

IN THE MATTER OF
**THE GERRARD COMPANY, INC., AND AMERICAN STEEL
& WIRE COMPANY**

COMPLAINT, FINDINGS, AND MODIFIED ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 3 OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914

Docket 3498. Complaint, July 19, 1938—Decision, Aug. 20, 1941

DEALING ON EXCLUSIVE AND TYING BASIS—CLAYTON ACT, SEC. 3—FIELDS OF COMPETITION—IF MODERN AND SPECIALIZED SERVICE FRACTIONAL PART ONLY OF OLDER GENERAL FIELD—WHETHER SUBSTANTIAL COMPETITIVE EFFECT POSSIBLE.

As respects a contention that metal tying machines constitute such a small part of the entire tying field that the practice of the leading tying machine concerns can have no substantial effect upon competition in that field, it is to be noted that most of the devices and methods used for tying purposes—such as rope, twine, gummed tape, etc., tools for metal reinforcing such as pliers, nippers, twisting bars, and hammer and nails, and including also prefabricated containers which either do not need reinforcing or are reinforced in the process of manufacture—are of a more or less primitive or outmoded nature and, in many instances, are being supplanted by modern tying machines, such as those made by the instant concern and others. The very existence of the tying machine industry, in fact, depends upon its ability to convince shippers that the tying machine is an improvement over such other methods. That it has been able to make substantial inroads into the tying field and to supplant the more primitive methods in many instances, is attested by its steady and rapid growth.

DEALING ON EXCLUSIVE AND TYING BASIS—CLAYTON ACT, SEC. 3—WHETHER “LINE OF COMMERCE”—TYING MACHINES.

The tying machine industry constitutes a field distinct from the general tying field, and is a line of commerce within the meaning of the Clayton Act.

DEALING ON EXCLUSIVE AND TYING BASIS—CLAYTON ACT, SEC. 3—RESTRICTIVE CONDITIONS—IF PRACTICAL EFFECT TO PRECLUDE LESSEES' USE OF SUPPLIES, ETC., OF LESSOR'S COMPETITOR.

While the form of a lease contract used by lessor company in leasing its metal tying machines, providing that no wire other than that supplied by the company should be used in the operation of the machine and that, in the event of a breach of said condition, lessee's right to possess or use a machine should terminate forthwith, did not expressly provide that lessees of its machines and appliances should not use the wire of its competitors, the practical effect of said condition was to preclude such lessees from using competitors' wire.

DEALING ON EXCLUSIVE AND TYING BASIS—CLAYTON ACT, SEC. 3—LEASE OF MACHINES PERFORMING MODERN SPECIALIZED SERVICE IN OLDER GENERAL FIELD ON CONDITIONS PRECLUDING USE OF COMPETITORS' SUPPLIES.

Complaint

Where a manufacturer of wire tying machines or appliances, doing approximately 40 percent of the business in the United States in flat band or strap machines and constituting 1 of the 3 leading companies in the industry which together, out of some 10 or 15 in the United States, controlled about three-fourths of the business of furnishing tying machines; engaged in the interstate sale and distribution of steel tying wire which it purchased from various sources but mainly from its parent company, manufacturer thereof, leasing its machines only, without profit and frequently at a net loss, as did the aforesaid other two leading companies, and having as its sole purpose the sale of steel strapping or wire used in the machines' operation, gross receipts from which sales were in excess of 30 times its receipts from the leasing of the machines—

Leased its said machines upon the condition that no wire other than that supplied by it should be used therewith, and that in the event of a breach of said condition the right of the lessee to possess or use the machine should terminate forthwith and the company should have the right to repossess it and to enter upon the premises of the lessee for that purpose, and thereby excluded from the market numerous parties who, in the absence of such restriction, would be potential purchasers of tying wire from its competitors, and restricted and contracted competition in the tying wire market in direct proportion to the extent to which it was successful in leasing its machines under such restrictive agreements;

Effect of which practice, materially increased as a part of the cumulative effect upon competition of the practices of said three leading companies, might be to substantially lessen competition in line of commerce aforesaid;

Held, That, through use of acts and practices described, said corporation and its parent company violated Section 3 of the Clayton Act.

Before *Mr. Charles F. Diggs*, trial examiner.

Mr. George W. Williams for the Commission.

