

Complaint

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IN THE MATTER OF

F. L. MENNIE, AN INDIVIDUAL TRADING AS MINERAL
COAL SAVER COMPANY, MENNIE MANUFACTURING
COMPANY, AND M. & K. MANUFACTURING COMPANYCOMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1770. Complaint, Mar. 10, 1930—Decision, Jan. 13, 1931*

Where an individual engaged in making a powder composed largely of common salt and in the sale thereof to coal dealers and other purchasers, under the name "Mineral Coal Saver",

- (a) Represented in leaflets, placards, circulars, and other advertising matter that said preparation made poor coal good and good coal better, increased the heat from a given quantity of coal in British thermal units, and gave 20 per cent more heat with less coal, and that said preparation was a chemical mixture of proven worth and scientific merit, the facts being that it did not increase the British thermal units, nor accomplish the other results above claimed, and that the alleged proven worth and scientific merit of the product had not been demonstrated through comparative tests thereof with other products under otherwise identical conditions;
- (b) Represented that such preparation was carefully compounded under the supervision of an experienced chemist employed by said individual, the facts being that it was made by hand by said individual, he had never been employed as a chemist nor, excepting his study of the subject in high school long before, practiced such occupation other than in the compounding of the product in question, and of other products such as furniture polish, extracts, etc., and that a neighboring chemist, occasionally consulted, was never present during the mixing of the product; and
- (c) Represented that said preparation prevented and removed soot and that in it modern science had produced a sootless and smokeless treatment for coal, the facts being that the small per cent of increased release of oxygen accomplished could have no substantial effect on prevention of soot and that said representations were grossly exaggerated and misleading;

With capacity and tendency to mislead and deceive prospective purchasers and ultimate consumers as to the property, composition, effect, results, and value of said product:

Held, That such practices, under the circumstances set forth, were to the prejudice of the public and competitors, and constituted unfair methods of competition.

Mr. PGad B. Morehouse for the Commission.

Mr. James H. Hanley, of Omaha, Nebr., and *Mr. Thomas S. Kennedy*, of Washington, D. C., for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission, the Commission charged

respondent individual, engaged in the manufacture of a compound by him designated "Mineral Coal Saver", made chiefly of common salt,¹ and in the sale of said compound to various coal dealers and other purchasers, and with principal office, factory, and place of business in Omaha, with advertising falsely or misleadingly as to results or nature of products, and money back guarantee, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, engaged as above set forth, in advertisements, placards, cards, circulars, and other advertising matter supplied to his vendees, falsely represents that the product in question is a dry chemical preparation which, dissolved in water and applied to coal according to directions, will make poor coal good, good better, prevent and remove soot, increase heat from given quantity of coal from 22 per cent to 28 per cent in British thermal units, and give 20 per cent more heat with less coal, and that in said preparation modern science has produced a soothless, smokeless, and odorless treatment of coal, the facts being compound in question does not have the properties and will not produce the results claimed, science knows no chemical substance which will produce such results, and use of product as directed has no observable effect.

Respondent further, as charged, through use of a printed slip or tag, guarantees return of the price paid, namely, \$1.25 per pound package, or \$30 per case of 50, if the purchaser is not entirely satisfied with results obtained, said guarantee bearing the printed signature Mineral Coal Saver Co., Omaha, Nebr., facts being that "dissatisfied purchasers have been unable to obtain performance of this guarantee and mail addressed to 'Mineral Coal Saver Co., Omaha, Nebr.', has not been delivered; the post office at Omaha did not have respondent's address and respondent merely maintained a box number in said post office where he received his mail, said box number not being contained in or on said printed slip or tag or other advertising matter of respondent whereby the purchasers and prospective purchasers could communicate with respondent; and respondent in the manner aforesaid has not fulfilled and does not fulfill his said guarantee to his customers."

