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INTERNATIONAL HARVESTER CO.

BRIEF FOR THE GOVERNMENT

FILED IN THE

DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA

DURING THE OCTOBER TERM, 1913,
IN THE CASE OF THE

UNITED STATES OF AMERICA v. INTERNATIONAL HARVESTER CO. AND OTHERS

PRESENTED BY MR. NELSON

JULY 27, 1914.—Ordered to be printed

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CONTENTS.

LIST OF CASES CITED.

INTERNATIONAL HARVESTER CO.

In the District Court of the United States for the District of Minnesota. October term, 1913.

UNITED STATES OF AMERICA AGAINST INTERNATIONAL HARVESTER CO. AND OTHERS.

BRIEF FOR THE UNITED STATES.

I.

INTRODUCTION.

The Government maintains that the International Harvester Co. is in and of itself a combination in restraint of trade and that it has acquired a monopoly of trade and commerce in harvesting implements—all in violation of the Sherman Act. We seek a disintegration of the business and the restoration of competitive conditions.

The general plan of this brief is shown in the index. Part I states the applicable principles of law; Part II reviews the nine cases decided by the Supreme Court since the Standard Oil and Tobacco decisions; Part III points out that the decision in the Tobacco case expressly condemned a combination in corporate form; Part IV is an outline of the petition and the facts; Part V describes the enormous percentage of the business in harvesting implements acquired and maintained by defendants; Part VI shows how the power of the monopoly is centered in a few persons; Parts VII and VIII disclose with more particularity than given in Part IV the manner in which defendants came together and why they put the combination in corporate form; Parts IX and X relate to the distributing policy of the combination, its power and conduct toward competitors; Part XI describes the binder-twine monopoly; Part XII relates to the defense; Part XIII summarizes the decision of the Missouri Supreme Court rendered against the combination; Part XIV, the decree.

The original petition was filed April 30, 1912, in the United States district court at St. Paul, naming as defendants the International Harvester Co., a New Jersey corporation, principal defendant, the International Harvester Co. of America, a Wisconsin corporation, and five other corporations, all of whose stock is held by the International Harvester Co., and 18 individuals, all directors and many of them also officers of the same company. The answer was filed in August following.

An examiner was appointed, voluminous proofs were taken, the Attorney General certified the importance of the case under the expediting act, and the matter comes here for argument before the four circuit judges of the eighth circuit.

Volumes I, II, and III contain the testimony of petitioners' witnesses Volume IV its exhibits and rebuttal testimony, Volumes V to XIV, inclusive, the testimony of witnesses for the defendants, and Volumes XV to XVIII their exhibits.

Notwithstanding the considerable testimony taken, the issues are neither many nor complicated.

We have here a corporate combination and monopolization, the same form of restraint of trade that was condemned in respect to each of six corporations in the suit against the Tobacco Trust (221 U. S., 106). The principal defendant is a corporation created in 1902 for the sole purpose of taking over the interstate businesses of five companies engaged in selling harvesting implements, theretofore competing, and together controlling 85 to 90 per cent of the total harvesting business in the United States, the vendors receiving in exchange for their properties all the stock in the new company (except an insignificant per cent subscribed by the bankers), and no other consideration.

The International Harvester Co., the principal defendant, was not incorporated until the owners of each of the five companies had agreed to sell out to it, and if there had not been such an agreement the principal defendant never would have had being. The direct, necessary, and immediate effect of its incorporation and immediate acquisitions was an undue suppression of competition resulting in restraint of trade and monopoly.

Under the undisputed facts the formation of the International Harvester Co. was not a normal and natural development of the commerce in harvesting machines. It was the child of one not theretofore interested in the business, George W. Perkins, a banker and insurance man, who stepped in at an opportune time to bring the rival manufacturers together; he and others, by means of a combination in corporate form, destroyed competition and intrenched monopoly. The organization of the International Harvester Co. in 1902 has been followed since that time by a course of conduct on the part of defendants clearly demonstrating an intent not only to perpetuate their monopoly of the harvesting business but also to build up by means of and upon their harvesting monopoly a monopoly of all the business in agricultural implements in the United States.

In view of the many occasions on which this court has been called upon to interpret and apply the Sherman Act, and particularly in view of the recent interpretation and application of the act by the Supreme Court of the United States to the facts as presented in the Standard Oil and Tobacco cases, it would serve no useful purpose, but would extend this brief to unreasonable limits, to review the numerous decisions of the courts under the Sherman Act since that act became the law 23 years ago.

The fundamental principles underlying the Sherman Act were lucidly set forth by Justice Harlan in the Northern Securities case (193 U. S., 197, 321).

Prior to the Standard Oil decision the terms "restraint of trade," "monopolization," "attempt to monopolize" had not been authoritatively defined in this country. In that case the court held that these terms in their rudimentary meaning took their origin in the

common law and were also familiar in the law of this country at the time of the adoption of the Sherman Act.

The statute generically enumerates the character of acts which it prohibits and the wrong which it was intended to prevent. Protection of the public by the prevention of the monopolization of trade or commerce and by the prevention of an undue restraint on commerce is the foundation upon which the prohibition of the statute rests. The law prohibits as illegal all acts which are unreasonably restrictive of competitive conditions.

The direct effect of the acts involved is the criterion by which it is to be determined in any case whether the combination is a restraint of trade within the intendment of the law. Therefore reason becomes the guide. Furthermore, if the necessary and direct effect of their acts was an undue suppression of competition defendants have violated the act no matter what primary intent or motive may have actuated them.

In every case we use the standard of reason for the purpose of determining whether or not an act or alleged restraint of commerce has brought about the injury from which the Sherman Antitrust Act is intended to guard the people. "In every case where it is claimed that an act or acts were in violation of the statute the rule of reason, in the light of the principles of law and the public policy which the act embodies, must be applied." (Mr. Chief Justice White in Standard Oil Co. *v.* U. S., 221 U. S., 1, 66.)

If the acts complained of have caused the wrongs which the statute forbade, resort to reason is not permissible to allow that to be done which the statute prohibits.

It matters not what form the combination may take, or what garb or dress it may put on.

Mr. Chief Justice White said in the Tobacco decision (221 U. S., 106) that it had been held in the Standard Oil case that the first and second sections of the act taken together—

> embraced every conceivable act which could possibly come within the spirit or purpose of the prohibitions of the law, without regard to the garb in which such acts were clothed. That is to say, it was held that in view of the general language of the statute and the public policy which it manifested, there was no possibility of frustrating that policy by resorting to any disguise or subterfuge of form, since resort to reason rendered it impossible to escape by any indirection the prohibitions of the statute.

This was not the declaration of any new principle, for in the Northern Securities case Mr. Justice Harlan, referring to the Sherman Act, had said (193 U. S., 197, 347):

> No device in evasion of its provisions, however skilfully such device may have been contrived, and no combination, by whomsoever formed, is beyond the reach of the supreme law of the land, if such device or combination by its operation directly restrains commerce among the States or with foreign nations in violation of the act of Congress.

Since the Sherman act was passed in 1890 the Supreme Court has had occasion to consider numerous forms of combination and monopolization and in each case the result has been in accord with the principle announced in the Standard Oil decision.

The earliest form of combination was that of an unincorporated association with a constitution and by-laws accomplishing unlawful restraints, condemned in the Addyston Pipe case (175 U. S., 211), Montague *v.* Lowry (193 U. S., 38), Trans-Missouri Freight Associa-

tion (166 U. S., 290), and Joint Traffic Association cases (171 U. S., 505). Destruction of competition between manufacturers through the adoption of a common selling agency given the form of a State corporation, another method of combination, was held unlawful in the Continental Wall Paper case (212 U. S., 227). The holding company as a means of suppressing competition whether between railroads or between industrial companies received the same judgment in the Northern Securities case, supra, and in the Standard Oil case (221 U. S., 1). In Dr. Miles Medical Co. *v.* John D. Park & Sons (220 U. S., 373) the court pronounced unlawful a scheme of so-called agency contracts under which a manufacturer attempted to establish uniform prices on all sales by wholesalers and retailers of proprietary medicines manufactured by him. In the case against the Tobacco Trust (221 U. S., 106) it was held that the American Tobacco Co. and five other companies organized under the laws of New Jersey were unlawful combinations, because they had acquired monopolistic power by methods inconsistent with a natural and normal expansion of business. In United States *v.* Terminal Railroad Association et al. (224 U. S., 383) it was decided that a terminal association of railroads is an illegal restraint so long as it does not act as the impartial agent of every line which, owing to geographic conditions, is under compulsion to use its instrumentalities.

A combination to suppress competition, given the form of licenses under patents, was held unlawful in the so-called Bathtub Trust case, regardless of an alleged intent, assumed by the court to be present, to improve the quality of the ware. (Standard Sanitary Manufacturing Co. *v.* United States, 226 U. S., 20.)

Destruction of competition between railroads accomplished by means of one buying a controlling stock interest in the other received the condemnation of the court in the Union Pacific case, although the power to suppress competition had not been exercised. (United States *v.* Union Pacific Railroad Co., 226 U. S., 61.)

In the Anthracite Coal case (United States *v.* Reading Co., 226 U. S., 324) a series of identical contracts between railroads and coal companies for the marketing of coal, appearing on their face to be normal and usual contracts, but in fact arrived at by concerted action in order to suppress competition, were declared unlawful. In the same case the court said that a corporation owned jointly by a number of defendant railroads in order to prevent the construction of a competing railroad was an unlawful instrumentality to prevent competition.

In the Cotton Corner case (U. S. *v.* Patten, 226 U. S., 525) a conspiracy between persons not engaged in commerce to run a corner in cotton and thwart the usual operation of the laws of supply and demand was held to be within the act. And finally in United States *v.* Pacific & Arctic Railway & Navigation Co. (228 U. S., 87) the court held unlawful a combination between a number of noncompeting carriers, forming a continuous line of transportation, against a carrier competing with one of the parties to the combination on part of the through route.

II.

Concerning the Manner in Which the Supreme Court has Applied the "Rule of Reason" in the Nine Cases Decided Since the Standard Oil and Tobacco Decisions.

United States *v.* Terminal Railroad Association (224 U. S., 383). Decided April 22, 1912. Opinion by Mr. Justice Lurton.

A terminal association of railroads, unifying all the terminal facilities of a great city, is an illegal restraint so long as it does not act as the impartial agent of every line which, owing to geographic conditions, is under compulsion to use its instrumentalities.

The physical or topographical condition peculiar to St. Louis made it impossible for any railroad to enter the city without using the defendant's terminal facilities. Therefore it was held that the combination of all the facilities for entering the city under the exclusive ownership and control of less than all the companies under compulsion to use them, constituted a combination in restraint of interstate commerce and also constituted an attempt to monopolize that commerce among the States which must pass through the gateway of St. Louis. Protection of the public by the prevention of the monopolization of trade or commerce and by the prevention of an undue restraint on commerce is the foundation upon which the prohibition of the statute rests.

Mr. Justice Lurton said:

(394) It is not contended that the unification of the terminal facilities of a great city where many railroad systems center is, under all circumstances and conditions, a combination in restraint of trade or commerce. Whether it is a facility in aid of interstate commerce or an unreasonable restraint forbidden by the act of Congress, as construed and applied by this court in the cases of The Standard Oil Co. *v.* The United States (221 U. S., 1), and The United States *v.* American Tobacco Co. (221 U. S., 106), will depend upon the intent to be inferred from the extent of the control thereby secured over instrumentalities which such commerce is under compulsion to use, the method by which such control has been brought about, and the manner in which such control has been exerted.

* * * * * * *

(398) The physical conditions which compel the use of the combined system by every road which desires to cross the river, either to serve the commerce of the city or to connect with lines separated by the river, is the factor which gives greatest color to the unlawfulness of the combination as now controlled and operated. If the terminal company was in law and fact the agent of all, the mere unification which has occurred would take on quite a different aspect.

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(401) We are not unmindful of the essential difference between terminal systems properly so described and railroad transportation companies. The first are but instrumentalities which assist the latter in the transfer of traffic between different lines, and in the collection and distribution of traffic. They are a modern evolution in the doing of railroad business, and are of the greatest public utility. They, under proper conditions, do not restrain but promote commerce.

* * * * * * *

(409) If, as we have already said, the combination of two or more mere terminal companies into a single system does not violate the prohibition of the statute against contracts and combinations in restraint of interstate commerce, it is because such a combination may be of the greatest public utility. But when, as here, the inherent conditions are such as to prohibit any other reasonable means of entering the city, the combination of every such facility under the exclusive ownership and control of less than all of the companies under compulsion to use them violates both the first and second sections of the act, in that it constitutes a contract or combination in restraint of commerce among the States and an attempt to monopolize commerce among the States which must pass through the gateway at St. Louis.

Standard Sanitary Manufacturing Co. *v.* United States (226 U. S., 20). Decided November 18, 1912. Opinion by Mr. Justice McKenna.

A price-fixing trade agreement in the form of licenses under patents under which 16 manufacturers controlling 85 per cent of the commerce in enameled ironware combined to destroy competition, fixing prices, and terms of sale of the ware and establishing penalties for violation of the agreement. The defendants urged as justification that the restraints alleged by the Government to be unlawful were proper restrictions lawfully imposed by the owner of a patent on a tool used in the manufacture of the ware who had issued licenses under the patent to the manufacturers. They asserted also a purpose to improve the quality of the ware sold. The court accepting, arguendo, the statement of defendants of their inducement and intent, sustained the contentions of the Government. Mr. Justice McKenna said:

(48) The agreements clearly, therefore, transcended what was necessary to protect the use of the patent or the monopoly which the law conferred upon it. They passed to the purpose and accomplished a restraint of trade condemned by the Sherman law. * * *

The agreements in the case at bar combined the manufacturers and jobbers of enameled ware very much to the same purpose and results as the association of manufacturers and dealers in tiles combined them in Montague & Co. *v.* Lowry (193 U. S., 38), which combination was condemned by this court as offending the Sherman law. The added element of the patent in the case at bar can not confer immunity from a like condemnation, for the reasons we have stated. * * * Rights conferred by patents are indeed very definite and extensive, but they do not give any more than other rights an universal license against positive prohibitions. The Sherman law is a limitation of rights, rights which may be pushed to evil consequences and therefore restrained.

Mr. Justice McKenna stated that the court had had occasion in a number of cases to declare its principle, and continued:

(49) The others it is not necessary to review or to quote from except to say that in the very latest of them the comprehensive and thorough character of the law is demonstrated and its sufficiency to prevent evasions of its policy "by resort to any disguise or subterfuge of form," or the escape of its prohibitions "by any indirection." (United States *v.* American Tobacco Co., 221 U. S., 106, 181). Nor can they be evaded by good motives. The law is its own measure of right and wrong, of what it permits or forbids, and the judgment of the courts can not be set up against it in a supposed accommodation of its policy with the good intention of the parties and, it may be, of some good results. (United States *v.* Trans-Missouri Freight Association, 166 U. S., 290; Armour Packing Company *v.* United States, 209 U. S., 56, 62.)

