapolis, Minn.
Pittsburgh & Ashland Coal & Dock Co.	Ohio.....	Cleveland, Ohio.

Said Hanna Company maintains a branch office in the city of St. Paul, Minn., and said Reiss, Carnegie, Berwind, and Pittsburgh & Ashland companies each maintains a branch office in the city of Minneapolis, Minn. Said Clarkson Coal & Dock Company commenced business in June, 1921. It took over the physical assets of Clarkson Coal & Dock Company of Wisconsin and of Clarkson

Coal & Dock Company of Minnesota, and succeeded to the business of these two corporations. The Wisconsin corporation was a dock operator merely and was not a member of respondent association, but the Minnesota corporation was a selling organization and belonged to respondent association. The stockholders in the Wisconsin corporation and the Minnesota corporation were not identical. There was a stockholder in the Minnesota corporation who had no stock in the Wisconsin corporation and there was a stockholder, or stockholders, in the Wisconsin corporation who had no stock in the Minnesota corporation, but Messrs. Worrell Clarkson and J. A. Vaughan, president and vice president, respectively, of said respondent Clarkson Coal & Dock Company held similar offices in both of said predecessor companies. Said Clarkson is the principal stockholder in the present company and was such in both of the predecessor companies, and said Vaughan has been actively engaged in the management of both the Minnesota corporation and the present company; the said respondent Pittsburgh & Ashland Coal & Dock Company was not organized as at present until August, 1917. Said respondent Berwind Fuel Company does not deal in anthracite coal. Each of the ten said respondent companies, except as just noted with respect to said Clarkson, Pittsburgh & Ashland, and Berwind Companies, was at all times hereinafter mentioned, and still is, engaged in the business of dealing in bituminous and anthracite coal at wholesale, selling to retail dealers through the territory comprising the States of Wisconsin, Minnesota, North and South Dakota and portions of the States of Iowa and Nebraska hereinafter referred to as the northwest territory, and of dealing in bituminous and anthracite coal at retail, selling directly to consumers and through its retail yards in one or more of the cities of Duluth, Minneapolis and St. Paul, Minn.; and said Clarkson Coal & Dock Company, the Minnesota predecessor of said respondent Clarkson Coal & Dock Company was similarly engaged in the business of dealing in bituminous and anthracite coal at wholesale selling to retail dealers and car-lot consumers in said territory until it was taken over by said respondent Clarkson Coal & Dock Company. Some of said respondent companies have from time to time during the period herein specified temporarily withdrawn their membership from said association. Respondents, Pittsburgh Coal Company, C. Reiss Coal Company and Northern Coal & Dock Company were thus out of the association in July, 1921, and had been out for more than a year.

PAR. 3. All of said respondent companies named in the caption hereof and described in the preceding paragraph in the course and

Findings.

8 F. T. C.

conduct of their said business, at all time as specified in the preceding paragraph, have, except as hereinafter noted and excepted, purchased and still purchase said types of coal dealt in by them from the parent corporations and other operators of mines located in one or more of the States of Pennsylvania, West Virginia, Ohio and Kentucky, loaded on board steamers at Lake Erie ports, and have thereafter caused, and still cause, said coal to be transported by steamer to their ports on the shores of Lake Superior and/or Lake Michigan, where each of said companies maintains a dock or docks for receiving and storing said coal purchased by it for distribution at wholesale and retail in said territory as aforesaid at one or more of the following places: Milwaukee, Sheboygan, Ashland, Washburn, and Superior, in the State of Wisconsin, and Duluth in the State of Minnesota, and where said coal is unloaded on said docks; and there was at all times herein mentioned, and still is, a constant current of trade and commerce in said coal by the said respondent companies between and among various States of the United States; and these said respondents were at all times herein mentioned, and still are, the largest distributors of bituminous and anthracite coal in said territory, handling in the aggregate approximately 80 per cent of all the said types of coal passing over the docks located at the said cities on the water fronts of Lakes Michigan and Superior. In good years, they sell more than seven million tons of bituminous coal and more than two million tons of anthracite. Said respondent companies were at all times herein mentioned in competition with small dock companies distributing bituminous and anthracite coal in said territory and with jobbers and retailers of coal shipped by rail from coal fields in Southern Illinois, Indiana, Kentucky, and elsewhere. Said exceptions apply to respondents Northwestern Fuel Co., Carnegie Dock & Fuel Co., Northern Coal & Dock Company and Great Lakes Coal & Dock Company who do not buy and sell anthracite coal at wholesale as aforesaid but deal in and distribute anthracite coal at wholesale on consignment or as agents for companies located in the State of New York and to respondent Clarkson Coal & Dock Company and respondent Pittsburgh & Ashland Coal & Dock Company who from time to time purchase their supplies of anthracite coal from other operators of docks at the head of Lake Superior and from time to time cause the anthracite coal which they purchase in the eastern market as aforesaid to be shipped either by steamer to their docks at the head of Lake Superior as aforesaid or by all-rail routes into the said territory where they are conducting their business.

PAR. 4. For some time prior to the date of the organization of the respondent association the respondent companies were not satisfied with competitive conditions in the said northwest territory in the sale and distribution of coal. At that time sales were made by respondent companies of domestic and steam coal to retail dealers and large consumers located in the cities, towns and villages in said territory but the principal markets for steam coal, including particularly screenings, run of mine and lump size of the Youghiogheny, Hocking, Pocahontas or smokeless and Kentucky coal were the cities of St. Paul and Minneapolis hereinafter referred to as the Twin Cities and the city of Duluth in the State of Minnesota. Generally sales were made direct to the large consumers such as electric light plants, flour mills and factories where such institutions had sidetrack facilities and the coal could be unloaded directly into the consumer's bin. In the cities and towns however there always were a number of industrial concerns and municipal plants that did not have sidetrack facilities and delivery of the coal from the car to the bin was necessary. This business was always desired and sought after by the retail dealers who usually entered into contracts with the dock companies including the respondents for their season's requirements of coal, including the coal they expected to sell to such institutions. It was customary for the respondent companies to issue circulars or price lists from time to time containing prices at which they would sell the different kinds of coal to the retail dealers or large consumers with sidetrack facilities. Salesmen also were sent out by the respondent companies into the field who called upon the trade and solicited business of the retail dealers and large consumers. From time to time there developed among the respondent companies and others engaged in the wholesaling and retailing of coal in said northwest territory certain competitive practices which were in the opinion of the officials of said respondent companies, unethical, unjust and unfair. Among such competitive practices which the said respondent companies sought to eliminate by co-operative effort in the organization of the respondent association were the following:

(a) For some time prior to the organization of respondent association it was quite a common practice for salesmen of the respondent companies, with the permission of the officials of the respondent companies to grant to jobbers and some retail dealers and other customers, commissions, allowances or concessions from the circular or list price. There were certain dealers known as line-yard companies which had a number of retail coal and lumber yards scattered throughout the territory and which quite regularly demanded and

Findings.

8 F. T. C.

received from respondent companies such commission, allowances or concessions, and also retail dealers in the Twin Cities were accustomed to request and receive such commissions, allowances or concessions, and as a result price competition had become very keen between and among the respondent companies in the sale of coal to jobbers, retail dealers, municipalities and other large steam coal users.