Respondent, further, as charged, "through the use of such phrases as Modern science, Not an experiment, Carefully compounded in our own factory under the direct supervision of our own chemist, in his aforesaid placards, circulars, and other advertising matter, together

¹ According to the complaint between 90 and 97 per cent of the product is composed thereof, disguised with a coating of dark red iron oxide, constituting about 1½ per cent, other chemicals being also present in very small proportions.

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with the prices at which he sells the said compound, as aforesaid, has represented and does represent to purchasers and prospective purchasers throughout the various States of the United States and has furnished and does furnish such purchasers with the means likewise to represent to the ultimate consumer that his product or compound sold and distributed as aforesaid is a chemical mixture of proven worth, scientific merit and value, and in that manner conceals from the purchasers and prospective purchasers the true composition of his said product or compound, which is fabricated in principal part of common salt worth at the most 10 cents per pound, and a little oxygen yielding material with coloring matter added to camouflage the salt," facts being respondent "has not and does not compound his said product under the direct supervision of a chemist, said compound is not a chemical mixture of proven worth or scientific merit and is not fairly or reasonably worth the prices charged and received therefor, and if the aforesaid purchasers and prospective purchasers were aware of the true composition of respondent's fabricated compound they could not be induced, as they now are and have been induced, to pay respondent the prices aforesaid, it being generally known that common salt used on hot fire with drafts open is of some assistance in doing away with soot."

"The foregoing statements, representations, and practices of the respondent," as alleged, "have the capacity and tendency to mislead and deceive purchasers and prospective purchasers and the ultimate consumers throughout the various States of the United States as to the properties, composition, effect, results, and value of the product so advertised, distributed, and sold and also as to the responsibility of respondent in the fulfillment of his aforesaid guarantee; and the aforesaid acts and things alleged to have been done by the respondent are to the prejudice of the public and the competitors of the respondent and constitute unfair methods of competition in commerce."

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, F. L. Mennie, an individual trading as Mineral Coal Saver Co., Mennie Manufacturing Co., and M. & K. Manufacturing Co., charging him with the use of unfair methods of competition in commerce, in violation of the provisions of said act.

Respondent, having entered his appearance and filed his answer to the complaint herein, hearings were had and evidence was introduced upon behalf of the Commission and respondent before a trial examiner of the Commission duly appointed thereto, and said trial examiner having filed his findings of facts herein and counsel for both the Commission and the respondent having filed exceptions thereto,

Thereupon this proceeding came on for consideration on the record herein, briefs and oral arguments of both counsel for Commission and respondent, and the Commission having duly considered the matter and being fully advised in the premises makes this its findings as to the facts and its conclusions drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, F. L. Mennie, is an individual trading under the name and style of Mineral Coal Saver Co., Mennie Manufacturing Co., and M. & K. Manufacturing Co., with principal office and place of business at 1811 Vinton Street in the city of Omaha, State of Nebraska, and who is now, and for more than one year last past has been, engaged in the business of mixing or compounding a certain dry powder designated and described by him as Mineral Coal Saver. The directions for the use of this powder are to dissolve 1 pound in 6 to 12 gallons of water, depending upon the kind of coal, and apply the solution to the coal by sprinkling. Respondent sells this compound, which is composed in principal part of common salt, to various coal dealers and other purchasers located throughout the various States of the United States, causing the said compound when so sold to be transported from Omaha, Nebr., through and into the other States of the United States, to the purchasers thereof. In the course and conduct of his said business he is in competition with other individuals, partnerships, and corporations engaged in the sale of similar products in commerce between and among the various States of the United States.