United States *v.* Union Pacific Railroad Co. (226 U. S., 61). Decided December 2, 1912. Opinion by Mr. Justice Day;

The Union Pacific acquired, February, 1901, 37½ per cent of the stock of the Southern Pacific, subsequently increased to 46 per cent. The Supreme Court unanimously sustained the contention of the Government that the two railroads were competing systems and that the domination over and control of the Southern Pacific Co. given to the Union Pacific by this purchase of stock brought the transaction within the antitrust act.

In view of the fact that the opinion of the court, by Mr. Justice Day, contains a very thorough elucidation of the "Rule of reason" established by the Standard Oil and Tobacco decisions, we quote at some length from his opinion. He said:

(81) In view of the recent consideration of the history and meaning of the act (Standard Oil and Tobacco cases, 221 U. S., 1 and 106, respectively), it would be superfluous to enter upon any general consideration of its origin and scope. In cer-

tain aspects the law has been thoroughly considered and its construction authoritatively settled, and in determining the present controversy we need but briefly restate some of the conclusions reached. The act applies to interstate railroads as carriers conducting interstate commerce, and one of the principal instrumentalities thereof. (United States *v.* Trans-Missouri Freight Association, 166 U. S., 220; United States *v.* Joint Traffic Association, 171 U. S., 505.) The act is intended to reach combinations and conspiracies which restrain freedom of action in interstate trade and commerce and unduly suppress or restrict the play of competition in the conduct thereof. (United States *v.* Joint Traffic Association, supra.) In that case an agreement between competing interstate railroads for the purpose of fixing and maintaining rates was condemned.

"It is," said the court (p. 571), "the combination of these large and powerful corporations, covering vast sections of territory and influencing trade throughout the whole extent thereof, and acting as one body in all the matters over which the combination extends, that constitutes the alleged evil, and in regard to which, so far as the combination operates upon and restrains interstate commerce, Congress has power to legislate and to prohibit."

In the Northern Securities Co. *v.* United States (193 U. S., 197) this court dealt with a combination differing in character from that considered in the Trans-Missouri and Joint Traffic cases, and it was there held that the transfer to a holding company of the stock of two competing interstate railroads, thereby effectually destroying the power which had theretofore existed to compete in interstate commerce, was a restraint upon such commerce, and Mr. Justice Harlan, announcing the affirmance of the decree of the circuit court, said (p. 337):

"In all the prior cases in this court the antitrust act has been construed as forbidding any combination which by its necessary operation destroys or restricts free competition among those engaged in interstate commerce; in other words, that to destroy or restrict free competition in interstate commerce was to restrain such commerce. Now, can this court say that such a rule is prohibited by the Constitution or is not one that Congress could appropriately prescribe when exerting its power under the commerce clause of the Constitution? Whether the free operation of the normal laws of competition is a wise and wholesome rule for trade and commerce is an economic question which this court need not consider or determine."

Mr. Justice Brewer, who delivered a concurring opinion, while expressing the view that the former cases were rightly decided, said that they went too far in giving the reasons for the judgments, and declared his view that Congress only intended to reach and destroy those contracts which were in direct restraint of trade, unreasonable, and against public policy. He was nevertheless emphatic in condemning the combination effected by the Northern Securities Co. and the transfer of stocks to it, which policy, he declared, might be extended until a single corporation with stocks owned by three or four parties would be in practical control of both roads, or, viewing the possibilities of combinations, the control of the whole transportation system of the country.

* * * * * * *

(84) In the recent discussion of the history and meaning of the act in the Standard Oil and Tobacco cases, this court declared that the statute should be given a reasonable construction, with a view to reaching those undue restraints of interstate trade which are intended to be prohibited and punished, and in those cases it is clearly stated that the decisions in the former cases had been made upon an application of that rule and there was no suggestion that they had not been correctly decided. In the Tobacco case, after referring to the previous decision in the Standard Oil case and the decisions in the Trans-Missouri and Joint Traffic cases, the doctrine was tersely summarized by the Chief Justice, speaking for the court, as follows (p. 179):

Applying the rule of reason to the construction of the statute, it was held in the Standard Oil case that as the words "restraint of trade" at common law and in the law of this country at the time of the adoption of the antitrust act only embraced acts or contracts or agreements or combinations which operated to the prejudice of the public interests by unduly restricting competition or unduly obstructing the due course of trade or which, either because of their inherent nature or effect or because of the evident purpose of the acts, etc., injuriously restrained trade, that the words as used in the statute were designed to have and did have but a like significance. It was therefore pointed out that the statute did not forbid or restrain the power to make normal and usual contracts to further trade by resorting to all normal methods, whether by agreement or otherwise, to accomplish such purpose. In other words, it was held, not that acts which the statute prohibited could be removed from the control of its prohibitions by a finding that they were reasonable, but that the duty to interpret which inevitably arose from the general character of the term "restraint of trade" required that the words "restraint of trade" should be given a meaning which would

not destroy the individual right to contract and render difficult if not impossible any movement of trade in the channels of interstate commerce—the free movement of which it was the purpose of the statute to protect.

We take it, therefore, that it may be regarded as settled, applying the statute as construed in the decisions of this court, that a combination which places railroads engaged in interstate commerce in such relation as to create a single dominating control in one corporation, whereby natural and existing competition in interstate commerce is unduly restricted or suppressed, is within the condemnation of the act. While the law may not be able to enforce competition, it can reach combinations which render competiton impracticable. (Swift & Co. *v.* United States, 196 U. S., 375.)

Nor do we think it can make any difference that instead of resorting to a holding company, as was done in the Northern Securities case, the controlling interest in the stock of one corporation is transferred to the other. The domination and control, and the power to suppress competition, are acquired in the one case no less than in the other, and the resulting mischief, at which the statute was aimed, is equally effective whichever form is adopted. The statute in its terms embraces every contract or combination, in form of trust or otherwise, or conspiracy in restraint of trade or commerce. This court has repeatedly held this general phraseology embraces all forms of combination, old and new. "In view of the many new forms of contracts and combinations," said the Chief Justice in the Standard Oil case (p. 59), "which were being evolved from existing economic conditions, it was deemed essential by an all-embracing enumeration to make sure that no form of contract or combination by which an undue restraint of interstate or foreign commerce was brought about could save such restraint from condemnation." A more effectual form of combination to secure the control of a competing railroad than for one road to acquire a dominating stock interest in the other, could hardly be conceived. If it is true, as contended by the Government, that a stock interest sufficient for the purpose was obtained in the Southern Pacific Co., with a view to securing the control of that company and thus destroying or restricting competition with the Union Pacific in interstate trade, the transaction was in our opinion within the terms of the statute.

* * * * * * *

(87) To preserve from undue restraint the free action of competition in interstate commerce was the purpose which controlled Congress in enacting this statute, and the courts should construe the law with a view to effecting the object of its enactment.

* * * * * * *

(88) The consolidation of two great competing systems of railroad engaged in interstate commerce by a transfer to one of a dominating stock interest in the other creates a combination which restrains interstate commerce within the meaning of the statute, because, in destroying or greatly abridging the free operation of competition theretofore existing, it tends to higher rates. (United States *v.* Joint Traffic Association, supra, 577.) It directly tends to less activity in furnishing the public with prompt and efficient service in carrying and handling freight and in carrying passengers and in attention to and prompt adjustment of the demands of patrons for losses, and in these respects puts interstate commerce under restraint. Nor does it make any difference that rates for the time being may not be raised and much money be spent in improvements after the combination is effected. It is the scope of such combinations and their power to suppress or stifle competition or create monopoly which determines the applicability of the act. (Pearsall *v.* Great Northern Railway Co., 161 U. S., 646, 676; United States *v.* Joint Traffic Association, supra.)

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(93) The purchase may be judged by what it in fact accomplished, and the natural and probable consequences of that which was done. Because it would have been lawful to gain, by purchase or otherwise, an entrance into California over the old Central Pacific does not render it legal to acquire the entire system, largely engaged in interstate commerce in competition with the purchasing road.

In the Union Pacific case the business which was competitive between the two railroads was but a comparatively small part of the sum total of all the traffic, State and interstate, carried over the two railroads. Therefore it was urged that only an incidental restraint of trade had resulted from the combination, such as ought not to be held within the law. Mr. Justice Day said, however, referring to the competitive traffic:

(88) It was by no means a negligible part, but a large and valuable part, of interstate commerce which was thus directly affected.

United States *v.* Reading Company (226 U. S., 324). Decided December 16, 1912. Opinion by Mr. Justice Lurton.

Defendants, a number of coal-carrying railroads and mining companies producing and transporting 75 per cent of the annual supply of anthracite coal combined to prevent the construction of an independent and competing line of railway into the anthracite region. The plan devised was to acquire by means of the instrumentality of the Temple Iron Co., a corporation, all of whose stock was owned by defendants, the coal properties and collieries controlled by the largest independent producer whose support had been promised to the proposed new line of transportation. The plan succeeded, for the properties having been acquired by the Temple Iron Co. the projected competing railroad was abandoned.

It was argued by defendant's counsel in the Supreme Court that since the new line of railroad had been effectively strangled, it would be idle to enjoin the doing of an act already accomplished. Mr. Justice Lurton said "that is a narrow view of the relief which may be granted under the statute and the frame of this bill." He continued:

(352) The combination by means of the Temple Co. still exists. It has been and still is an efficient agency for the collective activities of the defendant carriers for the purpose of preventing competition in the transportation and sale of coal in other States. * * * So long as the defendants are able to exercise the power thus illegally acquired, it may be most efficiently exerted for the continued and further suppression of competition. Through it, the defendants, in combination, may absorb the remaining output of independent producers. The evil is in the combination. Without it the several groups of coal-carrying and coal-producing companies have the power and motive to compete. * * * The Temple Co. therefore affords a powerful agency by means of which the unlawful purpose which induced its acquisition may be continued beyond the mere operation of the Simpson & Watkins collieries.

The petition alleged and the evidence established a concerted scheme on the part of the defendants to control the sale of the independent output by means of a series of identical contracts between interstate carriers and a great majority of the independent coal operators under which contracts the carriers were to market all the coal of the independents for all time at an agreed percentage of tidewater price. Defendants insisted that these contracts were but the outgrowth of conditions peculiar to the anthracite coal region while the Government maintained that they were the result of a concerted plan between defendants to secure control of the independent coal and suppress competition.

Mr. Justice Lurton said:

(369) That the act of Congress "does not forbid or restrain the power to make normal and usual contracts to further trade by resorting to all normal methods, whether by agreement or otherwise, to accomplish such purpose," was pointed out in the Standard Oil case (221 U. S., 1). In that case it was also said that "the words 'restraint of trade,' should be given a meaning which would not destroy the individual right of contract, and render difficult, if not impossible, any movement of trade in the character of interstate commerce, the free movement of which it was the purpose of the statute to protect." We reaffirm this view of the plain meaning of the statute, and in so doing limit ourselves to the inquiry as to whether this plan or system of contracts entered into according to a concerted scheme does not operate to unduly suppress competition and restrain freedom of commerce among the States.

Before these contracts there existed not only the power to compete but actual competition between the coal of the independents and that produced by the buying defendants. Such competition was after the contracts impracticable. It is, of course, obvious that the law may not compel competition between these independent coal

operators and defendants, but it may at least remove illegal barriers resulting from illegal agreements which will make such competition impracticable.

Whether a particular act, contract or agreement was a reasonable and normal method in furtherance of trade and commerce may, in doubtful cases, turn upon the intent to be inferred from the extent of the control thereby secured over the commerce affected, as well as by the method which was used. Of course, if the necessary result is materially to restrain trade between the States, the intent with which the thing was done is of no consequence. But when there is only a probability, the intent to produce the consequences may become important. (United States *v.* St. Louis Terminal Association, 224 U. S., 383, 394; Swift & Co. *v.* United States, 196 U. S., 375.)

In the instant case the extent of the control over the limited supply of anthracite coal by means of the great proportion theretofore owned or controlled by the defendant companies, and the extent of the control acquired over the independent output which constituted the only competing supply, affords evidence of an intent to suppress that competition and of a purpose to unduly restrain the freedom of production, transportation, and sale of the article at tidewater markets.

The case falls well within not only the Standard Oil and Tobacco cases (221 U. S., 1,106), but is of such an unreasonable character as to be within the authority of a long line of cases decided by this court. Among them we may cite: Northern Securities Co. *v.* United States (193 U. S., 197); Swift & Co. *v.* United States (196 U. S., 375); National Cotton Oil Co. *v.* Texas (197 U. S., 115); United States *v.* St. Louis Terminal Association (224 U. S., 383), and the recent case of United States *v.* Union Pacific Railway (ante, p. 61).

We are thus led to the conclusion that the defendants did combine for two distinct purposes—first, by and through the instrumentality of the Temple Iron Co., with the object of preventing the construction of an independent and competing line of railway into the anthracite region; and, second, by and through the instrumentality of the 65 per cent contracts with the purpose and design of controlling the sale of the independent output at tidewater.

United States *v.* Patten (226 U. S., 525). Decided January 6, 1913. Opinion by Mr. Justice Van Devanter.

A criminal prosecution in which the Government sued out a writ of error, the circuit court having sustained a demurrer to the indictment.

A conspiracy to run a corner in the available supply of a staple commodity, such as cotton, normally a subject of trade and commerce among the States, and thereby to enhance artificially its price throughout the country and compel all who have occasion to obtain it to pay the enhanced price or else leave their needs unsatisfied, is within the terms of section 1 of the Sherman Act. To run a corner is to acquire control of all or the dominant portion of a commodity with the purpose of artificially enhancing the price, one of the important features of which is the purchase for future delivery, coupled with a withholding from sale for a limited time.

Mr Justice Van Devanter said:

(541) Section 1 of the act, upon which the counts are founded, is not confined to voluntary restraints, as where persons engaged in interstate trade or commerce agree to suppress competition among themselves, but includes as well involuntary restraints, as where persons not so engaged conspire to compel action by others, or to create artificial conditions, which necessarily impede or burden the due course of such trade or commerce or restrict the common liberty to engage therein. (Loewe *v.* Lawlor, 208 U. S., 274, 293, 301.) As was said of this section in Standard Oil Co. *v.* United States (221 U. S., 1, 59):

"The context manifests that the statute was drawn in the light of the existing practical conception of the law of restraint of trade, because it groups as within that class not only contracts which were in restraint of trade in the subjective sense, but all contracts or acts which theoretically were attempts to monopolize, yet which in practice had come to be considered as in restraint of trade in a broad sense."

It may well be that running a corner tends for a time to stimulate competition; but this does not prevent it from being a forbidden restraint, for it also operates to thwart the usual operation of the laws of supply and demand, to withdraw the commodity from the normal current of trade, to enhance the price artificially, to hamper

users and consumers in satifying their needs, and to produce practically the same evils as does the suppression of competition.