Knapp, Allen & Cushing, of Chicago, Ill., for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that The Gerrard Co., Inc., a corporation, and the American Steel and Wire Co., a corporation, hereinafter referred to as respondents, have violated, and are now violating, the provisions of section 3 of the act of Congress entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, and commonly known as the Clayton Act, hereby issues this its complaint against said respondents and states its charges with respect thereto as follows, to wit:

PARAGRAPH 1. Respondent, The Gerrard Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, having its principal office and place of business at 2915 West Forty-seventh Street, in the city of Chicago, State of Illinois, and branch offices and places of business located in

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New York, State of New York, Pittsburgh, State of Pennsylvania, New Orleans, State of Louisiana, Los Angeles and San Francisco, State of California, Portland, State of Oregon, and Seattle, State of Washington. It is now, and for many years last past has been, engaged in the business of manufacturing wire-tying machines and equipment, the leasing and licensing thereof, the servicing of the same, and the selling and supplying of steel tying-wire used in the operation thereof, said machine and wire being used by lessees, licensees, or vendees in the tying or binding of boxes, packages, and bundles. In connection with the making of such leases and license agreements, the respondent, the Gerrard Co., Inc., has caused, and still causes, said machines and equipment when leased, or licensed, and the said wire when sold, to be transported from its principal place of business or its branch plants located in Brooklyn, N. Y., McKee's Rocks, Pa., Chicago, Ill., or New Orleans, La., through and into other States of the United States and the District of Columbia, to the aforesaid lessees, licensees, and vendees, and there is now, and has been for more than 3 years last past, a constant current of trade and commerce in said products between and among the various States of the United States, the Territories thereof, and in the District of Columbia.

In the course and conduct of its said business, said respondent has been, for more than 3 years last past, and now is, in competition with other firms, partnerships, and corporations, and with individuals, engaged in the leasing and licensing of wire-tying machinery and equipment, and in the selling of wire used in the operation thereof, as aforesaid, in commerce between and among the States of the United States and in the District of Columbia.

Said respondent is now, and for more than 3 years last past has been, the largest manufacturer and distributor of wire-tying machines and equipment and tying-wire used in connection therewith in the United States, and now occupies a dominant position in said industry, and is one of the largest in the whole tying-machine and tying-wire business in the United States.

PAR. 2. Respondent, American Steel and Wire Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business in the Rockefeller Building, Cleveland, Ohio. It is now, and has been for many years last past, engaged, among other things, in the manufacturing and selling of steel tying wire used in the operation of the tying machines mentioned and referred to in paragraph 1 hereof.

PAR. 3. The respondent, The Gerrard Co., Inc., in the course and conduct of its said business, hereinbefore described in paragraph 1, has leased and licensed, and is now leasing and licensing, its said machines and equipment for use in the several States and territories of the United States, and in the District of Columbia, on the condition, agreement, or understanding that the lessees or licensees or other users thereof will not use the tying wire of any of the competitors of the respondent The Gerrard Co., Inc., and on the further condition, agreement, or understanding that if such lessees or licensees should use any tying wire in the operation of any of said machines and equipment other than that purchased from or supplied by the said respondent The Gerrard Co., Inc., the right to the use and possession of such machines and equipment shall forthwith terminate and said machines and equipment may be thereafter immediately repossessed by said respondent, and at once removed from the premises of such lessees or licensees.

PAR. 4. The effect of said leases or licenses, on the said condition, agreement, or understanding set forth in paragraph 3 hereof may be to substantially lessen competition in commerce in the leasing of tying machines and the sale of the tying wire hereinbefore described, between respondents and said competitors or tend to create a monopoly in respondents in commerce between and among the various States of the United States and in the District of Columbia, in said products.

PAR. 5. Respondents, The Gerrard Co., Inc., is, and since September 1936 has been, through the ownership of both its stock and assets, wholly owned by the respondent American Steel and Wire Co., as aforesaid, and through such ownership the said American Steel and Wire Co. has complete and entire power and control over the business and various practices and business methods of the respondent The Gerrard Co., Inc., which said practices and methods of leasing or licensing its said wire-tying machines, as in this complaint set forth, are known to respondent American Steel and Wire Co., or, by the exercise of reasonable care and diligence, could and therefore should be well known to it, and therefore, said respondent American Steel and Wire Co. is jointly responsible with said respondent The Gerrard Co., Inc., for the existence and continued existence of all of said acts, practices and methods so employed and engaged in by the said respondent The Gerrard Co. Inc.