(b) Another competitive practice which made price competition among respondent companies very keen was that of furnishing coarser grades of coal to customers than was specified in the order. It appears that most of the coal sold by respondent companies is purchased from affiliated mining companies located in the eastern States, including particularly Pennsylvania, Ohio, and West Virginia and brought over the Great Lakes to the docks operated by the respondent companies as "run of mine" or "run of pile" and there the coal is separated by screening into the various sizes demanded by the trade. The prepared sizes always brought higher prices than the screenings that were left so that for a dock company to furnish a large percentage of prepared coal in the screenings amounted either to a discrimination or outright cut in price either of which had a tendency to lower the market.

(c) Another competitive practice employed by some of the respondent companies having a tendency to lower the market and increase competition was that of overguaranteeing heat value of coal sold to institutions where a British thermal unit guarantee was required in making bids. The result of this practice was that the purchaser of the coal deducted the difference between the number of heat units per ton guaranteed and those actually produced by the coal delivered. The dock company in making the guarantee well knew that the coal sold would not produce the number of heat units guaranteed and expected to have deductions made from the price at which the business was obtained and used this method of underbidding his competitor.

(d) Another competitive practice often employed by some of the respondent companies, although against their avowed general policy, was the selling of coal to retail dealers outside of the Twin Cities who were not equipped with sheds or scales, the usual equipment of recognized retail dealers. These unequipped dealers would try first one dock company and then another, and often when coal was plentiful they were successful in obtaining shipments from some of the respondent companies. These unequipped dealers then sold this coal at prices lower than the prices charged by the equipped dealers which caused much dissatisfaction in the regular retail trade generally.

(e) Another competitive practice employed by some of the respondent companies although apparently against their avowed general policy, was that of making sales of coal to large consumers in towns and villages outside of the Twin Cities and Duluth, who had no sidetrack facilities and it was necessary to deliver the coal from the car to the bin by means of trucks or wagons. The retail dealers located in such towns and villages objected to this practice and asked that no shipments be made to such consumers. In the Twin Cities, however, most of the respondent companies had retail departments of their own and solicited the business of the consumers of steam coal requiring team delivery in competition with the so-called independent retail dealers who purchased the coal from respondent companies to be resold to the consuming trade generally. Due to the concessions these independent dealers received from the respondent companies, as set forth in subparagraph (a) hereof, and the ability to contract for the season's requirements, these independent dealers in the Twin Cities were able to and did often sell to the consumers requiring team delivery at lower prices than those quoted by the respondent companies to that class of trade.

(f) Another practice quite prevalent among retail dealers and which was objected to by some of the respondent companies was that of the retail dealers making two or more contracts with dock companies to cover his requirements so as to make sure he received sufficient coal, then when one of the dock companies had made delivery on the contract he would cancel the contract with the other dock company. These contracts compelled the dock companies to keep more coal on hand than was necessary to supply the market, which surplus coal usually deteriorated in value or had to be sold at lower prices thus having a tendency to lower the general coal market.

(g) Another practice in the trade which annoyed the respondent companies was the practice by large consumers such as cooperative creameries, flour mills, etc., of reselling the coal purchased from respondent companies to smaller consumers thus interfering with the business of regular retail dealers in that locality who complained to the respondent companies and objected to sales being made to such large consumers.

PAR. 5. Said respondent companies cooperating with each other and with and through and by means of the respondent associations and otherwise at the time of the organization of the respondent association and periodically thereafter have entered into understandings and agreements to eliminate and crush out the various competitive practices outlined and described in paragraph 4 hereof, and to eliminate all price competition between and among the said

Findings.

8 F. T. C.

received from respondent companies such commission, allowances or concessions, and also retail dealers in the Twin Cities were accustomed to request and receive such commissions, allowances or concessions, and as a result price competition had become very keen between and among the respondent companies in the sale of coal to jobbers, retail dealers, municipalities and other large steam coal users.

(b) Another competitive practice which made price competition among respondent companies very keen was that of furnishing coarser grades of coal to customers than was specified in the order. It appears that most of the coal sold by respondent companies is purchased from affiliated mining companies located in the eastern States, including particularly Pennsylvania, Ohio, and West Virginia and brought over the Great Lakes to the docks operated by the respondent companies as "run of mine" or "run of pile" and there the coal is separated by screening into the various sizes demanded by the trade. The prepared sizes always brought higher prices than the screenings that were left so that for a dock company to furnish a large percentage of prepared coal in the screenings amounted either to a discrimination or outright cut in price either of which had a tendency to lower the market.

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(d) Another competitive practice often employed by some of the respondent companies, although against their avowed general policy, was the selling of coal to retail dealers outside of the Twin Cities who were not equipped with sheds or scales, the usual equipment of recognized retail dealers. These unequipped dealers would try first one dock company and then another, and often when coal was plentiful they were successful in obtaining shipments from some of the respondent companies. These unequipped dealers then sold this coal at prices lower than the prices charged by the equipped dealers which caused much dissatisfaction in the regular retail trade generally.

(e) Another competitive practice employed by some of the respondent companies although apparently against their avowed general policy, was that of making sales of coal to large consumers in towns and villages outside of the Twin Cities and Duluth, who had no sidetrack facilities and it was necessary to deliver the coal from the car to the bin by means of trucks or wagons. The retail dealers located in such towns and villages objected to this practice and asked that no shipments be made to such consumers. In the Twin Cities, however, most of the respondent companies had retail departments of their own and solicited the business of the consumers of steam coal requiring team delivery in competition with the so-called independent retail dealers who purchased the coal from respondent companies to be resold to the consuming trade generally. Due to the concessions these independent dealers received from the respondent companies, as set forth in subparagraph (a) hereof, and the ability to contract for the season's requirements, these independent dealers in the Twin Cities were able to and did often sell to the consumers requiring team delivery at lower prices than those quoted by the respondent companies to that class of trade.

(f) Another practice quite prevalent among retail dealers and which was objected to by some of the respondent companies was that of the retail dealers making two or more contracts with dock companies to cover his requirements so as to make sure he received sufficient coal, then when one of the dock companies had made delivery on the contract he would cancel the contract with the other dock company. These contracts compelled the dock companies to keep more coal on hand than was necessary to supply the market, which surplus coal usually deteriorated in value or had to be sold at lower prices thus having a tendency to lower the general coal market.

(g) Another practice in the trade which annoyed the respondent companies was the practice by large consumers such as cooperative creameries, flour mills, etc., of reselling the coal purchased from respondent companies to smaller consumers thus interfering with the business of regular retail dealers in that locality who complained to the respondent companies and objected to sales being made to such large consumers.

PAR. 5. Said respondent companies cooperating with each other and with and through and by means of the respondent associations and otherwise at the time of the organization of the respondent association and periodically thereafter have entered into understandings and agreements to eliminate and crush out the various competitive practices outlined and described in paragraph 4 hereof, and to eliminate all price competition between and among the said

Findings.