* * * * * * *

(543) Upon the corner becoming effective, there could be no trading in the commodity save at the will of the conspirators and at such price as their interests might prompt them to exact. And so, the conspiracy was to reach and to bring within its dominating influence the entire cotton trade of the country.

In view of the fact that the conspiracy inflicted upon the public the injuries which the Sherman Act is designed to prevent, the court held it immaterial that the indictment did not allege a specific intent to restrain commerce, saying:

(543) The conspirators must be held to have intended the necessary and direct consequences of their acts and can not be heard to say the contrary. In other words, by purposely engaging in a conspiracy which necessarily and directly produces the result which the statute is designed to prevent, they are, in legal contemplation, chargeable with intending that result. (Addyston Pipe & Steel Co. *v.* U. S., 175 U. S., 211, 243; U. S. *v.* Reading Co., 226 U. S., 324, 370.)

Virtue *v.* Creamery Package Manufacturing Co. and The Owatonna Manufacturing Co. (227 U. S., 8). Decided January 20, 1913. Opinion by Mr. Justice McKenna.

Action for treble damages under section 7 of antitrust act, charging that defendants entered into a conspiracy to destroy plaintiff's interstate business by wrongfully prosecuting two suits against them for the infringement of patents, these suits having been brought separately by the defendants, although simultaneously. A jury found a verdict for the defendants. One of the defendants, the Creamery Package Manufacturing Co., had made a contract to purchase, in exchange for its stock, the property and business of a number of corporations controlling over 90 per cent of the business of manufacturing and selling creamery and dairy supplies in the States of Michigan and Indiana, and in all the States west and in some of the States east thereof; the other defendant corporation, however, had not joined in the contract. The circuit court, the circuit court of appeals, and the Supreme Court all assumed that this contract was a combination in restraint of trade, but held that, as one of the two corporation defendants had not been a party to it, a necessary element of the charge of the complaint was not proven, namely, cooperation between the corporate defendants in the purpose. Mr. Justice McKenna said:

(31) The case is, as we have said, in narrow compass. The complaint charges a violation of the Sherman Act, and, as a means of accomplishing its purpose, the destruction of plaintiff's interstate trade by a malicious litigation of their rights. A necessary element of the charge is the cooperation of at least the corporate defendants in the purpose, and this determines our inquiry. In answering it we shall assume, as the lower courts assumed, that by the contract of February, 1898, the Creamery Package Manufacturing Co. and the corporations competing with it entered into a combination offensive to the law. Did the Owatonna Co. participate in it or subsequently join it or cooperate to execute its purposes? The question must be answered in the negative, as we shall proceed to show.

* * * * * * *

But plaintiffs urge that the Creamery Package Manufacturing Co. was of itself a combination offensive to the statute and that they were entitled to go to the jury as to that company. But the contention was not made in the circuit court, nor was it made in the circuit court of appeals. The case was tried and ruled upon, as we have seen, on the ground of the cooperation of the defendants in a scheme of monopoly and restraint of trade. There was no liability asserted in the circuit court or in the circuit court of appeals against one of the defendants separately from the others. Concert and cooperation was asserted against all and a ruling was not invoked as to

the separate liability of either. * * * It is manifest, therefore, that the separate liability of the Creamery Package Manufacturing Co. is an afterthought and urged in this court for the first time.

United States *v.* Winslow (227 U. S., 202). Decided February 3, 1913. Opinion by Mr. Justice Holmes.

Opinion on a writ of error to a judgment sustaining a demurrer to the indictment. Three companies engaged in different lines of business and not competing but making, respectively, 60, 80, 70, and 80 per cent of the lasting machines, welt-sewing machines, heeling machines, and metallic fastening machines made in the United States, organized a new company, to which they turned over their several businesses which, as has been stated, had not been competing businesses. The court held that the organization of a new company and the purchase by it of the stock and businesses of the three noncompeting concerns did not constitute a violation of the Sherman Act. The opinion of the court makes plain that if the three businesses which combined had been competing businesses the conclusion of the court would have been different. Mr. Justice Holmes said:

(217) On the face of it the combination was simply an effort after greater efficiency. The business of the several groups that combined, as it existed before the combination, is assumed to have been legal. The machines are patented, making them a monopoly in any case, the exclusion of competitors from the use of them is of the very essence of the right conferred by the patents (Paper Bag Patent case, 210 U. S., 405, 429), and it may be assumed that the success of the several groups was due to their patents having been the best. *As, by the interpretation of the indictment below* (195 Fed. Rep., 591), and by the admission in argument before us, *they did not compete with one another*, it is hard to see why the collective business should be any worse than its component parts. It is said that from 70 to 80 per cent of all the shoe machinery business was put into a single hand. This is inaccurate, since the machines in question are not alleged to be the types of all the machines used in making shoes and since the defendants' share in commerce among the States does not appear. But taking it as true, we can see no greater objection to one corporation manufacturing 70 per cent of *three noncompeting groups* of patented machines collectively used for making a single product than to three corporations making the same proportion of one group each. The disintegration aimed at by the statute does not extend to reducing all manufacture to isolated units of the lowest degree. It is as lawful for one corporation to make every part of a steam engine and to put the machine together as it would be for one to make the boilers and another to make the wheels. Until the one intent is nearer accomplishment than it is by such a juxtaposition alone no intent could raise the conduct to the dignity of an attempt. (See Virtue *v.* Creamery Package Mfg. Co., Jan. 20, 1913; Swift *v.* United States, 196 U. S., 375, 396.) [Italic ours.]

United States *v.* Pacific and Arctic Railway & Navigation Co. and others, 228 U. S., 87. Decided April 7, 1913. Opinion by Mr. Justice McKenna.

Decision on a writ of error to a judgment sustaining a demurrer to the indictment. This charged a conspiracy in restraint of trade to destroy competition in the transportation of freight and passengers between ports in the United States and British Columbia on the south, and cities in the valleys on the Yukon River and Northern Alaska on the north, for the purpose of monopolizing such trade. A second count charged monopolization of the same trade.

It should be noted that none of the defendants were competitors of each other for they together formed a continuous line of transportation, by water and rail, from the southern to the northern ports. Furthermore, the only possibility of competition was on the water part of the route, from the United States and British Columbia ports to Skagway.

In order to put out of business a steamship company that was competing with one of the defendants on part of the through route and in order to throw all trade into the hands of the defendant steamship companies the defendants agreed that the railroad company, another defendant, should establish through route and joint rates with them and refuse to do so with any independent company. Defendants with like purpose so fixed the local rates that the combination of local rates was greater than the through rate agreed upon.

The court unanimously held the scheme illegal, Mr. Justice McKenna saying:

(104) The charge of the indictment is that the agreements were entered into not from natural trade reasons, not from a judgment of the greater efficiency or responsibility of the defendant steamship lines as instruments in the transportation than the independent lines, but as a combination and a conspiracy in restraint of trade by preventing and destroying competition in the transportation of freight and passengers between the United States and Alaska and obtaining a monopoly of the traffic by engaging not to enter into agreements with the independent lines. There is a charge, therefore, of infringement of the antitrust law, of something more done than the exercise of the common-law right of selecting connections, and the scheme becomes illegal. (Swift & Co. *v.* United States, 196 U. S., 375, 396.) We do not pause to justify this conclusion, either by the general purpose of the act or by its adjudged applications. Its general purpose has been elaborately set forth in very recent cases; and particular instances of its application, pertinent to the case at bar and illustrative of it, are exhibited by Swift & Co. *v.* United States, supra, and Standard Sanitary Mfg. Co. *v.* United States (226 U. S., 20). In those cases, as here, rights were brought forward to justify a purpose which transcended the limits put upon their exercise by the antitrust act. In those cases, as here, the purpose (the means being different) was the prevention or destruction of competition, and the agreements here are exactly adapted to the purpose.

Nash *v.* United States (228 U. S., 373). Decided June 9, 1913. Opinion by Mr. Justice Holmes.

Certiorari to a judgment of the circuit court of appeals, fifth circuit, affirming a judgment entered on conviction by a jury.

The counts of the indictment charged a conspiracy in restraint of trade and to monopolize trade, the restraint to be effected in a number of ways, all being for the purpose of driving competitors out of business.

The Supreme Court dismissed in short order the argument that the Sherman Act is so vague as to be inoperative on its criminal side. Mr. Justice Holmes said:

(376) The objection to the criminal operation of the statute is thought to be warranted by the Standard Oil Co. *v.* United States (221 U. S., 1) and United States *v.* American Tobacco Co. (221 U. S., 106). Those cases may be taken to have established that only such contracts and combinations are within the act as, by reason of intent or the inherent nature of the contemplated acts, prejudice the public interests by unduly restricting competition or unduly obstructing the course of trade (221 U. S., 179).

* * * We are of opinion that there is no constitutional difficulty in the way of enforcing the criminal part of the act.

* * * * * * *

(378) As to the suggestion that the matters alleged to have been contemplated would not have constituted an offense if they had been done, it is enough to say that some of them conceivably might have been adequate to accomplish the result, and that the intent alleged would convert what on their face might be no more than ordinary acts of competition or the small dishonesties of trade into a conspiracy of wider scope, as has been explained more than once. (Swift & Co. *v.* United States, 196 U. S., 375, 396; Loewe *v.* Lawler, 208 U. S., 299.) Of course, this fact calls for conscience and circumspection in prosecuting officers, lest by the unfounded charge of a wider purpose than the acts necessarily import they convert what at most would be small local

offenses into crimes under the statutes of the United States. But we can not say, as was the case in United States *v.* Winslow (227 U. S., 202, 218), that no intent could convert the proposed conduct into such a crime.

The court also held that a conspiracy indictment under the act need not aver the commission of an overt act as "the Sherman Act punishes the conspiracies at which it is aimed on the common-law footing," and "we can see no reason for reading into the Sherman Act more than we find there."

The court reversed the judgment of conviction for error in the charge to the jury.

III.

The Decision in the Tobacco Case Expressly Condemned a Combination in Corporate Form.

In view of the decision by the Supreme Court in the Tobacco Trust case, it can no longer be contended that a corporate combination or combination in corporate form is immune from the prohibitions of the Sherman Act. That case squarely decided that a corporation may be an illegal form of combination although complying with the corporation laws of the State of its organization. The court held that each of six New Jersey corporations—namely, the American Tobacco Co., principal defendant, and five so-called accessory corporations, American Cigar Co., American Stogie Co., American Snuff Co., McAndrews & Forbes Co. (licorice monopoly), and Conley Foil Co. (tinfoil monopoly)—was an unlawful combination in restraint of trade, an attempt to monopolize, and a monopolization within the first and second sections of the antitrust act (221 U. S., at p. 187).

Mr. Chief Justice White recognized the fact that the legality of the corporate form of combination had not been previously passed upon by the court, and that therefore it became necessary for it to make a more comprehensive application of the statute in the Tobacco case if it were to grant an effective remedy than it had done in any previous case. The new problems which had to be decided in the Tobacco case, all of which were resolved in favor of the enforcement of the statute, he stated as follows:

(175) If the antitrust act is applicable to the entire situation here presented and is adequate to afford complete relief for the evils which the United States insists that situation presents, it can only be because that law will be given a more comprehensive application than has been affixed to it in any previous decision. This will be the case because the undisputed facts as we have stated them involve questions as to the operation of the antitrust act not hitherto presented in any case. Thus, even if the ownership of stock by the American Tobacco Co. in the accessory and subsidiary companies and the ownership of stock in any of those companies among themselves were held, as was decided in United States *v.* Standard Oil Co., to be a violation of the act and all relations resulting from such stock ownership were therefore set aside, the question would yet remain whether the principal defendant, the American Tobacco Co., and the five accessory defendants, even when divested of their stock ownership in other corporations, by virtue of the power which they would continue to possess, even although thus stripped, would amount to a violation of both the first and second sections of the act. Again, if it were held that the corporations, the existence whereof was due to a combination between such companies and other companies was a violation of the act, the question would remain whether such of the companies as did not owe their existence and power to combinations, but whose power alone arose from the exercise of the right to acquire and own property would be amenable to the prohibitions of the act. Yet further: Even if this proposition was held in the affirmative, the question would remain whether the principal defendant, the American Tobacco Co., when stripped of its stock ownership, would be in and of

itself within the prohibitions of the act, although that company was organized and took being before the antitrust act was passed. Still further, the question would yet remain whether particular corporations which, when bereft of the power which they possessed as resulting from stock ownership, although they were not inherently possessed of a sufficient residuum of power to cause them to be in and of themselves either a restraint of trade or a monopolization or an attempt to monopolize, should nevertheless be restrained because of the intimate connection and association with other corporations found to be within the prohibitions of the act.

After having enumerated the questions of law involved in the Tobacco case Mr. Chief Justice White proceeded in the following words to state the significance of the "rule of reason," first announced in the Standard Oil case.

(179) Applying the rule of reason to the construction of the statute, it was held in the Standard Oil case that as the words "restraint of trade" at common law and in the law of this country at the time of the adoption of the antitrust act only embraced acts or contracts or agreements or combinations which operated to the prejudice of the public interests by unduly restricting competition or unduly obstructing the due course of trade or which, either because of their inherent nature or effect or because of the evident purpose of the acts, etc., injuriously restrained trade that the words as used in the statute were designed to have and did have but a like significance. It was therefore pointed out that the statute did not forbid or restrain the power to make normal and usual contracts to further trade by resorting to all normal methods, whether by agreement or otherwise, to accomplish such purpose. In other words, it was held, not that acts which the statute prohibited could be removed from the control of its prohibitions by a finding that they were reasonable, but that the duty to interpret which inevitably arose from the general character of the term restraint of trade required that the words restraint of trade should be given a meaning which would not destroy the individual right to contract and render difficult if not impossible any movement of trade in the channels of interstate commerce—the free movement of which it was the purpose of the statute to protect. The soundness of the rule that the statute should receive a reasonable construction after further mature deliberation we see no reason to doubt.

After he had stated the problems to be decided and the meaning of the rule governing their determination, the Chief Justice proceeded to apply the "rule of reason" to the undisputed facts in the case, using the following language:

(180) Coming then to apply to the case before us the act as interpreted in the Standard Oil and previous cases, all the difficulties suggested by the mere form in which the assailed transactions are clothed become of no moment. This follows because although it was held in the Standard Oil case that, giving to the statute a reasonable construction, the words "restraint of trade" did not embrace all those normal and usual contracts essential to individual freedom and the right to make which were necessary in order that the course of trade might be free, yet as a result of the reasonable construction which was affixed to the statute, it was pointed out that the generic designation of the first and second sections of the law, when taken together, embraced every conceivable act which could possibly come within the spirit or purpose of the prohibitions of the law, without regard to the garb in which such acts were clothed. That is to say, it was held that in view of the general language of the statute and the public policy which it manifested, there was no possibility of frustrating that policy by resorting to any disguise or subterfuge of form, since resort to reason rendered it impossible to escape by any indirection the prohibitions of the statute.