PAR. 6. The aforesaid acts, practices, and methods of respondent constitute a violation of the provisions of section 3 of the hereinabove mentioned act of Congress entitled, "An act to supplement existing

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laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of that certain act of the Congress of the United States entitled, "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, commonly known as the Clayton Act, the Federal Trade Commission on July 19, 1938, issued and subsequently served its complaint in this proceeding upon the respondents, The Gerrard Co., Inc., a corporation, and American Steel & Wire Co., a corporation, charging them with the violation of the provisions of section 3 of said act. After the issuance of said complaint and the filing of respondents' answers thereto, testimony and other evidence in support of the allegations of the complaint were introduced by George W. Williams, attorney for the Commission, and in opposition to the allegations of the complaint by Knapp, Allen and Cushing, attorneys for the respondents, before trial examiners of the Commission theretofore duly designated by it, and the testimony and other evidence were duly recorded and filed in the office of the Commission. Also, stipulations as to certain of the facts involved in the proceeding were entered into between the attorney for the Commission and the attorneys for the respondents, which stipulations were duly recorded in the record of the proceeding. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, the answers thereto, testimony and other evidence, stipulations as to certain of the facts, report of the trial examiners upon the evidence and the exceptions thereto, briefs in support of the complaint and in opposition thereto, and oral argument before the Commission; and the Commission having duly considered the matter and being now fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, The Gerrard Co., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 2915 West Forty-seventh Street, in the city of Chicago, Ill. Said respondent also maintains branch offices and places of business in New York, N. Y.; Pittsburgh, Pa.; New Orleans, La.; Los Angeles, Calif.; San Francisco, Calif.; Portland, Oreg.; and Seattle, Wash.

Said respondent is now, and for many years last past has been, engaged in the manufacture of wire-tying machines or appliances and in the leasing of such machines, and in the sale and distribution of steel tying wire to be used in the operation of such machines.

PAR. 2. In the course and conduct of its business said respondent causes, and for many years last past has caused, its said machines, when leased, and its said wire, when sold, to be transported from its principal place of business in Chicago, Ill., or from its branch plants located in New York, N. Y.; McKee's Rocks, Pa.; and New Orleans, La., to the parties leasing such machines and purchasing such wire, such parties being located in various States of the United States other than the States in which said shipments originate, and in the District of Columbia. Said respondent maintains, and at all times mentioned herein has maintained, a course of trade in its said products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. There are in the United States other corporations, and individuals, firms, and partnerships, who have been and are engaged in the sale, in commerce among and between the various States of the United States and in the District of Columbia, of steel tying wire suitable for use in and with said respondent's machines and appliances. But for the restrictive conditions in said respondent's lease contracts, as hereinafter set forth, said respondent would have been and would now be in active and substantial competition with such corporations, individuals, firms, and partnerships in the sale of steel wire to the lessees of said respondent's machines and appliances.

PAR. 4. Respondent, The Gerrard Co., Inc. (hereinafter referred to as the Gerrard Co.), was organized in 1927, succeeding to the business theretofore operated by one A. J. Gerrard as an individual. The company has always manufactured the machines leased by it, but has never manufactured the wire sold by it for use in the machines. It purchases the wire from various sources and then resells it to the users of its machines. During the first 2 or 3 years of its business operations the company sold its machines outright, but about 1930 it discontinued the policy of selling the machines and adopted the policy of leasing them exclusively.

The form of lease contract used by the company provides, among other things, that no wire other than that supplied by the company shall be used in the operation of the machine. The contract further provides that in the event of a breach of this condition the right of the lessee to possess or use the machine shall terminate forthwith, and

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the company shall have the right to repossess the machine and to enter upon the premises of the lessee for that purpose.

The pertinent provisions of the contract are in the following language:

The Gerrard Company, Inc., offers to furnish you for the binding, bundling and stowage work in your plant at (location), its Wire Tying Service which comprises, supplying such machines and auxiliary equipment as may be needed and the special tying wire to be used in that operation; maintaining the machines and equipment in operating condition including complete replacement when necessary; and furnishing the advice and counsel of its staff in the installation and use of the Gerrard Method of Wire Tying.