8 F. T. C.

respondent companies. Pursuant to and in carrying out said understandings or agreements said respondent companies have performed the following acts and things in the manner indicated, to wit:

(a) A so-called credit and collection bureau was established by respondent association on January 11, 1915, which said bureau not only secured and disseminated credit information to and from the said members, but was also utilized to secure and disseminate information with respect to the business equipment and trade practices of retail dealers outside of the Twin Cities and Duluth. On October 5, 1915, the manager of this so-called credit and collection bureau was required to make a detailed statement covering the period from September 1, 1914, to August 31, 1915, showing the number of voluntary reports submitted by each member of the association, such reports to show further the character of the reports submitted, to wit, reasons for refusal of credit, unsatisfactory conditions of accounting and "unjust practices of retail dealers." A copy of this report was sent to each member of the association by the manager of the bureau. In the fall of 1916 the credit and collection bureau was placed in the direct charge of the secretary who thereafter continued the collection and dissemination of such information from and to the members of respondent association.

(b) After thorough discussions at meetings of officers and directors and the executive committee of the respondent association, said respondent companies during the year 1916 adopted, and have since maintained generally, the policy of refusing to grant commissions, allowances or concessions to jobbers, line-yard companies, and other retail dealers; of refusing to sell and ship coal to persons located outside of the Twin Cities and Duluth, Minn., purporting to be dealers, but who were not equipped with sheds and scales, the usual equipment of a retail coal dealer; of recognizing all municipal steam business requiring team delivery to be a prospect of local retail dealers and of not soliciting such business direct; of refusing to enter into any contracts with retail dealers for future delivery except where the coal to be delivered under said contracts is required by said retail dealers for delivery to public utilities or in some instances to customers having specific tonnage requirements for which said local retail dealers had contracts; of using uniform contracts in the sale of coal to large consumers which contained a clause restricting the use of said coal to some particular plant and prohibiting its diversion to other purposes; of observing established uniform maximum limits to be used for bidding on contracts requiring British thermal unit guarantees.

(c) Said respondent companies at formal meeting of the association in December, 1916, agreed that all accounts with retail dealers and other customers be considered due on the 15th day of the month following the shipments of the coal to said companies, and further agreed to file with the secretary of respondent association a list of all such accounts unpaid on the 15th day of the second month following the shipments. A form of contract containing provisions requiring the purchaser to agree to pay for all coal delivered, on or before the 15th day of the month succeeding the day of the shipment of the coal has been adopted and universally used by the respondent companies.

(d) After a thorough discussion at formal meeting, and consideration by special committee duly appointed, said respondent association adopted rules in 1917 requiring all respondent companies to standardize the size of coal being manufactured and sold by them into three sizes. The minutes of the association summarized the discussion which took place with respect to this action as follows:

The importance of establishing a standard size for all the different coals as made at the Head of the Lakes was fully brought out during the discussion and one of the chief reasons for such work was that under the present conditions where several sizes were made and sold under the same name, it was perfectly possible and somewhat of a practice to use a coarser grade of coal as a method of cutting the price, the same as the practice of raising the heat value to a point where a known penalty was unavoidable, and securing contracts under an inflated guarantee realizing it as a cut price.

(e) The respondent companies furnished to the secretary of the respondent association the names of retail dealers and other customers who were delinquent in paying accounts before the 15th day of the second month following the shipment of coal, also full information with respect to their refusal to sell to retail dealers who were not properly equipped or who had violated their contracts by diverting shipments of coal and selling said coal below retail price established by local retail dealers, or where some competing dock company had solicited business direct from steam consumers requiring delivery, and other instances where competing dock companies of the respondent association had violated the avowed policy adopted by them as set forth heretofore in this paragraph, whereupon the secretary of said respondent association upon receipt of the names of delinquent or offending dealers or customers published said names, together with the statements made by the respondent companies in their reports to the said secretary, and in 1915 and 1916 furnished to respondent companies complete lists of all retail dealers or customers to whom said respondent companies had refused to sell coal

Findings.

8 F. T. C.

for any reason whatsoever with keys thereto indicating the reasons for said refusals; this work with the exception of the distribution of the lists just described, the secretary has continued uninterruptedly throughout the respondent association's existence and without any changes until February, 1922, when, during the investigation of respondent association, restrictions were placed upon the character of the information to be distributed by said secretary to the members of said respondent association.

(f) Said respondent association in March, 1916, established in the office of its secretary a statistical bureau based upon the "open price competition plan." Prior to the establishment of this bureau at the October, 1915, meeting of the respondent association, Mr. C. M. Moderwell, president of the Franklin County Operators' Association of Illinois, addressed the members explaining the operation of the Franklin County Association, which he stated was based upon the "open price competition plan." Mr. Moderwell stated in his address:

The whole scheme is based on mutual confidence in each other * * * while we do not make agreements we do not attempt to conceal the fact that we are trying to accomplish indirectly what the law does not permit us to accomplish by means of agreements.

At the conclusion of his address, Mr. Moderwell was asked a number of questions by officials of respondent companies and a general discussion took place. It was brought out in this discussion by officials and members of respondent association that in the said northwest territory there had been years when everybody in the trade paid the same price for their coal requirements, but that in late years retail trade, villages and small steam contracts, have been sold on the basis of the best price obtainable. Such a condition was considered "A thorn in the flesh." The sentiment was also expressed at this meeting that something definite and active had to be done to remedy the so-called disastrous conditions which then existed and had existed for two years, and that the managers of the respondent companies must without further delay cooperate fully and freely. Pursuant to this sentiment a committee was appointed by the president of the respondent association at the November, 1915, meeting to formulate a plan along the lines of the Franklin County Illinois Association. This committee reported at the December, 1915, meeting and submitted such a plan which was thoroughly discussed and partially adopted. It was stated when the plan was adopted that the data required under the plan from the various members were for the main object "of competing under conditions that enabled each to know and fairly judge what the other is doing. The whole

fabric of this plan which embodies the true essence of competition is knowledge and frankness." On March 1, 1916, Mr. W. H. Groverman, an experienced coal man, formerly northwest manager of the Island Creek Coal & Sales Company, was made secretary of respondent association with a salary of \$10,000 per year and placed in charge of the statistical bureau; and the by-laws of the association were amended on that date as follows:

Reports by members: Each member shall file with the secretary the following information, on blanks to be furnished by the secretary.

1. Monthly reports.

(a) Such data relative to safety methods as may be from time to time prescribed by the membership.

(b) Such data relative to cost of operation and distribution as may be from time to time prescribed by the membership.

(c) Total stocks on hand as shown on last report by grades.

(d) Total cargo receipts during month by grades.

(e) Total coal reloaded during month by grades.

(f) Balance on hand by grades.

(g) Obligations against balance on hand showing railroad and commercial coals separately by grades.

(h) Free coal.

2. Weekly reports.

(a) At the end of each week statement showing number of cars each grade booked for shipment during following week.

(b) Statement showing total number of tons shipped that week by grades and the amount received for same. Also the average price per ton for each grade.

3. Daily reports.

(a) Daily statements of all coal sold, giving number of cars and grade, class of customer, price and copies of acknowledgments.

(b) Daily statement of number of cars shipped giving price and grade with copies of invoices.

(c) List of contracts extending beyond April 1st, 1916, and copies of all new contracts thereafter as made.

All data so furnished to the secretary is to be the sole property of the member filing same, and is not to be shown by the secretary to any person, member or otherwise, without the express permission of the member owning such data. The secretary shall be authorized at reasonable times and places, to examine such books, records and documents belonging to the respective members as may be necessary to verify any reports submitted to him by such member or members, respectively; but in such event his access to books, records and documents belonging to members shall be limited to those which may be necessary to examine to verify the particular report then under investigation.