Finally he answered all the questions of law in issue, and which we have quoted above, in favor of the statute, upholding the contentions of the United States in respect to each. He stated:

* * * (184) the assailed combination in all its aspects—that is to say, whether it be looked at from the point of view of stock ownership or from the standpoint of the principal corporation and the accessory or subsidiary corporations viewed independently, including the foreign corporations in so far as by the contracts made by them they became cooperators in the combination—comes within the prohibitions of the first and second sections of the antitrust act, * * *

The court decreed:

(187) That the combination in and of itself, as well as each and all of the elements composing it, whether corporate or individual, whether considered collectively or separately, be decreed to be in restraint of trade and an attempt to monopolize and a monopolization within the first and second sections of the antitrust act.

It is manifest that the court did not restrict its decision to a holding that a corporation whose existence is due to a combination of competing companies is an unlawful combination. It held that any corporation comes within the prohibitions of the act which has acquired monopolistic power by methods inconsistent with a normal and usual development of business. If a corporation has proceeded to buy out all its competitors, not as an incident to orderly growth, but in order to obtain a monopoly of the business, it has become amenable to the law, although in so doing it has exercised the power to acquire and own property. (Shawnee Compress Co. case, 209 U. S., 423.) The question in any case must be whether the direct effect of the acts involved has brought about the evils which it is the purpose of the statute to prevent, namely, undue suppression of competition and monopoly. The form taken to accomplish the unlawful result becomes immaterial.

Although the opinion in the Tobacco case first authoritatively announced the principles just stated, they had been vigorously advocated by eminent legal writers prior to that time.

See Eddy on combinations, sections 617, 612, et seq.

Noyes on intercorporate relations, sections 306, 319, 354.

Eddy on combinations, section 622:

That which individuals can not lawfully do by simple combinations they can not lawfully do by corporate combinations. This proposition seems too clear to require illustration, and yet the impression prevails very generally that by simply changing the form of the combination the decisions against simple combinations and trusts have been entirely evaded. In so far as the decisions against trusts were based upon the general principles governing corporations, the adoption of the corporate form of combination undoubtedly meets many of the objections urged against the trust form; but in so far as the decisions against trusts and simple combinations challenge the validity of combinations generally, the adoption of the corporate form is no evasion whatsoever. The right of any number of individuals to form a corporation and sell to the corporation, in return for either cash or the capital stock of the corporation, their plants and properties, has nothing to do with the question whether or not the objection of these individuals in forming the combination and in so disposing of their plants and properties is to do that which is unlawful or oppressive.

Noyes on intercorporate relations, section 354:

The test of the legality of a combination lies in its object and not in its form. The view that a combination by means of a purchasing corporation is less vulnerable than other forms of combination is well founded only with reference to questions of corporation law. * * * That which public policy forbids in the case of an association or trust can not lawfully be done by a corporate combination, and vice versa. * * * If the sale is for the purpose of forming a corporate combination, in which the vendor corporation participates, the same rule of public policy is applicable as in the case of any combination of corporations. As already stated, the object of a combination, or the necessary or natural consequence of its operation, determines its legality. The form—trust, corporate combination or association—will not serve as a cloak for conspiracy nor prevent the application of the rule of public policy.

Corporate power to purchase no more authorizes the exercise of such power for purposes opposed to public policy than a general power to make contracts authorizes the execution of agreements conflicting with the public interests.

See Id., 386 et seq., on interpretation of Sherman Act.

IV.

Outline of Petition and Generally Concerning the Facts.

(a) description of the harvester business.

[Petition, pp. 5-8.]

Harvesting implements—binders, mowers, and rakes—constitute the most important class of the several classes of agricultural tools and implements, which, broadly speaking, may be divided into five classes: (1) Tillage implements, designed to prepare the soil for seeding and to keep it in good condition, such as plows, harrows, and cultivators; (2) seeding implements used in planting and sowing, drills, and corn planters; (3) harvesting implements—for harvesting the crops; binder twine, although not an implement, is properly included here as it is indispensable in harvesting the crop and is sold generally by the implement dealers who sell binders; (4) thrashing machinery; and (5) implements designed for general agricultural use, such as wagons, manure spreaders, gasoline engines, cream separators, tractors, etc.

In many States the farmer's expenditures for harvesting machinery and twine aggregate considerably more than 50 per cent of the total expense incurred by him in purchasing agricultural machinery and implements of all kinds. [This statement defendants deny (answer, p. 5); it is, however, not a subject of controversy that harvesting implements of necessity are widely used in the grain and hay producing sections of the country. The allegation of the petition as to the relative importance of harvesting implements as compared with other classes of harvesting implements is supported by the testimony of Dr. John Lee Coulter of the United States Census Bureau, in charge of statistics pertaining to agriculture (I, 496, fol. 2) and of P. D. Middlekauff, president of the Acme Harvesting Co., formerly with the Deerings, and over 30 years in the harvesting business (I, 171, fols. 3–4). See also, Green, III, 21, fols. 2–3; Porter, III, 95, fols. 1–2; Babcock, III, 103, fol. 1; Borgman, III, 106, fol. 2; McAleer, II, 349; see Statistics, Ex. 231, IV, 254–287.]

As a rule, agricultural implements are sold by the manufacturer to the retail implement dealer and by the latter to the farmer. The wholesaler or jobber, so prominent in other industries, plays but a small part in the distribution of agricultural implements from the manufacturer to the farmer.

Almost every town, village, and hamlet in the United States has one or more retail implement dealers. These buy directly from the manufacturers and sell directly to the farmer. In respect to the principal harvesting implements—binders, corn binders, and mowers—the implement dealer generally acts as commission agent for the manufacturer; that is, the manufacturer retains title to the implement which he consigns to the dealer at a fixed price, and the latter keeps as his commission the difference between the price at which he sells and the price at which the implement is consigned to him. This is called doing business on the commission-agency plan and has been the common way of selling harvesting implements for many years. (Glessner, I, 441; Funk, I, 11, 37; Middlekauff, I, 169,

fol. 4; Legge, XIV, 23, fol. 4.) The implement dealers usually handle all classes of agricultural implements, for the profits on a few sales of one class would not enable the implement dealer to exist.

It follows that a monopoly acquired of one of the classes of agricultural machinery, particularly harvesting machinery, may easily form the basis of a monopoly of the other classes. The implement dealer must be able to sell each class in order to continue in business. A combination controlling the output and distribution of harvesting implements may expand into the other classes of agricultural implements and acquire a monopoly therein by withholding from the dealer its harvesting implements if he refuse to buy the combination's added lines of agricultural machinery.

[This allegation defendants deny. (Answer, p. 5.) The question whether a monopoly of harvesting machinery may form the basis for acquiring a monopoly in other lines of agricultural implements is important when we come to consider whether defendants have attempted or are attempting to monopolize those other lines. Of course, on the question of the legality of the monopoly of the harvesting business the fact that such a monopoly may or may not lead to another monopoly of another thing is not a matter of great moment; it is merely one of many circumstances entitled to consideration by the court. That is to say, if we have proven that defendants have monopolized the harvesting business and are unduly restraining trade therein it is no defense for them to say that the unlawful combination which they have created will not bring about a second unlawful monopoly.]

In the harvesting business it has always been the custom to sell the implements belonging to that class under trade names, the trade name applying not only to one particular type of implement—for instance, the binder—but to all the implements of the class—binders, mowers, reapers, rakes, headers, corn binders, sweep rakes, side-delivery rakes, tedders, and twine. By advertisement and otherwise the trade names of many harvesting machines, particularly binders, mowers, reapers, and rakes, had become well known to farmers before 1902. These well-advertised and popular binders and mowers have become staples in the business of implement dealers. (This defendants admit, answer, p. 6.) Without these staple machines the implement dealer can only with great difficulty, if at all, build up or maintain a successful business.

The leading trade names in the harvesting business are "McCormick," "Deering," "Champion," "Osborne," "Milwaukee," and "Plano." (Middlekauff, I, 172, fols. 2–4.) Defendant John J. Glessner, in 1902 president of the Champion Co., with an experience of 50 years in the business, said that "McCormick" as a trade name goes back to 1849, "Osborne" to 1860, "Champion" to 1868, "Deering" to 1875, and "Plano" and "Milwaukee" many years. These are the oldest trade names known in the harvester business. (Glessner, I, 440; Middlekauft, I, 172, fols. 2–4.)

Before 1902 the aggregate annual output of five distinct concerns, selling harvesting machinery and binder twine, amounted to over 85 per cent of all the harvesting machinery and more than 50 per cent of all the binder twine sold in the United States. (Petition, p. 8.)

These concerns were McCormick Harvesting Machine Co., an Illinois corporation, capital stock $2,500,000, with factories and plants located at Chicago, Ill.; the Deering Co., a copartnership, with factories at Chicago, Ill.; the Plano Manufacturing Co., an Illinois corporation, capital stock $1,000,000, with factory at West Pullman, Ill.; Warder, Bushnell & Glessner Co. (generally known as, and hereafter called, the "Champion" Co., after its well-known lines of "Champion" machines), an Ohio corporation, capital stock $3,000,000, with factory at Springfield, Ohio; Milwaukee Harvester Co., a Wisconsin corporation, capital stock $1,000,000, with factory at Milwaukee, Wis. These companies were separate and independent—and sold, shipped, and distributed their products throughout the United States to implement dealers in active and open competition.

Defendants admit (answer, pp. 6–7) that the annual output in binders, mowers, reapers, and rakes of these five concerns amounted to approximately 80 to 85 per cent of such harvesting machinery sold in the United States, and that their output in binder twine was approximately 40 per cent of the total output of binder twine, but they deny that they sold any larger per cent than the per cents admitted.

The proof establishes that in large sections of the country these five concerns and D. M. Osborne & Co., acquired by the International Harvester Co., January, 1903, did in 1902 practically 100 per cent of the business. In Part V of this brief we shall point out in more detail the extent of control acquired by defendants in 1902, and maintained by them since that time (infra, pp. 59–74).

Each of the five companies had established a successful, profitable, and expanding business. (Petition, p. 9.) This defendants admit, except as to the Plano and Champion companies. Exhibits 69–72 (IV, 200–206, 211–218, 221, 224, 230–231), appraisals of the companies made in 1902 at the time of the consolidation as a basis for determining how the stock should be divided among the owners of the properties conveyed, conclusively establish the allegations of the petition on this point. John J. Glessner, president of the Champion Co., testified that the business of his company had been a profitable one (I, 461, fol. 1). See infra, page 172.

Each company sold and shipped its products from the place of manufacture to other States; each company maintained, in the grain and hay sections of the country, branch houses or general agencies to which the goods were shipped from the factory, and from which they were reshipped to the local agents within the territory of the general agency. Much of the output was shipped directly to the local agent from the factory on orders sent through the general agency. In 1902 the McCormick Harvesting Machine Co. had 61 of these general agencies, located in 32 different States. The Deering Harvester Co. had 61 general agencies, the Warder, Bushnell & Glessner Co. 58, the Plano Co. 53, and the Milwaukee Co. 22. (Exhibit 18, IV, 108.) Business had always been done in this way. (Glessner, I, 441.)

Defendants "admit that in 1902 all of said five companies were engaged in commerce among the several States in harvesting machinery and twine, but they aver that only the Deering and McCormick companies manufactured any binder twine." (Answer, p. 7.)

(b) FORMATION OF INTERNATIONAL HARVESTER CO.—PURPOSE AND METHODS.

In July, 1902, Cyrus H. McCormick, Charles Deering, John J. Glessner, and William H. Jones, principal owners of the McCormick, Deering, Champion, and Plano Cos., and George W. Perkins, financier and member of J. P. Morgan & Co. of New York, believing a combination would yield large profits, determined to combine through a corporation, thereby to destroy existing competition and to monopolize trade in harvester machinery and twine (petition, p. 9). They further determined that when they had accomplished the purpose just mentioned they should expand into other classes of agricultural machinery, and finally monopolize interstate trade and commerce in agricultural machinery of all kinds, their purpose being to use the power obtained by a monopoly of trade in harvesting machinery in such a way as to acquire a similar monopoly in other classes of agricultural machinery. [Defendants deny all allegations of purpose to restrain trade or monopolize commerce. The doing of all the acts herein stated is, however, admitted by them.]

The combination was to take the form of a corporation to be created under the law of such a State as permitted to its corporations the widest powers, to which corporation the five concerns named above were to transfer all their property and business as going concerns; the individuals who owned and controlled these concerns were to receive as the consideration for such transfer shares of the capital stock of the new corporation and no other consideration. Thereafter this corporation was to carry on as one business the business of the five concerns which had theretofore been competing.

Accordingly on July 28, 1902, the McCormick Harvester Co., the Deering Co., the Plano Manufacturing Co., and the Warder, Bushnell & Glessner Co. executed with one W. C. Lane identical preliminary agreements to transfer their properties to Lane, selected by the parties as a mere conduit to the corporation which was to be the ultimate purchaser, but which had not yet been organized.

About the same time certain of the defendants, the McCormicks and Perkins, secured an option to purchase the plant, business as a going concern, and capital stock of the Milwaukee Harvester Co.

[In Part VII of this brief, infra, pp. 81–104, we give a complete account of the numerous conferences between defendants during the month of July, 1902, preceding the execution of the preliminary agreements of July 28. The evidence discloses with particularity the manner in which they came together, the subjects they discussed, their appreciation of the fact that a combination would bring them in conflict with the antitrust laws of the Nation and the States, and their determination to adopt, under the advice of counsel, a form of combination, by means of separate sales to a dummy named Lane and retransfer by him to the new corporation, which would give to their acts the appearance of having been distinct bona fide sales of independent businesses, sold separately and without apparent collusion between the several owners of the properties conveyed.]

The preliminary agreements of July 28, 1902 (Exhibits 1, 2, 3, and 62, IV, 1–28, and I, 308–317), provided, among other things, that W. C. Lane, upon the acquisition of the properties, should sell

them to a corporation thereafter to be organized; that the purchase price to be paid by Lane to each of the four vendor companies was to be payable in full-paid and nonassessable shares of the capital stock of the purchasing company, taken at par; that the new company was to have such corporate title, capital stock, organization, by-laws, directors, and committees as should be approved by J. P. Morgan & Co.; that the amount of the capital stock was to be determined after the ascertainment of the aggregate value of all its assets; that the purchase was to take effect some day in September, 1902, and the performance of the contract completed prior to January 1, 1903; that the charter was to provide that the stockholders might enter into a voting trust; that the vendors should deposit with three trustees in a voting trust the stock of the purchasing company, received as consideration for the conveyances, the trust to continue 10 years, and the voting trustees to issue stock trust certificates to the real owners of the shares (petition, pp. 10–11; Exhibits 1, 2, 3, IV, 1–28). The McCormick and Deering agreements also provided that these interests should deposit large blocks of the voting-trust certificates received by them with J. P. Morgan & Co. under an agreement not to dispose of at least one-third of their original holdings during the existence of the voting trust (IV, 8; I, 316).