PAR. 2. In the course and conduct of respondent's business and for the purpose of aiding his purchasers in the resale of the product, respondent caused to be printed and used in connection with his interstate commerce business aforesaid, certain leaflets, placards, cards, circulars, and other advertising matter wherein he made, among others, the representations herein set out. Where coal dealers purchased his product for resale, respondent supplied them with such advertising matter for the purpose of their making the same representations to the ultimate consumer and such coal dealers did use the advertising matter for that purpose:

- (1) That Mineral Coal Saver makes poor coal good and good coal better;
- (2) That Mineral Coal Saver prevents and removes soot;
- (3) That Mineral Coal Saver increases the heat from a given quantity of coal from 22 to 28 per cent in British thermal units;
- (4) That Mineral Coal Saver gives 20 per cent more heat with less coal;
- (5) That Mineral Coal Saver is carefully compounded under the supervision of an experienced chemist employed by respondent;
- (6) That Mineral Coal Saver is a chemical mixture of proven worth and scientific merit;
- (7) That modern science in Mineral Coal Saver has produced a sootless and smokeless treatment for coal.

Commission's Exhibit 6,¹ a display card for dealers, contains a reproduced photograph with the legend: "Briquette Manufacturers at Duluth, treating coal with Mineral Coal Saver." This card also contains the following in conspicuous black letters: "Mineral Coal Saver is not an experiment, but is recommended by many users and several State universities. Sold under a liberal guarantee. Sold here; 20 per cent more heat, less coal."

Commission's Exhibit 12 is a guarantee slip which contains in part: "Mineral Coal Saver burns the gases, producing British thermal units (B. t. u.) from a commodity which otherwise escapes a useless waste."

Commission's Exhibit 13, says in part: "Mineral Coal Saver makes good coal better and poor coal good."

At the time when testimony was taken in this cause, respondent was negotiating a contract with a western coal company for the exclusive national distribution of this product in the United States, and at that time he was compounding it solely for that company and claimed that he had ceased advertising the same. From all the evidence in regard thereto, the Commission finds that there has been no definite or final termination of respondent's usual conduct of his business as aforesaid.

PAR. 3. Analyses of this alleged coal-saving powder were made on behalf of the Commission by the U. S. Bureau of Mines, by the Food, Drug and Insecticide Administration of the U. S. Department of Agriculture, and by a Mr. Alexander D. Bell, a chemist in the Van Cleve Laboratories at Minneapolis, Minn.; and on behalf of respondent by an expert chemist, a Mr. Campen, a consulting chemist in Omaha, Nebr. These analyses were, in the order referred to, as follows:

¹ Exhibits not published.

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1. Bureau of Mines

This material is ordinary salt (NaCl), disguised with a coating of dark red iron oxide. The iron oxide coating constitutes about $1\frac{1}{2}$ per cent of the material.

2. Department of Agriculture

	Per cent
Sodium chloride (salt)-----	85.24
Potassium permanganate-----	4.03
Water, insoluble, oxides of iron and manganese-----	2.51
Sulphates as Na_2SO_4 -----	1.05
Total-----	92.83

3. Van Cleve Laboratories

Sodium chloride-----	97.00
Calcium sulphate-----	2.00
Iron oxide-----	1.00
Total-----	100.00

4. Mr. Campen

Insoluble residue-----	1.23
Sodium chloride (salt)-----	88.08
Potassium permanganate-----	3.67
Potassium chlorate-----	3.00
Moisture and undetermined-----	4.02
Total-----	100.00

Then there is the sworn testimony of Mr. Mennie, stating just what and how much he stirs together to make this powder. It will be noted that each analysis was made from a different sample of the product and shows a slightly different composition as to about 10 per cent and that approximately 90 per cent is common salt. Respondent testified that he puts 240 pounds of salt, using half as much rock salt as fine salt, to which he adds 12 pounds of potassium chlorate and 12 pounds of potassium permanganate, together with a small amount of coloring matter to camouflage the composition. The price he usually pays for the salt is \$1.25 a hundred pounds; for the potassium permanganate, $22\frac{1}{2}$ cents a hundred pounds; and for the potassium chloride, 15 cents a pound. Respondent's testimony is confused throughout as to whether he used potassium *chloride* or potassium *chlorate*. Later he corrected his testimony to show potassium *chlorate*, which is an oxidizing agency, whereas potassium *chloride* is a nonoxidizing agency. The Commission considers from the fact that these materials were mixed by hand in large bulk and packed in small packages that the composition of the compound was

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not constant but variable, not only according to each particular batch of mixture but according to the place in each batch from which the content so analyzed happened to be selected. As will be shown later herein, the only material relevancy that this variability in the composition of the respondent's product has, is whether or not such chemicals, whatever they are, will oxidize sufficiently to accomplish the results claimed by respondent in the advertisements, inasmuch as respondent does not advertise the ingredients. This mixture is sold by the retailer for \$1.25 a pound.