Promptly upon receipt of written request therefor, you will pay the service fee specified in the annexed "Terms and Conditions" hereof for each item of equipment delivered to you.

The machines and equipment supplied to you by this Company shall be used only with the special tying wire to be supplied by this Company for that purpose at the schedule of prices specified in the "Terms and Conditions" hereof above referred to and shall be used only for the binding, bundling and stowage work at your plant or plants above named. * * *

You will have the privilege of returning at any time and without notice, transportation charges prepaid to Chicago, Illinois, any machine or item of equipment furnished you by this Company. The return of all machines and equipment in your hands will effect a cancellation of this agreement. This Company will promptly refund to you the full amount of the service fee paid by you on any machine or item of equipment which may be returned within one month after date of original shipment.

All machines and equipment, and all parts therefor and replacements thereof, supplied by this Company shall remain the exclusive property of this Company, and shall be subject at all times to all the terms and provisions hereof, including the right of this Company to retake and remove the same from your possession upon any default on your part.

* * * your right to possess and/or use said machines and equipment shall terminate forthwith, as to each and every such machine and item of equipment, upon your failure to pay any sums owing to this Company promptly when due, or in the event tying wire other than that supplied by this Company is used in the operation of any of the machines or equipment supplied to you hereunder, and this Company reserves the right, at any time after the happening of either such event, to repossess itself of any and all such machines and equipment as may then be in your possession, and shall have the right to enter upon your said premises for that purpose.

Unless your license and right to the machines and equipment supplied to you by this Company is earlier terminated, for one or more of the reasons hereinabove specified, you may continue to use the same as long as you desire so to do, during all of which time the obligations of this Company, with respect to maintenance, repair and replacement of said machines and equipment, and the supplying of wire therefor and the furnishing of advice and counsel, as herein provided, shall continue in full force and effect.

No alterations in, or attachments to, any such machines and equipment are to be made by you without the consent, in writing, of an officer of this Company.

PAR. 5. Respondent American Steel & Wire Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located in the Rockefeller Building, Cleveland, Ohio. Said respondent is now, and for many years last past has been, engaged in the manufacture and sale of steel tying wire and strips and bands used in the operation of tying machines.

In 1936 the Gerrard Co. became involved in financial difficulties, and as a result of the adjustment of such difficulties the American Steel & Wire Co. became in effect the owner of the Gerrard Co., acquiring some 98 or 99 percent of the capital stock of the Gerrard Co. The American Steel & Wire Co. was familiar with the form of contract used by the Gerrard Co. in leasing its machines and was also familiar with the general policies and practices of the company. No change, however, was made with respect to the lease contract nor with respect to any of the general policies or practices of the Gerrard Co., nor was any change made in the management of the company, the same officers being retained.

The Gerrard Co. purchases the major portion of its wire from the American Steel & Wire Co. For example, between January 1, 1937, and October 31, 1937, the total purchases of wire by the Gerrard Co. from all sources amounted to \$763,021.82, and of this total, the purchases from the American Steel & Wire Co. amounted to \$417,789.04.

PAR. 6. Tying machines are divided into two general classes, those which use flat strips or bands of steel, commonly called steel strapping, and those which use wire. The general purpose of the machines is the reinforcement of boxes, bales, bundles, packages, etc., so that such containers and their contents may be transported or stored more efficiently and with greater safety and satisfaction. Essentially, the machines perform two operations: first, the tightening or tensioning of the wire or strapping around the bundle, and second, the tying or fastening of the wire or strapping.

PAR. 7. Tying machines were first used in the United States about 25 years ago. Since that time the development of the industry has been fairly steady and rapid. There are now approximately 100,000 tying machines in use in the United States, of which about 80,000 are flat band or strap machines and about 20,000 are wire machines. The gross volume of business done by the industry, including both machines and supplies (wire and strapping), is approximately \$9,000,000 per year.

PAR. 8. At the present time there are some 10 to 15 companies in the United States engaged in the furnishing of tying machines.

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Approximately three-fourths of the business, however, is confined to 3 companies, these being the Acme Steel Co. (respondent in the Commission's proceeding under Docket No. 3818), the Signode Steel Strapping Co. (respondent in the Commission's proceeding under Docket No. 3688), and the Gerrard Co., respondent in the present case. The Acme and Signode companies each do approximately 30 percent of the total volume of business in the industry, while the Gerrard Co. does approximately 17 percent of the total volume.