Subsequently, and on August 12, 1902, the individuals and companies named caused to be incorporated the International Harvester Co., with broad powers under the laws of New Jersey, with $120,000,000 capital stock, all the certificates of which were issued to W. C. Lane, who, on August 13, 1902, delivered them to three voting trustees, George W. Perkins, Cyrus H. McCormick, and Charles Deering in trust for the individuals who had owned and, on August 12, transferred the properties of the four concerns to Lane, which properties were immediately conveyed to the new company. (The voting-trust agreement is Exhibit 4, IV, 29.) The option on the property and business of the Milwaukee Harvester Co. was assigned to Lane on July 28, the property conveyed to him August 12, and by Lane transferred to the International Harvester Co., the new company, on August 13.

[In Part VIII we give an account of the testimony of Lane and of several of the dummies who formed the International Harvester Co.; these all testified that when they incorporated that company they had no intention themselves of going into the harvesting business, but throughout were following the instructions of attorneys, allowing themselves to be used for the convenience of the persons directly interested. See infra, pp. 104–113.]

In due course, the three trustees issued stock trust certificates to the persons entitled to the certificates of capital stock in the new company. Each stock trust certificate certified that the holder thereof would be entitled to receive a certificate for a stated number of fully paid shares of the capital stock of the International Harvester Co., and in the meantime to receive payments equal to the dividends collected by the voting trustees upon a like number of shares of the capital stock standing in the names of the trustees. It was provided in the stock trust certificates that until the actual delivery of the stock certificates the voting trustees should possess, in respect of any and all such stock, and should be entitled, in their discretion, to ex-

ercise all rights and powers of absolute owners of said stock. It was provided in the voting-trust agreement that the action of a majority of the voting trustees expressed from time to time at a meeting or by writing with or without a meeting should constitute the action of the voting trustees.

[In Part VI we describe in more detail how the power of this great corporation was wholly given into the hands of a few men, by means of the voting trust, by depositing an immense block of the voting trust certificates with J. P. Morgan & Co., and more particularly by reason of the fact that a small group of McCormicks and Deerings have owned, from 1902 to the present time, from 66 to 75 per cent of the entire issue of the capital stock. See infra, pp. 74–80.]

(c) SELLING AGENCY—INTERNATIONAL HARVESTER CO. OF AMERICA.

This defendant, all of whose stock is held by the principal defendant, is the successor of the Milwaukee Harvester Co., a Wisconsin corporation, which as has been stated above, conveyed its property and business through W. C. Lane to the principal defendant, International Harvester Co. of New Jersey, on August 12, 1902. Some weeks later, having changed the name of the Milwaukee company to International Harvester Co. of America, the principal defendant transferred all the shares of capital stock of International Harvester Co. of America to the three voting trustees, Cyrus H. McCormick, Charles Deering, and George W. Perkins, in trust for the stockholders of the International Harvester Co. (IV, 94), and then concluded with it an exclusive contract for the sale in the United States of the entire output of the International Harvester Co. Under this arrangement, which is in force to-day, the International Harvester Co. of America buys from the manufacturing company all the agricultural and harvesting implements, twine, and other articles manufactured by the latter and sells the same to implement dealers and others located throughout the United States, or makes such implement dealers its agents for their sale to the farmer.

The International Harvester Co. of America is merely the selling department of the other international company. Since its acquisition by the International Harvester Co. it has paid no dividends upon its capital stock—$1,000,000. It buys and sells at the prices fixed by the parent company. The officers of the two companies were the same from September, 1902, to April, 1910. The nine directors of the subsidiary company during that period were also directors of the larger company. In fact, the Wisconsin company is a bookkeeping arrangement, given the form of a corporate entity, with a small capitalization, for the purpose of enabling the larger company to do business in States from which it is debarred by reason of its huge capitalization.

The arrangement between the International Harvester Co. and International Harvester Co. of America was further devised and is now being carried out by the defendants for the purpose of giving to the New Jersey company the appearance of not being engaged in interstate commerce; in other words, in order to accomplish an ostensible segregation of the manufacturing or intrastate business of the corporation from its distributing or interstate business, thereby securing to the latter protection against the laws of the several States which

have for their object the suppression of monopolies or their exclusion from their borders.

The International Harvester Co. of America has been and is being used by the International Harvester Co. and the other defendants as a mere instrumentality in carrying out and effecting the monopolistic purposes of defendants and the restraints of interstate trade and commerce above described.

[Defendants admit the truth of these allegations except that they deny that the International Harvester Co. of America is being used as a mere instrumentality in carrying out or effecting any monopolistic purpose or any restraint of interstate trade or commerce or that the plan was adopted to give the International Harvester Co. the appearance of not being engaged in interstate commerce. Referring to the plan of marketing through the America company the answer (p. 26) avers:

This plan was not thought of until some weeks after the organization of the International Harvester Co., when it was found that the foreign corporation laws of certain States either excluded entirely or excessively taxed foreign corporations with such a large capital stock, irrespective of the amount of its capital employed in such State; and because the International Harvester Co. was practically compelled to sell its products to a corporation with a much smaller capital stock which could do business in those States, and the Milwaukee Harvester Co. was already organized and licensed to do business in most of the States, it was thereafter decided that the International Harvester Co. should sell its manufactured products to the Milwaukee Harvester Co. and it in turn should sell or consign them to local implement dealers. They admit that under the contract aforesaid between them the Wisconsin company bought substantially all of the manufactured products of the International Harvester Co. which were sold for use in the United States, and that under a later contract, which is in force to-day, the International Harvester Co. of America buys from the International Harvester Co. substantially all of the articles manufactured by it and resells the same to implement dealers, or to farmers through implement dealers as its agents, throughout the United States. But they deny that the International Harvester Co. of America is merely the selling department of the International Harvester Co., or that it sells said products at prices fixed by the latter company, and aver that it is a separate and distinct corporation organized under the laws of Wisconsin. They admit that it has paid no dividends, and that the officers of the two companies were the same from September, 1902, until April 14, 1910, and that the nine directors of the International Harvester Co. of America were also directors of the International Harvester Co. until said date.]

After the International Harvester Co. was organized, a special committee, consisting of Cyrus H. McCormick, president, Cyrus Bentley, general counsel, and Charles Deering, was appointed to consider the best means of marketing the products of the company in the United States and foreign countries. Their report, submitted September, 1902, is printed in the record (III, 332). They recommended a separate selling corporation for North and South America, saying (III, 333, fol. 1):

This is desirable both for the sake of uniformity and also because it is necessary that the corporation which sells the company's product in the United States shall obtain leave to do business in a great many States in which a foreign corporation can not conduct business without a license.

For such a corporation as the International Harvester Co., with so large a proportion of its capital invested in manufacturing plants in other States and in working capital, to procure such permission in every State in the Union, in most of which States its only business is that of selling a small part of its product, will be a cumbersome and expensive process. Furthermore, we think that the business of the company will be simplified if its product is marketed by a series of selling corporations organized on the basis above outlined.

The committee recommended as a name for the selling company, International Harvester Co. of America, and a capital of not less than $1,000,000 (III, 334, fol. 1). The report then suggests that the charter of the Milwaukee Harvester Co. be used, that the admission of that company be secured into all States and Territories where it had not already qualified for business and that after this had been done the corporate name of the company be changed to the "International Harvester Co. of America."

We quote at length from the report (III, 334, fol. 2):

> Your committee is informed that the company can obtain from Mr. William C. Lane, for a nominal consideration, the entire capital stock of the Milwaukee Harvester Co., a corporation of Wisconsin. All of the assets of that company have been distributed among its stock holders, and so far as your committee is informed, it is under no embarrassing contracts or liability. The Milwaukee Harvester Co. has already obtained permission to do business in many of the States and Territories, and your committee is advised by counsel that such permission will continue in favor of the corporation, if its name be changed to the "International Harvester Co. of America."
>
> Your committee therefore recommend that the company acquire either in its own name or in the names of trustees for its stockholders all of the capital stock of the Milwaukee Harvester Co., that the admission of that company into all the States and Territories of the Union and all the Provinces of Canada, where it is not already qualified for business, be secured and that then the corporate name be changed to the "International Harvester Co. of America." Your committee further recommend that this company pay into the treasury of such selling company in cash or in property, as above stated, an amount at least equal to the par value of its capital stock, which may be increased hereafter if deemed wise.
>
> Your committee further recommends that the board of directors of the International Harvester Co. of America be the president, chairman of executive committee, chairman of finance committee, vice presidents, and the secretary and treasurer of this company, and also Mr. Stanley McCormick.
>
> Your committee also recommends that for the sake of convenience the International Harvester Co. of America have as nearly as reasonably possible the same officers and executive organization as the International Harvester Co.
>
> The foregoing plan would involve a contract between the two companies defining their relations, and the committee submits herewith with their recommendations such a contract which has been approved by counsel.
>
> The foregoing plan involves the International Harvester Co. of America taking over the selling organization of the present company and also such of the force of the present company as has charge of collections.
>
> The committee also recommends that a contract be made with the International Harvester Co. of America for the collection of the accounts and bills receivable already owned by the International Harvester Co.
>
> CYRUS H. MCCORMICK.
> CYRUS BENTLEY.
> CHARLES DEERING.

Subsequently on November 20, 1902, the directors of the International Harvester Co. uanimously resolved (I, 114, fols. 2–3):

> That the entire manufactured product of the International Harvester Co. wherever intended to be finally marketed, be sold to the International Harvester Co. of America by the International Harvester Co. upon the same terms as are expressed in the contract dated 2d September, 1902, between the two companies.

On the same day at the same time and place the same persons acting as directors of the America Co. unanimously resolved that the entire manufactured product of the International Harvester Co. be purchased by the International Harvester Co. of America (I, 221, fols. 1–2).

Three contracts between the International Harvester Co. and the America or selling company were introduced in evidence (Government Exhibits 15, 16, and 17, dated Sept. 2, 1902, Jan. 1, 1907, and July 1, 1907, respectively, IV, 97–105); these define the rela-

tions of the two companies. All of the manufacturing company's products purchased by the selling company are purchased free on board the cars at the city in which is located the particular plant at which the products purchased were manufactured (IV, 97, fol. 4; 101, fol. 4).

As the same employees and business organization in the general executive offices and in the treasury, accounting, law, purchasing, and traffic departments serve both companies the salaries and general office expenses are divided between the two companies (IV, 104–105).

The International Harvester Co. of America distributes through general agencies, of which it has 90 in the United States and 16 in Canada (IV, 112). Those in the United States, located in 32 States and scattered from Boston to Portland, Oreg., and from San Francisco to Jacksonville, Fla., embrace the entire United States (IV, 112). The America company distributes from these general agencies directly to the retail implement dealer, either on commission agency or direct sales basis, except in certain Pacific Coast States where the business is done through jobbers. (Funk, I, 7.)

The 90 general agencies are grouped into five districts over each of which a so-called district manager presides. (Funk, I, 9.) Each general agency is divided into blocks, each block being in charge of a blockman who makes the contracts with the implement dealers, transacts the business with them, and receives his instructions from the general agent (I, 10, fol. 4).

According to the testimony of its president, all but 2½ per cent of the total purchases of the America company are from the parent company. Thrashers, wagons, and plows make up the principal part of this 2½ per cent. (Haskins, I, 84.)

The America company has never paid any dividends. Its profits have averaged about $150,000 a year on a total business of $100,000,000 a year. (Haskins, I, 86, fols. 2–4.)

Although it has had separate directors from the principal defendant since 1910, nearly all its directors are connected with the latter company. (Government Exhibit 14, IV, 96.) Of its directors E. A. Bancroft is general counsel for the New Jersey company, Clarence S. Funk was general manager of the parent company until June, 1913, when he became president of the Rumely Products Co. Alex. Legge was assistant generai manager of the International Harvester Co. and is now its general manager. W. M. Gale and W. U. Reay are respectively assistant secretary and comptroller of the latter company. (Haskins, II, 87–88.)

(d) ACQUISITION OF SUNDRY COMPETITORS BY THE INTERNATIONAL HARVESTER CO.

In the years 1903 and 1904 the International Harvester Co. took over four of its competitors in the harvester business, namely, D. M. Osborne & Co., Auburn, N. Y.; Aultman-Miller Co., Akron, Ohio; Minnie Harvester Co., St. Paul, Minn.; Keystone Co., Sterling, Ill.

After the consolidation of 1902 D. M. Osborne & Co., capitalization about $1,000,000 (IV, 142), remained the largest outside manufacturer (Osborne, I, 361); it sold binders, mowers, and rakes, and also corn binders, twine, and tillage implements.

The output of the Osborne Co. for 1903 was 10,495 binders, 19,955 mowers, 21,303 rakes, 2,033 corn binders, 4,486 reapers, 9,065 tedders, 52,371 harrows, 11,122 cultivators (IV, 406). Binder-twine output was unobtainable.

On January 15, 1903, four months after it had begun business, the International Harvester Co., by George W. Perkins, chairman of the finance committee, purchased all the capital stock of the Osborne Co., together with all the capital stock of the Columbia Cordage Co., a subsidiary of the Osborne Co. engaged in the manufacturing and selling of binder twine. (Government Exhibit 28A, IV, 142.) The International Harvester Co. paid about $6,000,000 in cash and five-year notes for the capital stock, plant, machines, and materials on hand. (Osborne, I, 364, fol. 4.)

The two principal officers took covenants not to engage in the business of manufacturing or selling harvesting machinery or other agricultural implements or binder twine for a period of 10 years (IV, 149, fol. 2; I, 379, fol. 4).

For two years the purchase was concealed, during which time the Osborne Co. operated as an independent company and denied its association with the International Harvester Co. This fact the answer admits. (Answer, p. 30.) Defendants aver, however, that concealment was necessary in order to give the former owners a reasonable time in which to collect their accounts and bills receivable, these not having been taken over by the International.

The Government introduced in evidence many false and misleading advertisements of the Osborne Co. that appeared in 1903 and 1904 in the following trade journals, comprising all the weekly implement papers in the country which circulate among dealers in agricultural implements: Reifsnider (III, 66–67), Farm Implement News (I, 122–123), Farm Machinery (III, 71–76), Implement Trade Journal (III, 77–78), Implement Age (III, 370–272).

There was a demand for independent goods. Recognizing this fact, as soon as the International Harvester Co. had been formed the Osborne Co. started vigorously after business, advertising itself widely to be "the largest independent manufacturers of harvesters in the world." (See the advertisement printed in Farm Machinery in September, 1902, before it sold out, III, 68–70; see also II, 80, fol. 2.) In the fall of 1902 it opened new general agencies at Minneapolis (Porter, III, 92, fol. 1) and at Kansas City (Gibbs, III, 109, fol. 2). It continued soliciting business on this score for two years after its purchase by the International.