PAR. 4. The actual results of the use of respondent's product as shown by the entire testimony will now be considered. When the treated coal is burned, a rather high yellow crackling flame appears. Another result of the chemicals is the release of from one-half to one and a half per cent additional oxygen in the fire chamber so that there is additional combustion to that extent. Mr. W. H. Campen, a chemist witness called by respondent testified that the potassium permanganate and potassium chlorate contained in Mineral Coal Saver would decompose in a fire at 450 and 750 degrees Fahrenheit, respectively, setting free quantities of oxygen while the burning coal is giving off volatile matter such as carbon and gases; that this freed oxygen aids combustion and causes consumption of the volatile matter that would otherwise escape, thus increasing the heat from a given amount of coal; that in addition to this advantage, the soot is consumed and prevented from forming on the sides and top of the fire compartment where it would act as a non-conductor and reduce the heat efficiency, through decreased conductivity, about 25 per cent; that the salt component in the compound made a yellow flame of greater conductivity which aided in consuming soot and the volatile gases; and that the combination of sale, potassium permanganate and potassium chlorate, had the effect of reducing the ash content because a greater percentage of the coal would be burned, leaving less ash and clinkers.

Respondent also testified to the chemical action and results of the use of Mennie's Mineral Coal Saver, agreeing generally with the foregoing testimony of Mr. Campen.

Respondent's chemist witness did not testify as to the per cent of increased oxidization to be expected to result from the use of this powder but the other expert chemists who testified agreed that the maximum increase in oxidization would be about $1\frac{1}{2}$ per cent and that such increases would not make poor coal good and good coal better. As to the alleged saving of coal, respondent admits that his compound will not produce in a clean furnace the same results as are claimed for it in a sooty furnace.

Such testimony also shows clearly that a British thermal unit is that standard quantity of heat required to raise 1 pound of water 1 degree Fahrenheit, and that the application of this powder to coal as directed can not possibly increase the British thermal units. Respondent's own testimony refutes his claim in that respect. He testified as follows:

I want to say here that we do not increase the British thermal unit of coal. It is printed here and it is deceiving, I will admit, because the British thermal unit of coal can not be changed * * * (R. 59).

On the package, respondent formerly guaranteed his coal saver to save from 25 to 35 per cent of the coal, but he reduced that to 20 per cent, thinking that it would save 20 per cent if the furnace were kept clean, as he said. No scientific test of this particular powder had ever been made prior to the hearings and the highest saving of coal that had ever been reported to respondent was from 16 to 18 per cent. However, the Bureau of Mines had made 16 elaborate 48-hour tests of similar alleged coal savers, composed principally of salt with the addition of a small amount of chemicals having slight oxidization properties. By expert comparison of the analyses of the powders actually so tested with the analysis of this particular powder there is shown to be no different chemical component in respondent's powder which would be capable of effecting any substantial variation in the result of its use. Such tests showed no appreciable effect on the efficiency of the combustion.

The expert testimony of Chemists Bell, Barry, and Hood, who were the acting directors of the United States Bureau of Mines, was in agreement that whether the compound were mixed according to either one or the other of the foregoing formulas it would not make poor coal good and good coal better; it would not increase the heat from a given quantity of coal to any per cent in British thermal units and it would not give 20 per cent more heat with less coal.

The Commission finds that the representations in respondent's advertising to the effect that his product makes poor coal good and good coal better; that it increases the heat from a given quantity of coal to any per cent in British thermal units; that it gives 20 per cent more heat with less coal are false and misleading statements.

