

U. S. DEPARTMENT OF COMMERCE
WASHINGTON 25, D. C.

TEXT OF A STATEMENT BY SECRETARY OF COMMERCE SINCLAIR
WEEKS TO THE SELECT COMMITTEE ON SMALL BUSINESS OF THE
UNITED STATES SENATE, ROOM 457, SENATE OFFICE BUILDING
TUESDAY, MARCH 31, AT 2 P.M.

Gentlemen:

Even before I came to Washington, my mail in Boston was heavy with people telling me that an outfit in Oakland, California, making a product called AD-X2 to prolong battery life through reducing sulphation was having tough sledding in Washington. Your Committee, in fact, issued a report on the subject last December. One of the first things I did was to ask Mr. Sheaffer, Assistant Secretary for Domestic Affairs, to make a full and impartial investigation. He and his men have gone through file after file extending over the past five years.

Exhaustive examination of the files shows:

1. When this manufacturer put his product on the market in 1948, he was confronted with a pamphlet prepared by the National Bureau of Standards--No. 302--condemning all battery additives. This pamphlet was for sale by the Government Printing Office and, therefore, easily obtainable for distribution by anyone interested in combatting the sale of the new product.
2. When he asked for tests to prove the merit of his product, the National Bureau of Standards resisted making further tests, stating that, basically, the product was the same as others previously tested. The manufacturer, under these circumstances, could only tell his customers that his product had not been tested by the National Bureau of Standards and, therefore, pamphlet 302 did not apply to it.
3. The files show that scientists in the National Bureau of Standards were in touch with and worked closely with individuals and organizations who might have had an interest in the final outcome, submitting their work to them previous to publication and seeking their advice and guidance. In response to the National Better Business Bureau's request that Circular 302 be strengthened to "combat the flood of battery dopes" came a statement from Dr. Condon, then head of the National Bureau of Standards, which was widely circulated. There also came, in 1951, a new Circular, No. 504, from the National Bureau of Standards to supersede No. 302. This was advertised through press releases by the Department of Commerce as being available at 15¢ from the Government Printing Office. It sold!
4. While the manufacturer was having no luck getting the National Bureau of Standards to run tests which would show that his product was different from previous additives tested and had merit, I find the National Bureau of Standards suggesting to the National Better Business Bureau that tests would be made if requested by

the Federal Trade Commission. The Federal Trade Commission very promptly docketed the case--and the Post Office followed through later--although in all this period I can find no evidence of one single complaint by a user of the product. On the contrary, there are a great many testimonials from users stating that the product was saving them money by prolonging the life of their batteries. Many of these statements were made by reputable firms operating trucks, busses and tractors, as well as industrial equipment depending on batteries. I further find that the Oakland Better Business Bureau circulated their findings of no complaints as to "product, personnel or methods of doing business."

5. The manufacturer claims that, to this date, he has not been able to get the National Bureau of Standards to run a test that would show the merit of his product. A test was agreed upon, but 10 modifications in the procedure were made by the National Bureau of Standards.

6. The manufacturer had independent tests made by the U. S. Testing Company of Hoboken, New Jersey--controlled field tests extending over a period of 362 days. These tests rendered credible the experience reported by consumers.

7. Your Committee enlisted the aid of the Massachusetts Institute of Technology whose findings differed in some respects from the National Bureau of Standards' findings, even if, as some claim (including MIT) they cannot be interpreted as being so broadly favorable to AD-X2 as was done in the report of your Committee dated December 18, 1952. However, Dr. Weber of MIT states that extensive field tests might show the value of the product. Presumably, this statement puts believability into the U. S. Testing Company's report.

8. The present status of the matter is that there is a suspended fraud order against Pioneers, Incorporated, Mr. Ritchie, his wife, and Mr. Hager, Vice President of the firm, in the Post Office Department. After issuance on February 24, 1953, it was suspended by Postmaster General Summerfield at my request in order that I might investigate further. There is also an open docket in the Federal Trade Commission.

Throughout this whole matter runs the fact that the National Bureau of Standards is the keystone on which other agencies of the Government depend. The Post Office calls it their "Supreme Court" on questions of fraud in a case like this. The Federal Trade Commission relies on its tests in a similar manner. The Bureau, which is supposed neither to approve nor condemn a product, has, by its very setup, the power to make the introduction of a new product on the market very difficult, to prevent a product's being advertised by Federal Trade Commission action, and to have people labeled "fraud" and denied the use of the mails. If this power is objectively and correctly used, it has great value to all the people of this Nation. However, if the Bureau's foot slips, a business starting in against all the normal competitive hazards, finds itself up against something with which it cannot cope, the vast power of the U. S. Government.

Unless the small businessman knows a very great deal about Government, or has the finances to employ experts, he is obliged to quit.

I cannot bring myself to believe that the people making AD-X2 have the intent to defraud--and without intent, I do not see how there can be fraud.

I know that this business has suffered severely at the hands of certain bureaucrats. In fact, it is a wonder they are in existence at all after five years of struggle. Your Committee might want to re-examine the legislation giving the Federal Trade Commission very broad powers in matters like this.

I am not a man of science, and I do not wish to enter into a technical discussion or be accused of overruling the findings of any laboratory. But as a practical man, I think:

That the National Bureau of Standards has not been sufficiently objective, because they discount entirely the play of the market place and have placed themselves in a vulnerable position by discussing the nature and scope of their prospective reports with the very people who might not want to see the additive remain on the market, and when their reports and results of tests were questioned, discussed the matter with other scientists, engaged by your Committee to make separate, objective findings.

I cannot help but wonder how many similar cases have never been heard about--how many entrepreneurs who were convinced they have a good thing for the people, who, whether they knew it or not, were licked before they started--and by their very own Government to whom they paid high taxes!

It can generally be said that there are no complaints but, on the contrary, many testimonials to the fact that the product is good and has saved the users money. As a practical man, I do not see why a product should be denied an opportunity in the market place. I believe that the purpose of the Congress in establishing the Bureau of Standards and in giving powers to such agencies as the Federal Trade Commission and the Post Office Department to act to prevent unfair practices and the perpetration of frauds, was that they should be operated or their powers should be exercised in the interest of the general public and that such interest should be substantial and specifically and positively shown to be adversely affected before the power is used.

At this point, Pioneers, Incorporated, has a long way to go. It has to make its peace with the Post Office Department. It has to get off the hook with the Federal Trade Commission. It has to fight its way back in to customers it has lost, including the Government. It probably has to get financing to replace the funds lost through fighting the Government so far.

Because I feel that the Commerce Department's skirts are not entirely clean, and because I think we may have been the cause of prejudicial action against Pioneers by the Federal Trade Commission

and the Post Office, and because our job at Commerce is to operate for the general public interest and to help business in every possible manner, I propose to:

1. Get the best brains I can find to examine into the functions and objectives of the Bureau of Standards and re-evaluate them in relation to the American Business Community and other agencies of Government. This is a job that we should do, and I guarantee it will be done, and your Committee will always be thoroughly posted as to the actions we are taking;

2. As quickly as I can find the money in the budget, I am going to put a group of scientists in the Bureau who have never had any connection with this matter and tell them to test this thing in every conceivable way--even to the extent of field tests in actual operation; and

3. I am going to direct the withdrawal of Circular 504 and all other circulars and technical reports dealing with battery additives until such time as those tests are completed.

Thank you.