Porter, the general agent of the Osborne Co. at Minneapolis, having charge of Minnesota and northern Wisconsin, testified that there was a demand in that territory for implements that were manufactured by some company independent of the International. (Porter, III, 93, fol. 4.) Implement dealers would write in or telephone to the office asking whether the Osborne Co. was free and independent, and with that understanding contracts were closed with these dealers (III, 94, fols. 1–2; III, 99, fol. 2). Until the middle of December, 1904, the Osborne Co. advertised itself in the leading trade journals to be independent, and the witness was advised until that time in communications from the home office that they were absolutely free. (Porter, III, 93.)

M. H. Gibbs opened up the new Osborne general agency at Kansas City in the fall of 1902, having charge of Kansas, Oklahoma, Indian Territory, and part of Missouri. (Gibbs, III, 109.) There was a demand in that territory from the dealers for products not manufactured by the International Harvester Co. (III, 112, fol. 1). The Osborne Co. advertised and held itself out to be independent of any trust (III, 3, fol. 3). On December 12, 1904, he was advised of the fact that the Osborne Co. had sold out. (Gibbs, III, 3, fol. 2.) Until that time his instructions from the Auburn office had been that the Osborne Co. was absolutely independent of the International Harvester Co.; that the International did not own a dollar's worth of Osborne's stock or the Osborne a dollar's worth of International stock; that there were no written or verbal agreements between the two companies (III, 112, fol. 2; 124, fols. 3–4).

The general agent in 1904 at Kansas City, Mo., of the Acme Harvesting Machine Co., a company which was in the hands of a creditors' committee at that time (1903–4), testified that in 1904 his chief competitor after the International Harvester Co. was the Osborne Co., the Keystone Co. being also quite a competitor on mowers. (Lamb, II, 318, fols. 2–4.) Both of these companies were advertising in 1904 that they were independent and thereby attracted the business of many dealers who wanted to do business with some independent concern. (Lamb, II, 319, fols. 1–3.)

The record contains letters as well as advertisements of D. M. Osborne & Co., proclaiming in 1903 and 1904 its independence of the "trust." Answering a specific inquiry by a dealer at Boonville, Mo., on January 14, 1904, E. D. Metcalf, general manager, wrote, "Not a single share of the stock of the company is held by the International Harvester Co. nor have we a share of their stock" (II, 432, fol. 1). On October, 10, 1904, Metcalf wrote, "The International Harvester Co. have not a single share of the stock of this company" (II, 435; see, also, II, 430–438).

The Osborne plant is now operated as a branch of the International Harvester Co. (III, 350, fol. 1).

In July, 1903, the International Harvester Co., for about $640,000, through one William A. Vincent, acquired control of the Aultman Miller Co., of Akron, Ohio, a company manufacturing the "Buckeye" harvesting implements but then in the hands of a receiver. A new company was organized, the Aultman Miller Buckeye Co., which for two years continued the business operating as and advertising itself to be an independent company. The International Harvester Co. then openly took over the plant, closed it and discontinued making the "Buckeye" lines. Thereafter the International Harvester Co. began to manufacture auto buggies and auto trucks at the plant for which purpose it is now used. (Petition, pp. 26–27; answer, pp. 31–33; Vincent, I, 528–552; III, 88; III, 375.)

In September, 1903, the International Harvester Co. secretly acquired the capital stock of the Minnie Harvester Co., manufacturing "Minnie" binders and twine at St. Paul. This company was falsely operated as an "independent" company for two years. At the time of its purchase it was in financial difficulties. (Answer, p. 34.) We print later in this brief (infra, pp. 136–138) extracts from reports of the sales committee of the International Harvester Co., which show that

that company waged a bitter war against the Minnie Co. until the latter sold out, in September, 1903. (Petition, pp. 27–28; answer, pp. 33–35; Ottis, XIII, 44–53.)

The output in binders of the Minnie Co. was 2,500 in 1902, 3,000 in 1903, 1,500 in 1904, and 175 in 1905. (Ottis, XIII, 49, fol. 1.) The making of "Minnie" binders has been discontinued. The plant was not used for flax-twine purposes until the latter part of 1905. (Daniels, XIII, 57, fol. 3.)

In October, 1904, the International Co., through its principal officers, the McCormicks, Deerings, Howe, Jones, and Glessner (Butler, II, 143), acquired the Keystone Co., of Sterling, Ill., and for one season ran it as and advertised it to be an independent company (petition, p. 29; answer, p. 35). This company, whose president had been 32 years with the McCormicks, began to sell mowers in 1903 and binders in 1904. (Butler, II, 141–143.) It has been the only company to enter upon the manufacture of harvesting machinery since the International Harvester Co. was formed, except Deere & Co., which in 1911 sold 10 binders in the United States and 931 in 1912. (Todd, XIII, 109.) After 1905 the making of "Keystone" binders and mowers was discontinued and the plant is now used for hay, tools and tillage implements (III, 349, fol. 2). For samples of untruthful advertisements see III, 79–88; III, 372–374; for specific instance of deception, see testimony of Green, III, 6–19.

In November, 1904, the International Harvester Co. acquired for cash and notes four-fifths of the Weber Wagon Co., long engaged at Auburn Park, Ill., in manufacturing farm wagons. By subsequent conveyance the International Harvester Co. acquired the Weber Co.'s plant, which is now operated as a branch of the International Harvester Co. (Govt. Ex. IV, 187–195.)

In November, 1906, the International Harvester Co. acquired from the Kemp Co., for a long time engaged at Newark Valley, N. Y., and Waterloo, Iowa, in manufacturing manure spreaders, all its business and property, paying cash and notes. The Waterloo plant was long since closed and abandoned; the Newark Valley works are now operated as a branch of the International Harvester Co. for the manufacture of manure spreaders. (Petition, p. 29; answer, p. 37.)

In 1906 the International Harvester Co. bought from the Bettendorf Axle Co., long engaged in manufacturing wagons, all its patents relating to the manufacture of steel wagons, paying therefor in cash. (Petition, p. 20; answer, p. 38).

Before August, 1902, the five concerns which combined in the formation of the International Harvester Co., and the other companies thereafter acquired by defendants, were buying their necessary raw materials, iron, steel, lumber, etc., in interstate commerce in competition with each other. Thereafter all such necessary raw materials were purchased by a single organization in different places in the United States and then shipped to the several plants or works of the International Harvester Co.

The following defendants are companies all of whose stock is owned by the International Harvester Co. (for complete list of such companies see IV, 349–350):

Wisconsin Steel Co., capital stock $1,000,000, organized by defendants, leases ore lands in Wisconsin, Minnesota, and Michigan; owns and operates coal lands and coke furnaces in Kentucky, blast fur-

naces for the production of pig iron, steel mills and rolling mills at South Chicago, Ill. (Petition, p. 31.) The answer admits that it is engaged in interstate commerce and that the International Harvester Co. controls its policy. (Answer, p. 41.)

Wisconsin Lumber Co., organized by defendants, capital stock $250,000, owns timberlands in Missouri and Mississippi, and sawmills in Arkansas and Missouri. (Petition, pp. 31–32.) The answer admits that it is engaged in interstate commerce and that the International Harvester Co. controls its policy. (Answer, p. 41.)

Illinois Northern Railway and Chicago, West Pullman & Southern Railroad Co., capital stock $500,000 and $400,000, respectively, two railroads operating in Chicago upon which are situated the McCormick, Tractor, and Plano Works of the International Harvester Co. and the steel mills of the Wisconsin Steel Co. (Petition, pp. 32–34; answer, pp. 42–44.)

International Flax Twine Co., capital stock $250,000, a Minnesota corporation organized by defendants in 1905, now engaged in the manufacture of binder twine at St. Paul, owning and using the old plant of the Minnie Harvester Co. All the products of this company are sold by it to the International Harvester Co. of America, which distributes them in the same manner in which it sells the products of the International Harvester Co. (Answer, p. 45.)

In January, 1907, by an amendment of the articles of incorporation the capital stock of the International Harvester Co. was divided into two classes, $60,000,000 cumulative 7 per cent preferred and $60,000,000 common. In 1910 the issued capital stock was increased to $140,000,000 by the declaration of a stock dividend of $20,000,000 on the common stock, this being a dividend of 33⅓ per cent.

A list of the manufacturing plants of the International Harvester Co. in the United States, with the principal machines manufactured at each, is printed in the record, III, pages 348–350.

(E) PRAYER.

The relief asked is similar to that prayed for in the Tobacco case and is framed with a view to effectively destroy the existing combination and monopoly and to restore competitive conditions in the trade. (Petition, pp. 42–43.)

V.

THE ENORMOUS PERCENTAGE OF THE BUSINESS IN HARVESTING IMPLEMENTS ACQUIRED IN 1902 BY DEFENDANTS THROUGH COMBINATION AND MAINTAINED BY THEM EVER SINCE THAT TIME SHOWS THAT COMPETITION HAS BEEN UNDULY SUPPRESSED, THAT TRADE HAS BEEN RESTRAINED, AND THAT THEY HAVE A MONOPOLY.

We abmit that not every restraint of competition is, in a legal sense, a restraint of trade. The determination depends upon the facts and circumstances of each particular case. The policy of the statute is that competitive conditions in interstate trade must be preserved. "Trade and commerce in any commodity are monopo-

lized whenever as the result of concentration of competing businesses—not occurring as an incident to the orderly growth and development of one of them—one or a few corporations (or persons) acting in concert practically acquire power to control prices and smother competition" (Brief of Attorney General McReynolds and former Attorney General Wickersham for the United States in the case against the American Tobacco Co., p. 99.) This definition of monopoly is in accord with the rule adopted by the Supreme Court in the Tobacco and Standard Oil decisions.

The direct effect of the acts involved is the criterion by which the lawfulness or unlawfulness of defendants' conduct is to be determined. The percentage of the harvesting business admitted in their answer to have been acquired by them in 1902 by means of the consolidation (from 80 to 85 per cent, answer, p. 7), and proven by the overwhelming and undisputed evidence in this case to have been in fact much larger, establishes conclusively an undue suppression of competition, resulting in monopoly and restraint of trade.

Percentages are interesting as showing the extent to which suppression of competition has gone.

The evidence is undisputed that the six harvester companies doing the largest business in the United States in 1902 were the McCormick, Deering, Champion, Osborne, Plano, and Milwaukee companies. Among others the following so testified:

John J. Glessner, president Champion Co. (I, 464, fol. 2).

P. D. Middlekauff, manager of sales for the Deering Co. up to 1901, and now president Acme Harvesting Machine Co. (I, 148, fol. 4).

Richard F. Howe, member of Deering Co. (II, 146, fol. 4).

Rodney B. Swift, 20 years with the McCormicks (I, 406, fol. 1).

William H. Jones, president Plano Manufacturing Co. (I, 39).

Clarence S. Funk, general manager International Harvester Co. (I, 6, 65).

T. M. Osborne, principal owner of D. M. Osborne & Co. (I, 361, fols. 1–2).

At that time there were only 12 companies selling binders and mowers in the United States and two or three smaller companies in addition who were selling mowers, but not binders. These 12 were the McCormick, Deering, Champion, Plano, and Milwaukee companies, the five which went into the consolidation; the Osborne, Aultman-Miller, and Minnie Harvester companies, the three companies acquired by the International in 1903; the Acme Harvesting Machine Co., which at that time was in the hands of a creditors' committee; and the Johnston, Adriance-Platt, and Walter A. Wood companies, three companies located in New York and whose business was almost entirely confined to the East. (III, 253, fol. 3; Geer, III, 303, fol. 4; Glass, III, 355, fol. 4.)

The three companies acquired by the International in 1903 were run as independent companies and widely and untruthfully advertised as not owned by the "Trust" for two seasons thereafter.

From 1902 down to 1912, when this suit was started, only one new company, the Keystone Co. of Sterling, Ill., entered upon the manufacture of binders and mowers in the United States (see testimony of Ranney, XIII, 348–350); this company commenced to manufacture mowers in 1903 and binders in 1904, and was bought by the

International Harvester Co. in October, 1904, and thereafter for one season was operated as, and falsely advertised to be, an independent company (Butler, II, 142–144; see supra, p. 55).

In 1912 Deere & Co., of Moline, Ill., the second largest manufacturers of agricultural implements in the United States, put on the market in the United States 931 binders, which it had begun to manufacture in an experimental way in 1911.

[The Independent Harvester Co., Plano, Ill., organized in 1905, whose stock had been sold to over 23,000 farmers, began to manufacture binders and mowers in a small way in 1905. It manufactured 560 binders and 1,121 mowers in 1911. (Bayston, II, 182.) It is not entitled to be called a legitimate harvesting manufacturer, as it confines its sales principally to its stockholders (II, 189). The company has not been successful, and is now in financial difficulties.]

The Government introduced as evidence of the extent of the control of the harvesting business obtained by defendants in 1902, several admissions made by them. Although these admissions give large percentages, they are in fact smaller percentages than those arrived at by a comparison of the output figures of the International Harvester Co. and the independent companies, and from other disinterested testimony.

Cyrus H. McCormick, president of the International Co., testified in the suit brought in the State of Missouri that in 1903 his company did from 80 to 90 per cent of the harvesting business, that amount having been done by the six companies (including the Osborne Co.) taken over by the International (III, 215). The McCormick and Deering companies, the two largest, were doing in 1902, 65 per cent of the total business in the United States (III, 215).

In a letter to Attorney General Bonaparte, May 20, 1907, Cyrus H. McCormick stated that the McCormick, Deering, Champion, Plano, and Milwaukee companies were doing in 1902 about 85 per cent of the business in harvesting machinery, the two largest, the McCormick and Deering companies, having 65 per cent of the total (III, 214).

In an official statement given to the press when the International was organized it was stated that the company had acquired the five largest and most complete manufacturing plants of their kind in the world (III, 410).

The committee appointed to consider Lane's proposition in its report recommending its acceptance, said (I, 102, fol. 3): "Your committee are of the opinion that the five properties mentioned in Mr. Lane's offer are the most important in their line of business in the United States."

The answer of defendants admits that the five companies acquired were doing from 80 to 85 per cent of the harvesting business. (Answer, p. 7.)

These admitted percentages are as large as any that have been proven against any of the combinations that have been held to be unlawful monopolies under the Sherman Act (excepting, perhaps, the Continental Wall Paper case, 212 U. S., 227), and are much larger percentages than those commonly established. For instance, in the Powder case (188 Fed., 145) the percentages proven were much smaller, but the court held that the defendants in that case were maintaining a combination in restraint of interstate commerce in powder and other

explosives and that they had attempted to monopolize and had monopolized a part of such commerce.

Many of the witnesses testified to far larger per cents in speaking of particular sections of the United States.