The information contemplated by the amended by-laws was supplied by the members of said respondent association to the secretary

Findings.

8 F. T. C.

and by him consolidated and distributed to the members in reports showing aggregate results, but not showing results for individual companies. Among the reports issued by the secretary of said respondent association was a consolidated report of contracts for future delivery of coal with price and tonnage and names of customers which enabled the members to protect themselves against competitive practice referred to in subparagraph (f), paragraph 4 hereof, it being understood that said respondent companies would refuse to enter into, and they did refuse to enter into contracts with dealers or customers who were shown by the association's reports to have already contracted with another dock company for their requirements.

(g) Pursuant to the said plan adopted by the respondent association, as outlined in subparagraph (f) in May, 1916, said respondent association required its members to submit to the secretary the costs covering the operation of retail yards owned or controlled by such respondent companies in the Twin Cities. These costs were then compiled by the secretary into a consolidated report for the mutual benefit of the officials of said respondent companies in their discussions at weekly meetings of the association and its board of directors and executive committee. In the consideration of such a report at a regular meeting of the respondent association held in December, 1916, the secretary was authorized and requested to obtain detailed statements from the members of said association containing the different items which made up the selling cost as reported by the respondent companies, said statements to be used in the discussion of costs at later meetings. Finally, as a result of activities of the secretary of respondent association, and a special committee appointed for that purpose, a system of uniform cost accounting was prepared and submitted to the members of respondent association in April, 1917. By this system each of the respondent companies followed the same method in figuring the cost of operating their docks and selling the coal to all classes of trade. The monthly reports from the various companies were consolidated by the secretary and distributed to members of the respondent association in reports showing average costs without showing the separate cost of the respondent companies who reported to the secretary. This cost accounting system was improved upon from time to time and was utilized by the association in co-operating with the U. S. Fuel Administration during the World War from the latter part of the year, 1917, until the early spring of 1919. In 1919 these cost statements were furnished to the secre-

tary of respondent association for consolidation and dissemination to assist respondent companies in fixing their margins of profit.

(h) On or about April 1, 1920, the District Court of Tennessee handed down a decision declaring the American Hardwood Manufacturers' Association, which operated on what was known as the open competition plan, to be operating in violation of the Federal antitrust act, known as the Sherman law. Thereafter on or about April 8, 1920, at the instructions of the then president of the said respondent association the secretary discontinued making the following reports to members of the respondent association: Daily report of orders taken, compiled on forms A-100 and B-100 and daily report of invoices covering shipments made on forms A-101 and B-101. At that time, however, the secretary continued to disseminate the following information: "Weekly shipments of coal by States, Form C; monthly tonnage report, 107-D; all credit and collection information including detailed monthly report of past due accounts, statement of cargo receipts." At that time and thereafter the members of the said respondent association discontinued furnishing the same type of information that the secretary discontinued compiling but continued to furnish the information which the secretary thereafter compiled and disseminated as above indicated. The secretary of the said respondent association also about that same time discontinued the furnishing of consolidated cost statements to the members of respondent association but still required said members to furnish to him the same cost data that they had been furnishing in the past. No official action was taken at that time by the association with respect to collection and dissemination of such information.

(i) On or about June 1, 1916, and periodically thereafter at the meetings of officers, directors and the executive committee of said respondent association, representatives of said respondent companies discussed market and trade conditions, particularly the available supply of coal and the prices at which the various kinds and sizes were being sold; and in the year 1916 said respondent companies adopted the policy, which they have since enforced, of informing each other of any proposed change in prices in effect or being quoted to the trade, and to exchange with each other typewritten and printed lists or circulars containing prices before they were issued to the trade, with the understanding that such prices would be maintained by the respective companies, for the purpose of making more uniform said prices then in effect or being quoted to the trade. As a result respondent companies issued price lists or circulars containing practically uniform prices, f. o. b. docks, on the principal kinds and sizes

Findings.

S F. T. C.

of coal on April 1, 1916, and at the beginning of each coal shipping season thereafter, and as the seasons advanced, changes in prices were made by respondent companies at or about the same time so that the prices in effect or being quoted to the trade were practically uniform at all times excepting during the season of 1920 and between June 1 and August 1 of the season of 1921, when due to conditions outlined in paragraph 6 hereof, said policy was not enforced. On August 1, 1921, uniform price lists containing changes from previous lists were issued by respondent companies, following meetings by respondent association held July 12 and 19, 1921.

Evidence was introduced by respondent companies to show that price competition existed between respondent companies but an analysis of this evidence shows that while competition was not entirely eliminated between the respondent companies, the wholesale prices quoted for the various kinds of bituminous coal were substantially maintained throughout the period covered by the complaint (with the exceptions noted above) and were quite uniform, although not so uniform in 1922 as in 1918 and 1919 and previous years, but more uniform in 1922 than 1920 and 1921. Evidence submitted by respondent companies also shows that the prices of bituminous coal quoted to steam consumers in the Twin Cities were not generally maintained by respondent companies during 1921 and 1922 and that very few sales of such coal were made to the Twin City dealers during that period of time. The Twin Cities were considered an "open" market by respondent companies as a part of their policy set forth in paragraph 6 hereof.

(j) Except as otherwise indicated herein respondent companies continued to maintain and enforce the policies adopted by them as heretofore set forth in this paragraph, and the secretary of respondent association continued to cooperate with them in the enforcement of said policies with the result that said jobbers, line-yard companies and retail dealers generally have been unable to obtain commissions, concessions or allowances from circular or list prices from respondent companies which are usually uniform and are unable to make contracts with said respondent companies for future delivery of their season's requirements, and are thus deprived of the benefit of price and service competition between said respondent companies; also the so-called independent retail dealers located in the Twin Cities have been forced to substantially curtail their dealings in dock coal; also dealers outside of the Twin Cities in said northwest territory who are not fully equipped with sheds and scales have been unable to purchase coal from said respondent companies; also municipal plants and other steam coal consumers outside of

the Twin Cities who do not have side track facilities have been prevented from buying their requirements directly from the respondent companies, and have been compelled to purchase from local retail dealers who often take unreasonable profits; also some of said customers have been deprived of their right to dispose of said coal to others; also customers who required bidders to make British thermal unit guarantees have been deprived of the benefit of competition between respondent companies; and those customers who required long terms of credit have been deprived of the benefit of competition in this service, and competition generally between and among said respondent companies and also in the retail trade in the sale of coal in the said northwest territory has been substantially restricted, restrained and suppressed.

