Commissioner Elman not participating.

LESLIE SALT CO.

Docket 8220. Order, May 29, 1961

Interlocutory order denying motion to dismiss charges of complaint in Sec. 7, Clayton Act, proceeding.

This matter having come on for hearing upon the interlocutory appeal of the respondent from the hearing examiner's rulings of April 11, 1961, whereby he denied three separately filed motions by the respondent, including its motion to dismiss the charges of the complaint which challenge the respondent's acquisition of the stock, assets and business of California Salt Company as violative of Section 7 of the Clayton Act, as amended and approved December 29, 1950; and

The respondent having argued in support of the request to dismiss that the acts charged are outside the purview of the statute for the reason, among others, that the respondent had acquired a substantial stock interest in such company prior to the above amendment date and prior to the acquisition in 1959 of that company's assets and the remainder of its outstanding capital stock, but it being evident that the hearing examiner's ruling merely contemplates informed decision of the issues upon the basis of facts subsequently developed in the orderly course of hearings; and

There being no showing that such ruling or the denials of the motions to strike and for a bill of particulars constituted an abuse of discretion by the hearing examiner or will operate in any way to deprive respondent of its rights to full and fair hearing, and the Commission having accordingly determined that the appeal is not within the category of those to be entertained under §3.20 of the Commission's Rules of Practice:

It is ordered, That the respondent's appeal be, and the same hereby is, denied.