The facts, with reference to the compounding of Mineral Coal Saver under the direct supervision of respondent's own chemist, are that respondent makes this powder himself by hand. He studied chemistry in high school over 30 years ago, and has never been employed as a chemist or practiced that occupation other than in the compounding of this particular product together with other products

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such as furniture polish, extracts, leather dressing, and stop-leaks for radiators, which he also makes and sells. . Very occasionally he consults a neighboring chemist, who has never been present during the mixing of the product.

The Commission finds that the representations in respondent's advertising that Mineral Coal Saver is carefully compounded under the supervision of an experienced chemist employed by respondent is a false and misleading statement.

That science does not know of a powder which could produce the effects claimed by respondent is not considered by the Commission as establishing any lack of merit in respondent's product, but it is likewise clear that respondent's advertising, in claiming under the circumstances hereinbefore set out that his product is produced by modern science, and that it is a chemical mixture of proven worth and scientific merit, goes too far and constitutes an absolute misrepresentation of fact, having a capacity and tendency to mislead prospective purchasers, and the Commission so finds.

With reference to respondent's claim that Mineral Coal Saver prevents and removes soot, the testimony of Mr. W. H. Campen, respondent's chemist witness, and of respondent himself has been considered in paragraph 4, *supra*, in connection with other claims. Giving every possible weight to that testimony, it nevertheless appears clearly to the Commission that soot formation can be prevented by the use of Mineral Coal Saver only in so far as additional oxygen is released from the chemicals. According to respondent, no more than 8 per cent additional oxygen could be released, and Mr. Campen did not give any per cent in his testimony.

Alexander D. Bell, an expert witness called on behalf of the Commission, was a chemist of the Van Cleve Laboratories and was formerly assistant city chemist of St. Paul; also during the war he was a chemist at the United States Bureau of Standards, and he testified positively that while potassium permanganate, when dissolved in water, has some oxidizing properties (and in the formula shown by the analysis of the Food, Drug and Insecticide Administration would have not over 1 per cent of such qualities), when placed on a hot fire, the permanganate would be decomposed and the oxidizing properties destroyed, and the destruction thereof would not add sufficiently to the heat of the fire in which it was placed, to have any action.

Erwin H. Berry, for 20 years a chemist with the Food and Drug Administration of the United States Department of Agriculture, in considering the formulas shown by the analyses of the Bureau of

Mines and the Van Cleve Laboratories, testified positively that there were no oxidizing properties contained therein and with reference to the formula shown by his own analysis (the second one quoted in paragraph 3, *supra*) said that it contained very little oxidizing properties—"I don't suppose you could ever notice it, to tell the truth."

As to the removal of soot, after consideration of all the testimony on the point, it appears to the Commission that such removal is effected by blowing, scraping, or ignition. The ignition may be accomplished in either one of two ways, i. e., by raising the temperature of the fire chamber to the ignition point of the soot or by lowering the ignition point of the soot through the application of chemicals. The above small per cent of increased release of oxygen could have no substantial effect on the prevention of soot, nor could it, *per se*, raise the temperature of the fire chamber appreciably. The formula used does not comprise chemicals capable of lowering the ignition point of soot. Therefore, the use of this powder, by the weight of the evidence, will not prevent or remove soot. By the use of said powder, the formation of soot is retarded and diminished to the extent, however slight, of the additional oxidization and many users, without accurate or scientific comparative tests, have been satisfied with results.

Mr. B. M. Barndollar, friend of respondent and printer of some of his advertising, testified that he used Mineral Coal Saver, treating his coal according to directions on the package; that it had the effect of removing and preventing soot in his furnace and giving what he considered more heat from less coal; that these results were obtained from inferior coal; as he didn't find it necessary to use the treatment on the better grade of coal; that this treatment reduced ash and clinkers and that the results were very pleasing to him; that by putting on a limited amount of treated coal he increased the heat in his house to a marked degree. This witness said on cross-examination that he did not go to the trouble of treating the coal except when he needed it; that the furnace had to be pretty well filled up with soot to induce him to treat his coal. Formerly he burned zinc etchings with wood and obtained the same results as he did with Mineral Coal Saver.