PAR. 6. In some seasons, during the period from 1916 to 1922, particularly during the years 1919-1921, due to economic conditions and competition from competitors who were not members of said respondent association and who did not maintain and enforce the competitive policies observed and maintained by members of respondent association, as set forth in paragraph 5 hereof, it was very difficult for said respondent companies to maintain and enforce the said policies, and maintain prices, and severe competitive measures were sometimes adopted to prevent said competitors from taking business away from respondent companies by quoting lower prices than those quoted by said respondent companies throughout said northwest territory. Instances when said respondent companies, cooperating with each other and through and by means of said respondent association adopted such measures against competitors are as follows:

1. So-called independent retail dealers in the Twin Cities because of their inability to obtain concessions from prices quoted on price lists and circulars by respondent companies since about the year 1916, and because of their inability to obtain contracts with respondent companies covering their season's requirements of dock coal since about the year 1916, had been forced to handle and deal in coal from Illinois and Indiana. During the period of the World War, and particularly during the year 1918 there was a shortage of bituminous coal handled by said respondent companies over the docks and sold in the northwest territory, and competing coal from Illinois and Indiana was shipped into that territory for both domestic and steam purposes, and business of the so-called independent retail dealers handling Illinois and Indiana coal in the Twin Cities was substantially expanded and the said Illinois coal in many instances displaced dock coal in the steam as well as the domestic market. This condi-

Findings.

S F. T. C.

tion of affairs was called to the attention of the respondent companies by the secretary of the respondent association in a paper which he read at the monthly meeting of the association held on March 4, 1919, which paper was subsequently distributed to each member of the association. In this paper it was pointed out that the docks operated by the respondent companies were manufacturing plants, the raw material being the run of mine or pile coal brought up over the lakes.

This raw material or run of pile coal was brought up here from the eastern mines to supply a competitive market and what is the competition? We all know that the competition is not in fastidious or premium sizes demanded by the public, whether for domestic or commercial purposes. We know that the competition and practically the only competition worthy of discussion in a general policy of this character is the competition of screenings from the Illinois mines. We also know a great deal about this competition of screenings from Illinois all rail to markets local to our docks. We know that in quality the eastern coals can overcome a certain number of cents per ton which we have always considered should not exceed a maximum of 90 cents delivered so that we now arrive at our second question to be considered in this dock policy.

It was then recommended by Mr. Groverman in this paper that the docks be considered manufacturing plants whenever they screened a run of pile coal and that screenings should be the basis of the price of the manufactured article because the screenings had to compete with Illinois screenings while the lump coal was made and shipped only upon orders filled. Dock screenings had largely been a by-product of handling coal at the docks with principal market in the Twin Cities. Under Mr. Groverman's plan the screenings would no longer be considered a by-product but the main product and serve as a basis for fixing of prices on prepared sizes. In this way the prepared sizes would advance in price to offset low prices on screenings, and the domestic coal users would pay more for their coal to enable the dock companies to drive out Illinois steam coal competition.

It does not appear that any formal agreement was entered into between or among respondent companies to adopt the plan of dock operation suggested by the secretary of the respondent association in the paper outlined just above, but practically all of the respondent dock companies reduced their price on screenings in the summer of 1919, and they increased the price of lump and prepared sizes used principally for domestic purposes. That the respondent companies succeeded, by cutting the prices on dock screenings in the summer and fall of 1919, in driving out Illinois coal from the Twin City market, was reported by the St. Paul manager of the respondent, C.

Reiss Coal Company in a letter to the main office of that company on August 4, 1919:

In St. Paul nearly all of the steam coal trade is now under contract and it seems to us that the thing for us to do now that we have been able to divert steam trade that used in previous years Illinois to dock coal, would be to foster and develop domestic trade and get that away from Illinois operators. There always has been a large demand for Illinois egg and nut size for domestic use and we are of the opinion that if we get the price of Hocking and stove too high at retail it will give Illinois coal that is being handled by such independent dealers as S. Brand, Williams, Holms and Hallowell and many others an opportunity to walk away with this business.

The price of lump size of Youghiogeny and Hocking coal used quite extensively for domestic purposes increased from \$5.35 and \$5.25 per ton respectively in April, 1919, to \$6 and \$5.75 per ton respectively in October, 1919, and even higher in November and December of that year and the price of smokeless (Pocahontas) lump size coal, an almost exclusively domestic coal, increased from \$7.35 per ton in April, 1919, to \$9 per ton in October, 1919, and the price of Kentucky coal also used almost exclusively for domestic purposes increased from \$6 per ton in April, 1919, to \$7 per ton in October, 1919. During the said period of time the price of screenings of these coals, which are used exclusively for steam purposes, did not correspondingly advance, and during the summer months the screenings sold for less than the prices quoted in April.

Respondent companies sold about 200,000 more tons of bituminous coal in the northwest territory in 1919 than they did in 1918, but they did not equal the total bituminous sales for the years 1915, 1916. In April of this same year the eastern mine operators, who for the most part own and control the respondent dock companies, passed a resolution calling upon the respondent companies to confine their own business dealings to the handling of coal passed over their docks, and as a result respondent companies in the aggregate handled about 40,000 tons of bituminous coal at Minneapolis and St. Paul in 1918, whereas, they had handled approximately 140,000 tons of Illinois and other all-rail bituminous coal during the year 1918. During the year 1922, however, due to shortage of dock coal the respondent companies were again compelled to handle Illinois coal through their retail departments.

2. Respondent companies, Pittsburgh Coal Co. of Wisconsin, Northwestern Fuel Co., and Carnegie Dock & Fuel Co., have at times during the years 1921 and 1922, sold bituminous coal in carload lots and at retail in said Twin Cities at prices less than said companies received for the same grades of coal at the same time, in same quantities, in carload lots and at retail in said city of Duluth,

Findings.

8 F. T. C.

and all of respondent companies, except Clarkson Coal & Dock Co. sold said coal in the said Twin Cities at less than their f. o. b. dock prices plus cost of transportation, overhead and yardage expenses.

Freight and war tax on prepared sizes of bituminous coal from Duluth and Superior to St. Paul and Minneapolis during the year ending April 1, 1922, were \$1.95 per ton to July 6, 1921, when they were raised to \$2.09 per ton. This rate was reduced to \$2.02½ on January 1, 1922, by the removal of said tax. The rates on screenings were the same as those on prepared sizes until July 30, 1921, when the screenings rate was fixed at \$1.89 which was reduced to \$1.83½ by the removal of the war tax. The teaming charge throughout the year was about 65 cents per ton.

The differences in selling price on steam delivered coal in favor of Twin City consumers are more marked on screenings than on prepared sizes of coal. Comparison of the prices on screenings during year ending April, 1922, shows differences in favor of the Twin Cities and against Duluth ranging from a few cents to \$2.75 per ton by the Northwestern Fuel Company and to \$2.29 per ton by the Pittsburgh Company, and \$2.34 by the Carnegie Company and does not disclose a single discrimination in favor of Duluth. Similar comparison of the prices of the Northwestern Fuel Co. for later months in 1922 and 1923 discloses differences up to \$2.15 per ton in favor of the Twin Cities and only one difference of 35 cents per ton in favor of Duluth. Figures were not available for the other two companies.

The yard administrative and selling expenses are not segregated so as to show these costs separately for coal for steam use and coal for domestic use, or for hard and soft coal but the yard, administrative and selling expenses on all types of coal handled as reported by seven of said respondent companies while varying widely for different companies, show simple averages of about \$1.17 per ton in 1921 and 97 cents per ton in 1922.