M. H. Gibbs, in 1902 and for several years prior thereto general agent for D. M. Osborne & Co., having charge of sales in Missouri, Arkansas, Kansas, Oklahoma, Indian Territory, Texas, the western part of Kentucky and Tennessee, and part of Illinois, testified that the six companies were doing in 1902 in that territory 95 per cent, if not more, of the business in binders, 95 per cent in mowers, and all or 100 per cent in corn binders (III, 110, fols. 3–4).

R. E. Mason, from 1899 to 1903 general agent of the Plano Co. at Grand Island, Nebr., having charge of the western half of Nebraska, stated that practically all of the business (100 per cent) in that territory was done by the five companies which went into the International (III, 178, fol. 4).

H. E. Porter, for six years general agent of D. M. Osborne & Co. at Chicago, testified that in 1902 the six companies did from 90 to 95 per cent of the business in binders in Nebraska, Iowa, Illinois, Minnesota, Wisconsin, and Indiana (III, 92, fol. 4), and the same per cent in mowers (III, 94, fol. 4).

R. B. Swift, 20 years with the McCormicks, stated that from 85 to 90 per cent of the business in the United States in binders in 1902 was done by the six companies; and in mowers practically the same per cent, perhaps a little less, but not much (I, 420, fol. 4).

P. D. Middlekauff, 20 years with the Deerings, and now president of the Acme Harvesting Machine Co., the largest independent company, said that in 1902 the six companies did from 85 to 87 per cent of the total harvesting business in the United States (I, 148, fol. 3).

T. M. Osborne, one of the principal owners of D. M. Osborne & Co., estimated that 90 per cent of the business in harvesting implements was done by the six companies (I, 362, fol. 1).

M. H. Lamb, in 1902 general agent of the McCormick Co. at Sioux Falls, S. Dak., having charge of southwestern Minnesota, part of Iowa, and part of South Dakota, testified that the five companies in that territory did "practically all, at least 90 per cent" of the business in binders, 75 to 80 per cent in mowers, and 95 per cent in cornbinders (II, 315).

A striking illustration of the completeness of the monopoly came from W. L. Carr, an employee in the accounting department of the International general agency at Salina, Kans., from 1904 to 1907. This general agency covered 24 counties in Kansas in which there were over 400 dealers. In the year 1905 all but 7 of these 400 dealers signed exclusive contracts with the International agreeing not to handle outside harvesting lines (II, 447, fol. 3). To these seven dealers the International Harvester Co. offered unusually favorable terms to encourage their signing the exclusive contract (II, 502, fol. 4). The witness testified that the office made up weekly tabulations, based on the blockmen's reports of percentages of the sales of binders and mowers and that the International Harvester Co. did 95 per cent of the business in binders, headers, and cornbinders in his general agency. No witness was called by defendants to contradict Carr, although the latter-named persons now in the employ of the

International Harvester Co. who were employed with him in 1905 and knew about the matters in respect to which he testified (II, 503, fol. 3).

The output of the several companies were as follows for 1902:

	Binders.	Mowers.	Corn binders.	Rakes.	Reapers.
McCormick, IV, 215	67,592	129,066	16,264	74,446	16,771
Deering, IV, 204	60,981	92,494	12,922	54,175	7,471
Champion, IV, 226	23,480	35,655	None.	20,577	1,487
Plano, IV, 234	15,344	20,545	None.	15,034	2,348
Milwaukee Co.[1]					
D. M. Osborne & Co. (for 1903, IV, 406)	10,495	19,955	2,033	21,303	4,486

[1] Not disclosed, but about the same as Plano.

On the other hand, the sales of the independent companies were the following for 1902:

	Binders.	Mowers.	Corn binders.	Rakes.	Reapers.
Adriance-Platt Co., III, 360	732	6,276	43	11	340
Johnston Harvester Co., III, 378	780	2,416	711	2,056	270
Walter A. Wood Co., III, 305	919	4,916	106	7,078	108
Minnie Harvester Co., XIII, 49 (acquired by I. H. Co. in 1903)	2,500				

Acme Harvesting Machine Co. figures were unobtainable for 1902–1904, it having been in the hands of a creditors' committee.

Practically all the dealers summoned as witnesses by defendants who had been in the implement business in 1902 testified that all the types of binders and mowers sold in their towns in 1902 were acquired by the international in that year, or the year following, owing to the merger of the McCormick, Deering, Champion, Plano, Milwaukee, and Osborne lines. The following is a partial list of witnesses who so testified, together with their several places of business and proper references to the record:

1902 LIST.

Coleman, Guy, Platte City, Mo. (VII, 200, fol. 4).
Graham, William, St. Joseph, Mo. (VII, 82, fols. 1–2).
Browning, Frank, Webber, Kans. (VII, 372, fol. 1).
Heeney, Ed., Severance, Kans. (VII, 326, fols. 1–3).
Pemberton, E. R., Marshall, Mo. (VII, 513, fols. 3–4).
Rumpel, W. J., Weston, Mo. (VII, 282, fol. 4; 283, fol. 1).
Schulte, J. L., Fredericktown, Mo. (VIII, 25, fols. 1–2).
Schoffner, F. M., Bolivar, Mo. (VIII, 127, fols. 1–2).
Stanton, Hugh, Union Star, Mo. (VII, 313, fols. 2–4).
Stelzner, Otto, Wamego, Kans. (VIII, 37, fol. 4; 38, fol. 1).
Cochrane, De Witte, Clark, S. D. (VIII, 249, fols. 3–4).
Anderson, D. O., Cambridge, Minn. (IX, 207, fol. 4; 208, fol. 1).
Casey, C. H., Jordan, Minn. (X, 98, fols. 3–4).
Eich, Jos., Little Falls, Minn. (IX, 217, fol. 4; 218, fol. 1).
Fisher, E. W., Lewiston, Minn. (IX, 239, fols. 2–4).
McKeeth, Carl, Galesville, Wis. (IX, 255, fol. 4; 256, fols. 1–2).
Morton, Edwin, Blooming Prairie, Minn. (IX, 183, fols. 1–2).
Peabody, C. E., Brainard, Minn. (IX, 150, fols. 1–2).
Muir, John C., Arcadia, Wis. (IX, 259, fol. 4).
Hufschmidt, Robert, Lansing, Iowa (XI, 22, fols. 1–2).

Longergan, J. W., Marengo, Iowa (XI, 11, fols. 1–2).
Wolf, L. J., Aurora, Ill. (X, 546, fols. 2–3).
Tyrholm, J. A., New Richmond, Minn. (IX, 327–330, fols. 2–3).
McMillan, D., Peterson, Iowa (XII, 596, fols. 1–3).
Carl, W. H., Shreve, Ohio (XII, 241, fols. 3–4).
Case, Geo. W., Purcellville, Va. (XII, 204, fol. 4; 205, fol. 1).
Neuhauser, J. M., Bird in Hand, Pa. (XII, 110, fols. 3–4).
Sapp, Chas. S., Mount Vernon, Ohio (XII, 84, fols. 2–3).
Simons, Geo. H., Niagara Falls, N. Y. (XI, 483, fol. 4; 484, fol. 1).

Conclusive evidence of the maintenance of their monopoly in binders by the defendants from 1902 up to the time of the filing of the petition in this case is an estimate introduced by defendants during the testimony of General Manager Alexander Legge (XIV, 57, fol. 1) of the sales of binders in the United States from 1903 to 1912, from which we quote:

The sales of binders in the United States from 1903 to 1912 were:

Sales by International Harvester Co. of America	914,648
Sales by competitors (partly estimated)	91,315
Total binder sales for 10 years	1,005,963

Therefore, according to defendant's own estimate, 90.92 per cent, or, virtually, 91 per cent, of the binders sold in the United States since the International Harvester Co. was organized have been by that company. Although they qualify the estimate of the sales of competitors by the words "partly estimated," they have, in fact, estimated the sales of all competitors. See the tables printed as part of the appendix to this brief, giving the sales of competitors by years. (Appendix, pp. 4–20.) According to these tables, the total sales for the Acme, Adriance, Platt, Deere, Independent, Johnston, and Walter A. Wood Cos., and the Minnesota State prison for the 11 years, 1902 to 1912, inclusive, were 94,081 binders. The sales of the Adriance, Platt, Johnston, and Wood Cos. for 1902 were 2,431 binders. Subtracting this figure from 94,081 gives 91,650 binders as the total sales of competitors from 1903 to 1912, inclusive. The latter figure is practically identical with defendant's so-called "partially estimated" figure of 91,315 binders.

There were no other competitors in those years, except the ones named and the Osborne, Aultman Miller, Minnie, and Keystone companies, acquired by the International Harvester Co. in 1903 and 1904. If the output of these companies during the two years they were operated as independent companies were added to the above, the International per cent would be larger than 91 per cent.

In 1912 the International Harvester Co. sold 111,447 binders, while the total sales of its competitors were only 19,535 machines, giving the International 85.086 per cent of the binder business for 1912. (See the table printed in the Appendix to brief, p. 1.)

In the same year the International Harvester Co. sold 164,287 mowers, and the combined sales of its competitors were 60,413 machines, making the International percentage 73 per cent of the total business in mowers in 1912. The company which sold the second largest number of mowers, the Emerson-Brantingham Co. output 9,592 mowers, sold less than 6 per cent of the output of the International Harvester Co. (See Appendix to brief, p. 2.)

Of corn binders the International sold 39,007 machines in 1911, as compared with a combined sale of 3,480 corn binders by its two com-

petitors, so that the International Harvester Co. had 92 per cent of the corn binders business in 1911. (See Appendix to brief, p. 3.)

We have inserted in the Appendix to this brief a table showing the percentages of business controlled by the International Harvester Co. in harvesting lines in 648 towns of the United States, as testified to by 652 dealers, all defendants' witnesses. (Appendix, pp. 20–44.) These gave the percentages from the point of view most favorable to defendants. Of 620 witnesses testifying as to the percentage of the business in binders done by the International Harvester Co., only one dealer stated that the International did less than 50 per cent of the binder business in his town. The averages for the United States given by these witnesses were (Appendix, pp. 21–22):

Binders, 83 per cent, being the average obtained from the testimony of 620 witnesses.

Mowers, 78 per cent; average taken from testimony of 588 witnesses.

Rakes, 75 per cent; average taken from testimony of 465 witnesses.

Twine, 63 per cent; average of 433 witnesses.

Corn binders, 86 per cent; average of 408 witnesses.

Spreaders, 54 per cent; average of 118 witnesses.

Tedders, 78 per cent; average of 52 witnesses.

Headers, 78 per cent; average of 42 witnesses, 39 of whom live in Kansas. This implement is used only in particular sections of the country. The 39 witnesses from Kansas testified to an average of 80 per cent for that State.

The answer names 14 companies alleged to be competitors of the International Harvester Co. in mowers (answer, p. 53), but the testimony of persons called to give the output of these 14 companies indicates that defendants searched the highways and byroads in an effort to swell the list of their competitors. For instance, the Eureka Mower Co., one of the 14, sold 49 mowers in 1902, 2 in 1903, 50 in 1904, 54 in 1905, 8 in 1906, 29 in 1907, 20 in 1908, 24 in 1909, 20 in 1910, and 38 in 1911, a total of 384 mowers in 10 years (Newcomer, III, 352). Moreover, these were all center-draft mowers, an old-fashioned mower used for special purposes. The International Harvester Co. makes only side-draft mowers, and no center draft (III, 352, fol. 4).

The Granite State Mowing Machine Co., also listed in the answer (p. 53) as one of the 14 competitors in mowers, sold a total of 286 mowers in the last 10 years. It sold two mowers in 1912 and one in 1911. William S. Howe stated that the company manufactures lawn mowers and is no longer a competitor of the International in the sale of mowers. (Howe, III, 312, fols. 3, 4.)

The Messinger Manufacturing Co., also listed in the answer as one of the 14 competitors in mowers, sold 23 mowers in 1902, 14 in 1903, 10 in 1904, 16 in 1906, 15 in 1907, 26 in 1908, 32 in 1909, 20 in 1910, and 34 in 1911, a total of 206 mowers in 10 years. (Messinger, III, 399).

The Plattner Implement Co., another one of the 14, sold a total of 2,681 mowers in the last 8 years. (Plattner, II, 515.)

The defendants made a similar extravagant effort in their answer to swell the list of competitors in hayrakes, naming six companies (answer, p. 54) which they aver became manufacturers and sellers since 1902, "and their respective per cents of the total trade in the United States in these machines has been and is rapidly increasing" (answer, p. 53).

Of these six, the Bateman Manufacturing Co. sold 986 rakes in 1912 (Snyder, III, 398), the Belcher & Taylor Agricultural Tool Co. sold 841 rakes in 10 years (1902–1911), selling only 125 in 1911 (Taylor, III, 397). The Charles G. Allen Co. sold 1,411 rakes in 1911 (Allen, III, 363), and the Independent Harvester Co. sold none at all (Bayston, II, 185, fol. 2). The other two listed among the six in the answer, namely, the Plattner Implement Co. and Deere & Co., do not sell any hayrakes, which is the principal line of hay tools, but sell sweep rakes, of which the Plattner Co. sold 550 in 1912 (Plattner, II, 516) and Deere & Co. sold 7,638 in 1911, figures for 1912 not being given (IV, 415).

In their answer (answer, pp. 52–54) defendants set out in detail the names of their alleged competitors in binders and mowers, many of whom they assert entered upon these lines since 1902. These allegations of the answer are not supported by the evidence. For instance, the answer avers (answer, p. 53):

> Of the foregoing competitors of the International Harvester Co. the following have become manufacturers and sellers of harvesting machines since 1902, and their respective per cents of the total trade in the United States in these machines has been and is rapidly increasing:

Binders:	Capitalization or assets.
1. Deere & Co., Moline, Ill	$46,000,000
2. Independent Harvester Co., Plano, Ill	3,300,000
3. J. I. Case Thrashing Machine Co., Racine, Wis	20,000,000
4. Minnesota State Prison, Stillwater, Minn	1,500,000

The facts are these: The J. I. Case Threshing Machine Co. has never manufactured any binders or mowers, and consequently it is untrue that its "per cent of the total trade has been and is rapidly increasing." (See testimony of Frederick Robinson, vice president J. I. Case Threshing Machine Co., II, 130.) The only lines in which the J. I. Case Co. competes with the International are corn shredders and gas tractors, of which it made only 300 and 1,200, respectively, in 1912 (II, 139, fol. 2).

Deere & Co. sold no binders until 1911, when it sold 27 in the United States, increased to 933 in 1912. (See testimony of William Butterworth, president of Deere & Co., II, 52–54.) Its principal lines are plows, cultivating machinery, and planting machinery (II, 52, fol. 4).

The Independent Harvester Co., a sort of farmers' cooperative society with 23,000 stockholders, which confines its sales mostly to its stockholders (Bayston, II, 189, fol. 4), sold 6 grain binders in 1909, 135 in 1910, and 560 in 1911 (II, 182, fol. 3).