Mrs. Marian F. Alvord, witness for respondent, testified that she used Mineral Coal Saver and that it kept her furnace clean and free from soot and reduced the smoke; that in the winter of 1928-29 she did not use Mineral Coal Saver and burned 16 tons of coal, and in the winter of 1929-30, which she thought was a more severe winter, she burned only 13½ tons, using Mineral Coal Saver; that there were less

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ashes when using the Coal Saver and she found it unnecessary to sift the ashes; that clinkers did not have to be taken out, but were broken up and consumed; that the house was cleaner; that before using Mennie's Mineral Coal Saver she burned semianthracite coal at \$12 or \$12.75 per ton; with the Mineral Coal Saver she burned a less expensive grade at \$6 to \$7 per ton; that this treatment made slack coal burn well. Witness and husband have been friends of respondent for six or seven years.

Mr. Fred T. Dohse, coal and feed dealer, testified for respondent that he had used Mennie's Coal Saver and had found results highly satisfactory; that he liked it so well that he treated 50 tons of coal to sell to his customers and that he received repeat orders on account of this; that it keeps the soot down and gives a brighter flame, better heat and better results; that he burned less coal and could burn slack; that he had less ash and less clinkers; that he believes it cut down the smoke; several customers who received treated coal praised it without knowing that it had been treated; that he made no actual comparative test. Respondent had about 75 letters from responsible persons, customers who had used Mineral Coal Saver and had expressed themselves as satisfied and pleased with its use.

The Commission considers that such testimonial letters were properly excluded upon objection by attorney for the Commission but the fact that such letters had been received by respondent and were complimentary to his product having been admitted, the Commission has taken that fact into its consideration. It is believed that such testimony does not weigh as heavily as the testimony of disinterested expert chemists for the reason that if two tests be run, one with improper firing methods or improper control and the other with better methods or a cleaner furnace, the cause of the difference in results can not be assigned to any one of the many variables. People may be self-deceived when unfamiliar with the necessities of carefully planned tests and while the Commission does not doubt the good faith of witnesses like Messrs. Barndollar and Dohse and Mrs. Alvord, it feels that it is not possible to give such testimony the same weight as that of experienced disinterested chemists. Respondent admitted his powder did not make the coal absolutely sootless or entirely smokeless.

A hot fire, with proper manipulations of drafts and a high flame can cause ignition of soot and removal thereof by burning while respondent's powder or any other inflammable materials are being consumed. Likewise it is clear that normally a saving of coal will result through cleaning the soot out of a heating plant. The Commission finds that Mineral Coal Saver does not make coal sootless or

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smokeless and that respondent's representations that his powder will prevent and remove soot and that modern science in this compound has produced a sootless or smokeless treatment for coal are grossly exaggerated and misleading statements.

PAR. 5. Paragraph 3 of the complaint charged that respondent did not fulfill his refund guarantee to his customers by reason of his failure to print his box number or street address on such guarantee. That as a result, mail addressed to Mineral Coal Saver Co., Omaha, Nebr., was not delivered. The facts in reference thereto are found to be that Mr. Mennie acted as his own salesman, and was away from home for long periods of time. His was a one-man business, and no arrangements were made for taking care of his mail during his absence, except when he would request the Omaha postmaster to forward it to him. On other occasions his mail would await his return in his post-office box, but sometimes registered letters would be returned to the sender by that post office before respondent returned to claim them or sent in such forwarding requests. Considering this evidence, the Commission finds that respondent does not fail or refuse to make good his refund guarantee.

PAR. 6. The use by the respondent of the foregoing statements, representations, and phrases in his advertising, placards, cards, and circulars has a capacity and tendency to mislead and deceive prospective purchasers and ultimate consumers throughout the various States of the United States as to the properties, composition, effect, results, and value of the product by him so advertised, distributed, and sold.