The vice president of the Carnegie Dock & Fuel Co. estimated that it cost three times as much to handle domestic coal as steam coal in the Twin Cities. Taking one-third of the average cost of the respondent companies as an estimated handling cost of steam coal in the Twin Cities, the respondent, Northwestern Fuel Co., during the coal year ending April, 1922, sold bituminous screenings in the Twin Cities to steam consumers at a loss during nine months of that year, and during the coal year 1923, it sold bituminous screenings at a loss during eight months of that year, and this same company, during the coal year ending April, 1922, sold lump coal at a loss during eight months of that year and during six months of the coal

year ending April, 1923. The Pittsburgh Coal Co. during the 1922 coal year on the same basis sold bituminous screenings at a loss during six months of that year and sold lump coal at a loss during ten months of that year. The M. A. Hanna Coal & Dock Co., during the 1922 coal year on the same basis sold screenings at a loss during six months of the year and sold lump coal at a loss during nine months of that year. The Northern Coal & Dock Co. during the coal year 1922 on the same basis sold lump coal at a loss during eight months. The C. Reiss Coal Co. during the 1922 coal year sold screenings at a loss during 11 months and lump coal at a loss during eight months. The Pittsburgh & Ashland Coal Co. during the coal year 1922 on this same basis sold bituminous lump coal at a loss during seven months of that year; the Carnegie Dock & Fuel Co. during the coal year 1922 on the same basis sold bituminous screenings at a loss during seven months of that year.

The best southern Illinois coal has from 81 per cent to 93 per cent of the heat value of the best Youghioghenny, Fairmont, Elkhorn or Splint dock coals and these dock coals possess other advantages over Illinois coal, yet said respondent companies have at times, particularly during summer seasons of 1919 and 1921 sold these dock coals to steam consumers in the Twin City market at prices as low or lower than the prices of southern Illinois coal in said market.

There is some conflict in the evidence in the record with respect to the selling prices on dock coal to steam consumers in the Twin Cities as compared with the sale prices of Illinois coal to the same class of trade, but the preponderance of evidence shows that the dock coal was often sold by respondent companies at or below the prices quoted and received on competing classes of Illinois coal, during the years 1919, 1921 and 1922.

3. Respondents, Pittsburgh Coal Company, Northwestern Fuel Company and Carnegie Coal & Dock Company during and since the year 1919 have at times supplied bituminous coal to their retail departments at prices from 25 cents to \$1.50 per ton lower than the dock price of said coal at which the retail dealers in said cities of St. Paul and Minneapolis were required by said respondent companies to pay for the same kind, grade and quality of coal; and on rarer occasions said respondent Berwind Fuel Company, in 1921 and 1922, and said respondent, Northern Coal & Dock Company, in 1922, have likewise supplied bituminous coal to their retail departments at lower prices than they charged Twin City retail dealers for coal of the same kind and quality. The prices at which said companies transfer said coal to their retail departments often remain unchanged for months at a time without regard to market fluctuations.

Findings.

8 F. T. C.

These transfer prices, however, were not uniform as between the respondent companies.

4. Respondent companies, Northwestern Fuel Co., Pittsburgh Coal Co., M. A. Hanna Coal & Dock Co., C. Reiss Coal Co., Carnegie Dock & Fuel Co., Berwind Fuel Co., and Pittsburgh & Ashland Coal & Dock Co., at times during the coal year ending April, 1922, made sales of bituminous coal to so-called wagon dealers in the Twin Cities who had no yards or sheds, at prices less than dock prices on said coal, plus cost of transportation from docks to Twin Cities, plus unloading or yardage costs so that the cost of bituminous coal to retail dealers in the Twin Cities equipped with yards and sheds, f. o. b. docks, was more than said wagon dealers were required to pay for bituminous coal of the same grade and quality at the same time. During this same period of time the prices quoted by said respondent companies on bituminous coal to said wagon dealers were practically uniform and in January, 1922, said respondent companies arbitrarily quoted uniformly lower prices to said wagon dealers. Normally, and at times, during this same period of time the said respondent companies made sales to wagon dealers at prices which were equal to, or more than, the price f. o. b. docks, plus cost of transportation to the Twin Cities and plus unloading or yardage costs.

5. As a result of the discriminatory practices engaged in by respondent companies with respect to the sale of bituminous coal in the Twin Cities and Duluth as set forth above, the so-called independent retail dealers in the Twin Cities have been forced to almost entirely discontinue handling dock coal for steam purposes and to substantially curtail their sales of Illinois coal for steam purposes, and the steam coal consumers in the city of Duluth have been forced to pay more for their requirements than Twin City steam coal consumers, freight rates from Duluth to the Twin Cities being taken into consideration, and the domestic bituminous coal users generally have been forced to pay higher prices because of the low price received by the respondent companies for their screenings in the Twin Cities.

6. During the summer of 1919 a switchman's strike occurred at railroad centers so that it was very difficult to move carloads of coal during part of the summer and early fall months of that year. A dock strike also occurred at Lakes Michigan and Superior docks which seriously curtailed the shipment of coal over the lakes from eastern mines to respondent companies' docks and in the fall of that year a serious strike occurred at the mines, so that there was a shortage of bituminous coal on the respondent companies' docks at the

beginning of the season of 1920, and as result prices of bituminous coal took an upward trend during the summer of 1920 and reached exorbitant heights in the fall of that year. The coal year 1921 was one of heavy supply on the docks and small demand due to industrial conditions. The secretary of respondent association had discontinued the collection and dissemination of certain vital statistics as set forth in paragraph 5 hereof. Some of the larger respondent companies, including particularly Pittsburgh Coal Company and C. Reiss Coal Company had withdrawn from the association. Due to the scarcity of coal and the high prices at the mines and a constantly rising market, the said respondent companies had made no attempt during the 1920 season to maintain uniform prices, and in the fall of 1920 respondent companies quoted Youghiogheny and Hocking lump coal from \$8.95 to \$14 per ton f. o. b. docks.

Beginning about January 1, 1921, a newly organized dock company known as the Inland Coal & Dock Company began to circularize the trade in the northwest territory offering bituminous coal for spot and future delivery at prices substantially less than the prices being quoted by the respondent companies. This price cutting continued by the Inland Company and was followed by the various respondent companies until the price of Youghiogheny and Hocking lump coal, which had been as high as \$14 per ton in November, 1920, was reduced to \$7 per ton by March 1, 1921, and some sales were actually made by said Inland Company as low as \$6 per ton. In March, 1921, the respondent companies tried to stand firm and not make further reductions in prices and price lists were issued in April quoting Youghiogheny and Hocking lump coal at \$7.25 and \$7.50 per ton. On May 14, 1921, the three largest respondent companies, Pittsburgh Coal Company, Northwestern Fuel Company and M. A. Hanna Coal Company issued price lists quoting Youghiogheny and Hocking lump at \$7 per ton, but in this same month the Inland Company secured a 5,000-ton contract for Youghiogheny lump coal at \$5.98 per ton, and other large contracts in proportion, and it was rumored throughout the trade that the Inland Company had offered to sell at 25 cents less per ton than the best price offered by respondent companies and the respondent companies were unable to maintain the \$7 price. The price cutting methods indulged in by the Inland Company led officials of the principal respondent companies, Mr. Peter Reiss of the C. Reiss Coal Company, Mr. W. W. Broughton of the Pittsburgh Coal Company, Mr. E. H. Saunders of the Northwestern Fuel Company and Mr. Henry E. Smith of the M. A. Hanna Coal & Dock Company to call on the officials of the Inland Company to try to curb the latter company's low price activi-

Findings.

