tendered was an abridged edition, as having a direct bearing on the allegations of the complaint.

ON INTERLOCUTORY APPEAL

By ANDERSON, Commissioner:

Respondent, Bantam Books, Inc., is charged in the complaint in this proceeding with the use of unfair and deceptive acts and practices and unfair methods of competition in commerce in the sale of its paperbacked books. In this connection it is alleged that respondent in some cases fails to disclose the fact that its books are abridged; that in other cases it discloses the fact of abridgement in small, inconspicuous letters; and that in the case of reprints bearing new titles it does not adequately disclose the original titles. In its answer, respondent denied the charges.

At the initial hearing counsel supporting the complaint offered and there was received in evidence 41 of respondent's books. The record discloses agreement that these books were reprints, or were abridged, or had been retitled. Counsel supporting the complaint also offered in evidence one other book, Commission's exhibit 42, for identification, the receipt of which was objected to, however, on the ground that the book was neither a reprint nor an abridgement and, therefore, not relevant to the issues in this proceeding. This objection was sustained by the hearing examiner who, also on the record, denied the request of counsel supporting the complaint for a hearing sought for the purpose of introducing expert testimony that the exhibit tendered was in fact an abridged edition from which large portions of the original text were omitted.

Commission's exhibit 42, for identification, is a paperbound volume entitled:

Alexander Dumas
THE COUNT OF MONTE CRISTO
a new translation
By Lowell Blair.

Counsel for respondent, on the record, vigorously denies that this book is an abridgment, or a reprint, claiming it to be "a new translation." For the reason that the proffered book did not disclose on its face that it was a reprint or an abridgement, the hearing examiner was of the opinion it was not proper evidence and, in response to counsel's request for another hearing, stated that a sufficient number of respondent's books had been received in evidence to establish respondent's practices so as to enable him to arrive at an initial decision on the case made. The request for the additional hearing was, therefore, denied.

The Commission has examined the record and finds that the only evidence adduced as to abridgment is that which tends to show inadequate disclosure of abridgment. There is no evidence presently in the record that in some cases respondent does not disclose in any manner

that certain of its books from which portions of the text have been deleted are, in fact, abridged editions. The purpose of the proffered evidence and testimony is to establish the fact that some of respondent's books are abridgments which contain no disclosure of that fact.

The Commission is of the opinion that the tendered evidence and testimony have a direct bearing on the allegations of the complaint. We are of the further opinion that the substantial right of counsel to support his case within the issues framed by the pleadings is involved in this interlocutory appeal. We also think that in the interest of justice this evidence and testimony should be received. We conclude, therefore, that the hearing examiner's ruling was erroneous and that the interlocutory appeal of counsel supporting the complaint should be granted.

ORDER GRANTING INTERLOCUTORY APPEAL OF COUNSEL SUPPORTING THE COMPLAINT

This matter having come on to be heard upon the interlocutory appeal of counsel supporting the complaint from the hearing examiner's ruling denying the request of counsel for a hearing to receive certain expert testimony and evidence; and

The Commission having concluded, for the reasons stated in the accompanying opinion, that the hearing examiner's ruling was erroneous:

It is ordered, That the appeal of counsel supporting the complaint be, and it hereby is, granted.

It is further ordered, That the case be remanded to the hearing examiner for further proceedings in conformity with the Commission's opinion.

CROSSE & BLACKWELL CO.

Docket 6463. Order and Opinion, Nov. 13, 1957

Order vacating initial decision dismissing complaint for lack of jurisdiction—respondent claiming to be a "packer" within the meaning of the Packers and Stockyards Act—and remanding case for further proceedings.