CONCLUSION

The practices of the said respondent under the conditions and circumstances described in the foregoing findings are to the prejudice of the public and respondent's competitors, and are unfair methods of competition in interstate commerce, and constitute a violation of an act of Congress approved September 26, 1914, entitled "An act to Create a Federal Trade Commission, to define its powers and duties, and for other purposes".

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent thereto, the testimony taken and briefs filed herein, and oral arguments of counsel, and the Commission having made its findings as to the facts and its conclusion that the respondent has

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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",

It is now ordered, That the respondent, F. L. Mennie, an individual trading as Mineral Coal Saver Co., Mennie Manufacturing Co., and M. and K. Manufacturing Co., his agents, representatives, servants, and employees in connection with the sale or offering for sale, in interstate commerce, of the chemical product or compound, sold by respondent under the name of Mineral Coal Saver, or any product of substantially the same composition, do cease and desist from making or publishing the following statements and representations, or statements and representations of like or similar import and effect:

1. That such a compound makes poor coal good or good coal better;

2. That such a compound prevents or removes soot;

3. That such a compound increases the heat from a given quantity of coal to any extent in British thermal units;

4. That such a compound gives 20 per cent more heat with less coal;

5. That such a compound is carefully compounded under the supervision of a chemist unless and until such a time as the respondent actually employs some one especially skilled in the science of chemistry to directly supervise the compounding of same;

6. That such a compound is a chemical mixture of proven worth or scientific merit unless and until after a comparative test of the use of said product with the nonuse of said product, under otherwise identical conditions, its worth shall have been demonstrated scientifically;

7. That "modern science in such a compound has produced a sootless or smokeless treatment for coal."

It is further ordered, That the complaint herein be and the same is hereby dismissed as to paragraph 3 thereof on the ground that the charges contained in said paragraph have not been proven.

It is further ordered, That the respondent, F. L. Mennie, shall within 60 days after service upon him of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinabove set forth.

Syllabus

IN THE MATTER OF

LA LASINE INTERNATIONAL, INCORPORATED

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 1845. Complaint, June 16, 1930—Decision, Jan. 13, 1931

Where a corporation engaged in domestic manufacture, from a French formula, of an antiseptic for the mouth, throat, and general use, and in the sale thereof to vendees in the United States, principally, and also in sale and distribution thereof in foreign countries from sales offices in Paris and Rome,

- (a) Represented falsely in advertisements in newspapers and periodicals, that the preparation instantly reached every inch of mouth membrane, killing all poisonous decay germs, and gave protection to membranes of mouth and throat for hours after use, and enumerated 30 out of 50 common diseases as having their origin in the mouth area and coupled an appeal to help check meningitis with recommended use of the product in question, notwithstanding fact that said preparation was neither a preventive nor cure for meningitis, nor the other diseases enumerated;
 - (b) Represented therein that the United States Government had "tested and passed La Lasine as an antiseptic because it kills germs," and that it fulfilled the exacting requirements of the Pure Food and Drug Act, facts being that analysis of the preparation in question afforded no basis in fact for such claims, which had neither the approval nor indorsement of the aforesaid bureau or of any department of the Government, and that label on bottles, cartons, and accompanying folders was approved by Department of Agriculture only in so far as said label related to contents of bottle and preparation's therapeutic value; and
 - (c) Set forth on said cartons "LA LASINE—The Famous French Formula—Antiseptic . . . C'est Francais! C'est Merveilleux! . . . La Lasine International, Inc., New York, U. S. A. PARIS—ROME—NEW YORK";
- With capacity and tendency to induce members of the public to purchase preparation as and for one imported from France, and to divert trade from competitors engaged in sale and distribution of preparations for similar purposes, without employing such practices:

Held, That such practices, under the circumstances set forth, were to the prejudice of the public and competitors, and constituted unfair methods of competition.

Mr. James W. Nichol for the Commission.

Horowitz & Horowitz, of New York City, for respondent.