8 F. T. C.

ties. The business of the Inland Company was spied upon by respondent companies and shipments of coal were traced to determine the identity of the customers. Finally with a view to revitalizing respondent association, and thus put an end to price cutting, an attempt was made by Messrs. Broughton and Reiss to induce the Inland Company to attend a meeting which was held in Chicago on Tuesday, July 12, 1921, and at Minneapolis and Duluth, Minn., on Monday and Tuesday of the following week. All dock operators including respondent companies were invited, as well as affiliated companies engaged in the mining of coal in the eastern States, and all sent representatives to the Chicago meeting except the Inland Company and its eastern affiliated company. After the Chicago meeting, Mr. F. Reiss was appointed to call upon Mr. Taplin, president of the Inland Company and discuss with him the results of the Chicago meeting "with a view to cooperation." On July 19, 1921, a reorganization meeting of the respondent association was held in Duluth, Minn., at which meeting applications for membership were received from the following respondent companies: Pittsburgh Coal Company, C. Reiss Coal Company and Northern Coal & Dock Company and three other companies who had withdrawn from the association prior to that time. A new board of directors and officers were elected and a few minor changes were made in the by-laws of the association with respect to the objects and purposes of the organization. After this meeting was over Mr. Broughton, president of the respondent, Pittsburgh Coal Company and the new president of the respondent association again called upon the local representative of the Inland Company and tried to persuade that concern to join the respondent association and it was generally rumored throughout the trade after the Duluth meeting of July 19, 1921, that the Inland Company was going to join the association and that the respondent companies, M. A. Hanna and the Pittsburgh Coal Company would advance prices forthwith.

New price lists were issued as of August 1, 1921, by all the respondent companies and these price lists quoted uniform prices on Youghiogheny screened lump coal and Hocking screened lump coal for steam purposes at \$7 per ton with the exception of the Berwind Fuel Company which had a quotation of \$6.50 and which was subsequently raised on August 13, 1921, to \$7 per ton. All these price lists also quoted Splint screened lump coal at \$7.25 per ton except the Berwind Fuel Company list which quoted Splint lump at \$6.75 per ton but which was changed on August 13 to \$7.25. Of the other grades of coal handled there was some minor variations between the

prices quoted but for the most part they were uniform. During the months of August, September, and October respondent companies, following the discussions at the meetings of respondent association in July, 1921, again were successful in maintaining the prices quoted in their circulars or lists. Further attempts were made to get all companies doing business at the docks to join the association and this question was discussed at the September meeting of the respondent association. The Inland Company while not a member of the respondent association cooperated to some extent with this association in the maintenance of the prices quoted by respondent companies. When bids were being made in October to supply coal to the high school at Hibbing, Minn., the Inland Company gave its assurance to the then president of the respondent association, Mr. Broughton, that it would not bid below \$7 per ton and the Inland Company was also assured by Mr. Broughton that none of the other respondent companies would bid below \$7 per ton. A misunderstanding arose, however, between the Inland Company and some of the respondent companies with respect to quotations made on Pocahontas (smokeless) lump coal, and while some of respondent companies were willing to cooperate with the Inland Company in maintaining a high price on this kind of coal, other of respondent companies were not inclined to do so because of the Inland Company's activities earlier in the season in taking trade away from them. Finally, at a meeting of the respondent association in November, the president of the respondent M. A. Hanna Coal & Dock Company left the meeting abruptly with the declaration that "there were certain individuals with whom he could not cooperate as statements they made were unreliable and that hereafter he had no price in effect, but would make his price from day to day as competition demanded." This move on the part of the Hanna Company caused some of the respondent companies to telegraph their eastern interests in an attempt to "stabilize affairs up here." The situation dragged along until on December 23, 1921, the Northwestern Fuel Company and the M. A. Hanna Coal & Dock Company, without warning to others of the respondent companies except C. Reiss Coal Co., cut prices on all bituminous steam coal \$1 per ton which cut was immediately followed by all of the respondent companies or within a few days. This action on the part of the respondent companies caused the president of the Inland Company to go from Cleveland, Ohio, to Duluth, Minn., where he was given to understand by officials of respondent companies that his cut price activities were entirely responsible for their action which endangered his contracts for future delivery made in the spring and summer. He immediately ex-

Conclusion.

8 F. T. C.

pressed his willingness to cooperate, and on January 5, 1922, joined the respondent association. On January 12, 1922, the Inland Company issued a special price list quoting prices at 50 cents per ton above the price list of respondent companies and before the end of the month of January most of the respondent companies followed this advance and before the end of March all of the respondent companies except Clarkson Coal & Dock Company had advanced their list prices on bituminous coal back to where they were before the December cut.

7. The result of the activities of respondent companies with respect to the Inland Company as outlined above was to force the Inland Company to join respondent association and enhance the prices of bituminous coal to the retail dealers and consumers in the said northwest territory after they had been lowered by the competition of the Inland Company.

CONCLUSION.

1. The said acts and things done by said respondents as set forth in paragraphs 5 and 6 hereof, are all to the prejudice of the public and respondent companies' competitors, and constitute unfair methods of competition in commerce in violation of Section 5 of said Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

2. The discriminations in price described in subparagraph 2 in paragraph 6 hereof, have the capacity and tendency to substantially lessen competition generally in the sale of bituminous coal at wholesale and retail in said northwest territory, particularly in the said Twin Cities and to create a monopoly in the said line of commerce in said territory in the hands of said respondent companies and other members of said respondent association, and said discriminations in price between purchasers by said respondent companies were not made on account of differences in the grade, quality or quantity of the commodities sold, nor did said discriminations make only due allowance for difference in the cost of selling or transportation, nor were said discriminations made in the selection of customers in bona fide transactions, nor were said discriminations made in good faith to meet competition but for the purpose of driving Illinois and other all-rail coal and the distributors thereof out of the Twin City market and to regain and retain said market for said respondents in violation of Section 2 of said Act of Congress entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes."

MODIFIED ORDER TO CEASE AND DESIST.¹

This proceeding having been submitted to the Federal Trade Commission on complaint of the Commission, the answers of respondents and testimony and evidence received by an examiner for the Commission, and the Commission having made its findings as to the facts and its conclusions, that the respondents have violated the provisions 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 an Act of Congress approved October 15, 1914, entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes"; and the Commission having heretofore, to wit, on March 19, 1925, entered and served its order upon the respondents requiring them to cease and desist from certain practices; and it appearing to the Commission upon reconsideration of the matter that said order should be modified in certain respects,

Now, therefore, The Federal Trade Commission under and by virtue 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," hereby orders that the order to cease and desist heretofore made in this proceeding on March 19, 1925, be, and the same is hereby, modified so that, as modified, said order shall read as follows, to wit:

It is hereby ordered, That all and several of the respondent companies, their agents, servants and employees do cease and desist from directly or indirectly entering into any agreement, combination or conspiracy among themselves and/or with respondent association or others to restrict, restrain or suppress competition in the sale of bituminous and anthracite coal at wholesale or retail, and particularly directly or indirectly as a part of such combination, agreement or conspiracy from doing the following acts:

(a) Discussing with each other at formal or informal meetings of respondent association or otherwise, ways and means of standardizing selling prices of bituminous coal to make them more uniform and then or thereafter submitting to each other, or circulating among themselves, suggested and official price lists before they are issued to the trade with the tacit understanding or agreement that the prices contained therein would be maintained by the respective companies issuing said lists;

(b) Adopting, maintaining or enforcing the policy of not granting to jobbers, line yard companies or retail dealers, concessions,

¹ Modified order issued as of June 20, 1925.