The Acme Co. deals in flat band or strap machines exclusively. The Signode Co. deals in both strap and wire machines. The Gerrard Co. confines its business entirely to wire machines. In this field (wire machines) the Gerrard Co. does approximately 40 percent of the total volume of business.

Like the Gerrard Co., the Acme and Signode companies lease their machines and do not sell them outright. The lease agreements used by both of these companies contain conditions prohibiting the lessee from using in the machine any strapping or wire other than that supplied to the lessee by the company furnishing the machine.

PAR. 9. None of these three companies makes or undertakes to make any profit on the machines themselves. In fact, the supplying and servicing of the machines is frequently done at a net loss to the companies. The sole purpose of supplying the machines is to sell the steel strapping or wire used in their operation. Illustrative of this is the fact that the gross revenue received by the Gerrard Co. from the leasing of its machines during the period from June 1938 to June 1939, amounted to only about \$40,000, whereas the gross revenue received by the company from the sale of wire for its machines during the same period amounted to approximately \$1,460,000.

PAR. 10. There is testimony in the record from a number of users of tying machines, some of whom use the machine of the Gerrard Co. exclusively and some of whom use both the Gerrard machine and other machines. Several of these witnesses testified that they would prefer to buy the wire or strapping for their machines in the open market rather than be restricted to the purchase of wire or strapping from the respective companies furnishing the machines; that they had been approached by representatives of concerns selling tying wire, but that they had been unable to entertain offers from such concerns because of the restrictive conditions in their lease agreements.

Other witnesses testified that they thought it preferable to obtain both machine and wire from the same source so as to preclude any attempted division of responsibility in the event the results obtained from the use of the machine were unsatisfactory. According to these witnesses, when the wire is obtained from a source other than the

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company supplying the machine, there is a tendency on the part of the manufacturer of the machine to attribute any unsatisfactory results to the wire, and likewise there is a tendency on the part of the manufacturer or seller of the wire to place the blame on the machine.

Other users of tying machines were of the opinion that the matter of avoiding a division of responsibility was of little consequence. Some of these witnesses were using, along with machines leased under contracts containing restrictive conditions, other machines which had been purchased outright and which were free from any restrictions as to the purchase of wire. As to these latter machines these users were in fact buying their wire in the open market, although they were observing the terms of their contracts insofar as the leased machines were concerned.

Even those witnesses who attached importance to the matter of avoiding a division of responsibility, testified that in the absence of restrictive conditions in their lease contracts, they would consider offers from concerns other than those supplying the machines; that they would be inclined to purchase from such outside sources if they found the material to be satisfactory and if the prices quoted were low enough to offset the point as to avoiding a division of responsibility.

PAR. 11. There is testimony to the effect that the wire sold by the Gerrard Co. for use in its machines is manufactured according to specifications furnished by the company, and that the wire has certain characteristics as to tensile strength, ductility, finish, etc. It is, however, undisputed that there is in the market and available at all times an ample supply of tying wire suitable for use in the Gerrard Co.'s machines, and that such wire will produce satisfactory results when used in such machines in the usual and normal manner. In fact, such wire may be obtained from some of the mills supplying the Gerrard Co.

Much of this wire which is suitable for use in the Gerrard Co.'s machines is for sale by concerns which do not manufacture, sell, or lease tying machines. These concerns have attempted to sell such wire to users of the Gerrard Co.'s machines but have found themselves precluded because of the restrictive conditions in the company's lease contract.

PAR. 12. The Commission finds that the practice of the Gerrard Co. in requiring that the lessees of its machines use in such machines no wire other than that supplied by the company, results in the exclusion from the market of numerous parties who, in the absence of such restriction, would be prospective and potential purchasers

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of tying wire from the company's competitors. Competition in the tying wire market is restricted and contracted in direct proportion to the extent to which the Gerrard Co. is successful in leasing its machines under agreements containing such restrictive conditions.

PAR. 13. It is contended by the Gerrard Co. that metal-tying machines constitute such a small part of the entire tying field that the practice of the company and of the other leading tying machine concerns can have no substantial effect upon competition in that field. In support of this contention it is pointed out that there are many devices which can be and are used for tying purposes, such as rope, twine, gummed tape, etc., and that even where metal reinforcing is desired there are many tools and devices which are used in doing the work, such as pliers, nippers, twisting bars, and hammer and nails. It is further pointed out that many shippers use preformed or prefabricated boxes or containers which either do not need reinforcing or which are reinforced in the process of manufacture.