Order.

S F. T. C.

commissions, discounts or other reductions from prices contained in lists or circulars issued generally to the trade;

(c) Adopting, maintaining or enforcing a policy of not soliciting direct the business of municipal steam plants or other large steam consumers without track facilities;

(d) Adopting, maintaining or enforcing a policy of not entering into contracts with retail dealers unless such contracts cover coal to be delivered to public utility or other large steam consumer under contract between such steam consumer and the dealer;

(e) Adopting, maintaining or enforcing a policy of refusing to sell and ship coal to retail dealers in the country trade outside the cities of St. Paul, Minneapolis and Duluth, in the State of Minnesota, who are not equipped with sheds and scales, the usual equipment of retail dealers;

(f) Adopting, establishing or maintaining uniform sizes of bituminous coal to be sold to the trade for the purpose and with the effect of preventing price cutting in the sale of same;

(g) Adopting, establishing or maintaining a uniform system of cost accounting for wholesale and retail business;

(h) Adopting, establishing or maintaining rules and regulations fixing maximum guarantees for British thermal unit content of coal to be made in bidding on contracts requiring such guarantees;

(i) Adopting, maintaining or enforcing a policy that all accounts with retail coal dealers be considered due on the 15th day of the month following shipment, or any other day certain;

(j) Adopting, maintaining or enforcing a policy of using contracts in the sale of bituminous coal containing a clause which prohibits the purchasers from diverting said coal for purposes other than those designated by respondent companies in the contracts;

(k) Furnishing to the secretary of respondent association the following information to be consolidated and disseminated in consolidated form or in any other manner by said secretary to the members of respondent association—

(1) monthly statement relative to cost of operation of wholesale and retail departments;

(2) weekly or other periodical reports showing number of cars of each grade of coal to be shipped during following week or period;

(3) weekly or other periodical statement showing the total number of tons of coal, the amount received for same and the average price per ton received for each grade shipped during that week or period;

(4) daily statements of all the coal sold, with car numbers, grade, price and class of customer, and/or copies of acknowledgments and orders;

(5) daily statements of number of cars of coal shipped with price and grade, and/or copies of invoices;

(6) list or copies of contracts made during coal season;

(7) names of retail dealers who are not equipped with sheds or scales, the usual equipment of a retail dealer; the names of retail dealers who have been refused shipment of coal for any reason whatsoever, other than credit reasons;

(8) names of retail dealers or other customers who had diverted shipments of coal in violation of terms of contract and/or who had sold coal below usual price received by retail dealers in the community where customer is located;

(9) instances where other members of respondent association had solicited business direct from steam consumers outside of the Twin Cities requiring team delivery; or had entered into contracts with the retail dealers for coal not covered by contract between the retail dealer and the consumer of the coal; or had made higher British thermal unit guarantee than agreed upon; or had in any other manner failed to enforce any announced policy forbidden by this order.

(1) Engaging in campaigns to eliminate the competition of other distributors of bituminous coal, dock, Illinois, or other all-rail coal in said northwest territory, who are not members of respondent association, and more particularly the following acts:

(1) Selling bituminous coal at wholesale or retail in the cities of St. Paul and Minneapolis, Minn., at prices less than respondent companies receive for the same grades and quality of coal at the same time and in the same quantities at wholesale or retail in the city of Duluth, State of Minnesota, making due allowance for difference in cost of selling or transportation.

(2) Selling bituminous coal in the said cities of St. Paul and Minneapolis at prices less than the wholesale dock prices of said coal, plus cost of transportation from the docks to said cities and actual cost of selling and handling said coal;

(3) Selling bituminous and anthracite coal at wholesale to so-called wagon dealers doing business in said cities of St. Paul and Minneapolis who have no yards or sheds at prices less than the wholesale price of said coal at the docks, plus cost of transportation to said cities and cost of unloading or handling said coal;

(4) Arbitrarily cutting the wholesale price of bituminous coal at the docks for short periods of time for the purpose of compelling competitors to cease selling at prices lower than said respondent companies' circular or list prices in effect before the cut is made;

Order.

8 F. T. C.

(5) Provided, however, that respondents individually, shall not be prevented from discriminating in price in the sale of said bituminous coal in the same or different communities in good faith to meet competition or from selecting their own customers in bona fide transactions and not in restraint of trade.

It is further ordered, That the respondent association, its officers, agents and employees do cease and desist from cooperating with the respondent companies in the enforcement of any agreement, combination or conspiracy to restrict, restrain or suppress competition in the sale of bituminous and anthracite coal at wholesale or retail, and particularly from doing the following acts:

(a) holding meetings at which respondent companies, or other members, perform the acts prohibited in this order;

(b) through its secretary consolidating and then disseminating to members of respondent association, the information heretofore furnished said secretary by respondent companies relating to (1) cost of operation of wholesale and retail departments, (2) orders received and shipments made, together with price received and class of customer sold, (3) contracts entered into, (4) equipment of retail dealers, (5) violation of anti-diversion clause of contracts, (6) sales made to retail dealers under contract, (7) and other similar or equivalent matters brought to the attention of respondent association by respondent companies.

It is further ordered, That these respondents shall within thirty days from notice hereof, file with this Commission a report in writing stating in detail the manner in which this order has been complied with and conformed to.

Complaint.

IN THE MATTER OF
JOHNSON PROCESS GLUE COMPANY.

COMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 1052—March 19, 1925.

SYLLABUS.

Where a corporation engaged in the manufacture and sale of flexible glues and allied products, gave and offered to give to superintendents, foremen and other employees of customers or prospective customers, without the knowledge or consent of their employees, substantial sums of money and other things of value as an inducement for them to purchase from it or recommend such purchase to their employers, or as a reward for having induced such purchase by their employers:

Held, That such gifts and offers to give, under the circumstances set forth, constituted unfair methods of competition.

Mr. E. J. Hornibrook for the Commission.

Mr. Emil Klein of Brooklyn, N. Y., for respondent.

COMPLAINT.

Acting in the public interest pursuant to the provisions 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," the Federal Trade Commission charges that Johnson Process Glue Company, hereinafter referred to as the respondent, has been and is using unfair methods of competition in commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent is a corporation organized and doing business under and by virtue of the laws of the State of New York, having its principal office and factory located in the City of New York in said State; and is now and for more than two years last past has been engaged in the business of manufacturing and selling glue and other kindred products. Respondent sells and offers to sell said commodities to printers, bookbinders, publishers, and others located in various States of the United States. Respondent causes said products when sold to be transported from its said factory in the State of New York through and into other States of the United States to the respective purchasers thereof. Respondent carries on its said business in direct active competition with other individuals, partnerships, and corporations similarly engaged.

PAR. 2. In the course of its said business respondent from time to time during a period of more than two years last past has been offer-