PAR. 14. Most of the devices and methods referred to, however, are of a more or less primitive or out-moded nature and in many cases are being supplanted by modern tying machines such as those manufactured by the Gerrard Co. and the other tying machine concerns. In fact, the very existence of the tying-machine industry depends upon its ability to convince shippers that the tying machine is an improvement over these other methods. That the industry has been able to make substantial inroads into the tying field and to supplant the more primitive methods in many instances is attested by the steady and rapid growth of the industry.

PAR. 15. The Commission is of the opinion from the evidence, and finds, that the tying machine industry constitutes a field distinct from the general tying field, and that it is a line of commerce within the meaning of the Clayton Act.

PAR. 16. While the restrictive condition in the Gerrard Co.'s contract does not expressly provide that the lessees of the company's machines and appliances shall not use the wire of the company's competitors, the practical effect of such condition is to preclude such lessees from using such wire. The Commission further finds that the effect of such restrictive condition, under the circumstances set forth herein, has been, is, and may be, to substantially lessen competition in the aforesaid line of commerce. Such effect is materially increased by reason of the fact that it forms a part of the cumulative effect of the practices of the three leading companies in the tying machine industry upon competition in said line of commerce.

CONCLUSION

Through the use of the acts and practices described herein the respondents have violated and are now violating section 3 of the act of the Congress of the United States entitled, "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," commonly known as the Clayton Act.

MODIFIED ORDER TO CEASE AND DESIST¹

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, stipulations as to certain of the facts, testimony and other evidence taken before trial examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, report of the trial examiners upon the evidence and the exceptions thereto, briefs filed herein, and oral arguments by George W. Williams, attorney for the Commission, and by Knapp, Allen and Cushing, attorneys for the respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of that certain act of the Congress of the United States entitled, "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, commonly known as the Clayton Act.

It is ordered, That the respondents, The Gerrard Co., Inc., a corporation, and American Steel & Wire Co., a corporation, and their officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the leasing, sale, or making of any contract for the sale, of respondents' machines and appliances in commerce, as "commerce" is defined in the Clayton Act, do forthwith cease and desist from:

1. Leasing, selling, or making any contract for the sale of, respondents' machines or appliances on the condition, agreement or understanding that the lessee or purchaser thereof shall not use in or with such machines or appliances any wire other than that acquired from respondents, or from any other source designated by respondents.

2. Enforcing, or continuing in operation or effect, any condition, agreement, or understanding in or in connection with any existing lease or sale contract, which condition, agreement or understanding is to the effect that the lessee or purchaser of respondents' machines

¹ Order published as modified as of October 29, 1941.

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or appliances shall not use in or with such machines or appliances any wire other than that acquired from respondents.

It is further ordered, That said respondents shall, within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Syllabus

IN THE MATTER OF
SIGNODE STEEL STRAPPING COMPANY

COMPLAINT, FINDINGS, AND MODIFIED ORDER IN REGARD TO THE ALLEGED
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Docket 3688. Complaint, Jan. 16, 1939—Decision, Aug. 20, 1941

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As respects a contention that metal tying machines constitute such a small
part of the entire tying field that the practice of the leading tying machine
concerns can have no substantial effect upon competition in that field, it
is to be noted that most of the devices and methods used for tying pur-
poses—such as rope, twine, gummed tape, etc., tools for metal reinforcing such
as pliers, nippers, twisting bars, and hammer and nails, and including
also prefabricated containers which either do not need reinforcing or are
reinforced in the process of manufacture—are of a more or less primitive
or outmoded nature and, in many instances, are being supplanted by
modern tying machines, such as those made by the instant concern and
others. The very existence of the tying machine industry, in fact, depends
upon its ability to convince shippers that the tying machine is an im-
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While the form of a lease contract used by lessor company in leasing its metal
tying machines, providing that no wire other than that supplied by the
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event of a breach of said condition, lessee's right to possess or use a
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Where a corporation engaged in the manufacture and interstate purchase and
sale of steel tying wire and strapping, and in the manufacture of five