The Minnesota State Prison sold 8 binders in 1909, 72 in 1910, 685 in 1911, and 1,127 in 1912 (IV, 45, fol. 3).

The respective outputs of all the competitors in binders (all of whom are named in the answer, p. 52) are stated in the appendix to this brief, pages 4–20.

The answer (p. 54) alleges that the following began manufacturing mowers since 1902:

	Capitalization or assets.
1. Deere & Co. (Dain Mfg. Co., Ottumwa, Iowa)	$46,000,000
2. Independent Harvester Co., Plano, Ill	3,300,000
3. Minnesota State Prison, Stillwater, Minn	1,500,000
4. Plattner Implement Co., Denver, Colo	500,000

The facts are: The Plattner Implement Co. has not sold more than 587 mowers in any one year (Plattner, II, 516) since the International was organized although it has been in business since 1895 (III, 514).

The Independent Harvester Co. sold a total of 1,316 mowers in 1910 and 1911 (II, 182, fol. 3).

The output of Deere & Co. in mowers for 1911 and 1912 was 6,725 and 9,560, respectively (IV, 415), while the Minnesota State Prison sold 1,674 and 2,173 for those years, respectively.

These are among the largest competitors of the International in mowers, but their combined output is a mere bagatelle compared to that of the principal defendant, which sold 141,330 mowers in the United States in 1911 (IV, 301), and 164,287 mowers in 1912 (XIV, 126).

The answer avers (p. 54) that the following began the manufacture of corn huskers and shredders since 1902:

Deere & Co., Moline, Ill., capitalization of assets, $46,000,000.

Matt Sproul, Sparta, Ill.

M. Rumely Co., Laporte, Ind., $22,000,000.

Smalley Manufacturing Co., Manitowoc, Wis.

The facts are:

Matt Sproul's entire output was (Sproul, II, 15–16), for 1907, 1 machine; 1908, 2 machines; 1909, 3 machines; 1910, 3 machines; 1911, 3 machines; 1912, 2 machines.

The Smalley Manufacturing Co. does not make huskers and shredders. They make ensilage cutters. (Smalley, II, 177–180.)

M. Rumely Co. sold 575 huskers and shredders in 1912. (Rumely, II, 158, fol. 3.) The husker and shredder is a large, expensive machine, not generally used on the small farm (II, 157, fol. 4).

Deere & Co.'s annual output of huskers and shredders has been (Butterworth, II, 60): For 1902, 146 machines; 1903, 150 machines; 1904, 39 machines; 1905, 43 machines; 1906, 25 machines; 1907, 23 machines; 1908, 4 machines; 1909, 5 machines; 1910, 8 machines; 1911, 10 machines; 1912, 3 machines.

Adriance, Platt & Co., an independent company, does no business in the Middle West. (Glass, III, 355, fol. 4, testifying Dec. 19, 1912.) Its business is in the Eastern States going as far west as and including Ohio, as far south as Virginia, with a trade on the Pacific coast in the Coast States, and a limited trade in the Southwest through a jobbing house in St. Louis (III, 355, fol. 4). It commenced the manufacture of harvesting implements, particularly mowers, in 1855 (III, 355, fol. 3). It commenced exporting machines in 1858 and the larger share of its business is export. (Glass, III, 356, fol. 3.) The domestic business of Adriance, Platt & Co. has decreased since 1902 (III, 356, fol. 4; 357, fol. 1).

The Acme Harvesting Machine Co. does no business in the East. It sells its product from the eastern line of Illinois west to the Rocky Mountains, and from the northern boundary of Texas to the Canadian line. (Middlekauff, I, 169, fol. 1.)

VI.

Concerning the Distribution of Stock and the Concentration of Control.

Of the $120,000,000 capital stock of the International Harvester Co., only $10,000,000 was new capital. The balance, $110,000,000, represented property and money, which in 1902 was already invested in the harvesting business. Therefore, in no sense can it be contended that the formation of the International Harvester Co. marked the entry of new interests into the harvesting business.

The following table shows the original subscription of the $120,000,000 capital stock (IV, 405):

	Plant stock.		
J. P. Morgan & Co.:			
Commission	$3,000,000.00		
Less contribution to Champion and Plano companies	42,857.14		
	2,957,142.86		
Milwaukee Harvester Co	3,000,000.00		
		$5,957,142.86	
McCormick interests:			
Original allotment	26,321,656.86		
Less contribution to Champion and Plano companies	50,142.86		
		26,262,514.00	
Deering interests:			
Original allotment	21,362,554.64		
Less contribution to Champion and Plano companies	48,000.00		
		21,314,554.64	
Plano interests:			
Original allotment	2,193,603.00		
Plus contributions from other interests	75,000.00		
		2,268,603.00	
Champion interests:			
Original allotment	3,372,185.91		
Plus contributions from other interests	75,000.00		
		3,447,185.91	
Organization expense (excluding Milwaukee company and incorporators' stock):			
Sold	611,803.34		
On hand	138,196.16		
		749,999.50	
			$60,000,000.00
	Cash stock.		
J. P. Morgan & Co.:			
Cash	$9,940,000.00		
Incorporators	60,000.00		
Milwaukee excess	148,196.66		
		$10,148,196.66	
McCormick interests:			
Original subscription	20,000,000.00		
Subsequent subscription	4,886,190.13		
		24,886,190.13	
Deering interests:			
Original subscription	16,000,000.00		
Subsequent subscription	3,965,613.21		
		19,965,613.21	
Plano interests		4,000,000.00	
Champion interests		1,000,000.00	
			$60,000,000.00

As shown by the above table, of the $120,000,000 capital stock of the company, $103,144,660.98, or 86 per cent, was received by the McCormick, Deering, Champion, and Plano interests in the form of voting trust certificates. The McCormick interests alone received $51,148,704.13, or 42.6 per cent, and the Deering interests $41,280,-167.85, or 34.4 per cent. These two groups together therefore received no less than 77 per cent of the total capital stock.

It is also shown by the table that the McCormick, Deering, Plano, and Champion interests took $49,851,803.34 of the $60,000,000 cash stock. This stock (except the $1,000,000 taken by the Champion interests) was paid for out of the bills and accounts receivable of the McCormick, Deering, and Plano companies, which on August 12 were assigned by the companies to Lane (I, 319, 322, 326), and on the next day assigned by him to the newly formed International Harvester Co. (I, 248). The collections of these bills and accounts receivable were made by the International Harvester Co. (I, 249, fol. 1).

The United States introduced in evidence a list of persons holding 500 or more voting trust certificates in the International Harvester Co., on certain dates in each year from December 31, 1902, to July 31, 1912. (Government Exhibit 266, IV, 315, 348.)

This exhibit establishes that throughout this period the McCormick and Deering families have retained the control they acquired in 1902. The list for July 31, 1912 (IV, 343), shows that on that date members of the McCormick family held $66,030,200, members of the Deering family held $21,726,500, and George W. Perkins (the third voting trustee) and members of his family $4,000,000 (IV, 395). Therefore at the time this suit was brought about 66 per cent of the total issue of $140,000,000 voting trust certificates was held by the three voting trustees—Cyrus H. McCormick, Charles Deering, and George W. Perkins, or by members of their immediate families.

By reason of the voting trust agreement (IV, 29–35) three persons came into absolute control of the harvesting business in the United States. One of these three, Cyrus H. McCormick, represented the McCormick family and one, Charles Deering, the Deering family. The voting trust agreement expressly provided that "any successor in the line of succession" to Charles Deering or Cyrus H. McCormick was to be appointed in the one case by James Deering, or Richard F. Howe, his brother-in-law, and in the other case by Harold McCormick or Stanley McCormick (IV, 32, fol. 4). Any successor to George W. Perkins was to be appointed by J. P. Morgan & Co.

Although the voting trust by a decision of a majority of the voting trustees could have been terminated at any time after the expiration of five years it was continued for the full period of ten years (IV, 31, fol. 3).

In order to prevent any possibility of the control of the company passing in other hands, the McCormicks and Deerings deposited 80 per cent of their voting trust certificates with J. P. Morgan & Co., under an agreement not to sell more than a specified per cent each year and to keep on deposit with J. P. Morgan & Co. at least one-third of their entire holdings throughout the period of the voting trust. In so doing they were carrying out the terms of the preliminary agreements of July 28, 1902, between Lane and the

McCormicks and Lane and the Deerings, each of which agreements provided that the vendor should agree with J. P. Morgan & Co. that during the first year after the issue of such voting trust certificates the vendor should refrain from selling at least 80 per cent of his original holdings, during the second year 60 per cent, during the third year 40 per cent, and thereafter during the existence of the voting trust at least one-third of such holdings (IV, 8, fol. 3; I, 316, fol. 1). It was provided, however, that after the expiration of the fourth year the vendor might sell the remaining one-third, but in such case any voting trustee representing such holdings was to immediately resign as trustee, if desired by the two remaining trustees (IV, 8, fol. 4; I, 316, fol. 2).

On August 13 the McCormicks and the Deerings concluded indentical agreements with J. P. Morgan & Co. for the deposit of the stock trust certificates (Exhibits 58 and 59, I, 297–304), these agreements embodying the provisions which had been outlined in the preliminary agreements of July 28.

The following deposited stock trust certificates with J. P. Morgan & Co. under the agreements of August 13 just described (I, 399, fol. 3): Deering Harvester Co. and Nettie F. McCormick (Mrs. Cyrus H. McCormick, sr.), Cyrus H. McCormick, Anita McCormick Blaine, Harold F. McCormick, and Stanley McCormick, comprising the owners of the McCormick Harvesting Machine Co.

The amounts of stock trust certificates held on deposit by J. P. Morgan & Co. were as follows on the dates stated below (I, 400, fol. 2):

January—	
1903	$5,976,000
1904	54,792,500
1905	56,882,000
1906	47,557,300
1907	47,557,300
1908	38,991,700
1909	13,209,700
1910	29,576,900
1911	29,576,900
1912	29,575,000

The McCormicks on March 26, 1909, deposited the bulk of their holdings in still another trust, the trust agreement stating that the parties desired the trust estate to be held and kept together in one undivided ownership. (Government Exhibit 294, IV, 377, fol. 2.) This trust is to-day in force. On July 31, 1912, $47,666,600 of the McCormick family holdings, constituting something over one-third of the total capital stock, $140,000,000, of the International Harvester Co., was held by Paul D. Cravath and George H. Sullivan, trustees under this trust (IV, 344, fol. 1). The trust agreement provides that the trustees shall distribute the earnings of the trust estate among the legal holders of the capital stock of the McCormick Harvesting Machine Co., such distributions to be made pro rata according to their respective holdings of such shares (IV. 379, fol. 4).

The provision in the voting trust agreement authorizing the voting trustees to vote the stock in the company to secure suitable directors (IV, 33, fol. 2) made every stockholders' meeting a farce. As a concrete illustration of the effect of the concentration of control into the hands of the three voting trustees, two of whom before August, 1902, had been the heads of the two largest harvesting

companies competing for business in the United States and abroad, the Government introduced in evidence the minutes of several meetings of the stockholders of the International Harvester Co. (I, 135–141). At the stockholders' meetings held August 14, 1902, and August 18, two persons were present, one of whom was E. M. Cravath, the dummy incorporator, and one day dummy director of the company, who, as proxy, represented 1,199,976 shares at the meeting (I, 135). The other person present was an attorney from the lawyers' office at 40 Wall Street (I, 357, fol. 1). Cotton testified he had received instructions from the voting trustees to pass the resolutions at these meetings ratifying the election of the directors and relating to other matters (I, 356, fol. 4).

At the annual meeting of stockholders held April 21, 1904, two persons were present, one of whom, Joseph P. Cotton, jr., a lawyer, held proxies for 1,999,983 shares of stock, being the entire issue of capital stock, less 17 shares (I, 353, fol. 2). In electing directors for the ensuing year Cotton followed the instructions of the voting trustees.

Other stockholders' meetings were conducted in the same way (I, 353, fol. 4).

There is a stipulation in the record (I, 95, fol. 3) that the minutes of the stockholders' meetings of the International Harvester Co. show that during the period from August, 1902, to April, 1912, George W. Perkins, Cyrus H. McCormick, and Charles Deering were joint holders of all the shares of the capital stock of the International Harvester Co., except such few shares as were necessarily held by the other 15 directors in order to qualify them to be directors, no such director holding at any time more than one or two shares of stock, and that during said period the block of stock held jointly by the three persons above named was represented by one proxy, which proxy cast in one vote the votes of all the stock so jointly held (I, 95).

The by-laws of the International Harvester Co. also help to bring about complete concentration of power in a few hands. Although there are 18 directors, 5 members of the board constitute a quorum for the transaction of business (IV, 64, fol. 1).

The membership of the most powerful committee, the finance committee, consisting of George W. Perkins, chairman, Cyrus H. McCormick, and Charles Deering, the three voting trustees, and George F. Baker and Norman B. Ream, has remained unchanged since August 13, 1902, except that Judge Elbert H. Gary, of the United States Steel Corporation was elected a sixth member of the committee on October 29, 1906, and has served continuously since that time (IV, 70).

VII.

Concerning the Negotiations Preceding the Execution of the Agreements of July 28, 1902.

The formation of the International Harvester Co. was the result of concert of action on the part of the owners of the McCormick, Deering, Champion, Plano, and Milwaukee companies. In other words, it was a combination pure and simple. However, when the company was organized, the defendants under the advice of counsel attempted to make the transaction appear to be the result of separate

sales in which no concert of action between the owners of the several companies was present. For instance, although the four agreements of July 28, 1902, were substantially identical and were executed simultaneously, not one of them refers to the other three agreements of the same date. Each on its face seems to be an agreement independently reached. In all litigation since 1902, defendants have attempted to carry out this fiction that there was no concert of action in 1902, and that therefore the combination feature usually found in antitrust cases is absent here. Thus in the answer it is asserted (answer, p. 11) that George W. Perkins in July, 1902, "through separate negotiations with officers and owners," of the McCormick, Deering, Plano, and Champion companies, "contracted for the purchase by the corporation he was about to form of the plants, properties, and business of those four companies respectively." * * *

Defendants also aver "that in accordance with separately conducted negotiations with the representatives of the Deering, McCormick, Plano, and Warder, Bushnell & Glessner companies, said companies, pursuant to oral agreements theretofore independently and separately reached by their representatives and defendant Perkins, executed separate contracts on July 28, 1902, each of which was substantially similar to Exhibit 1 attached to the petition." (Answer, p. 11.)

Accordingly the Government put on the stand witnesses who testified from personal knowledge of the negotiations preceding the execution of the contracts of July 28, 1902. Each of these witnesses had been present in New York and had taken an active part in the consolidation. Defendants not only failed to put in any evidence contradicting these witnesses, but they neglected to cross-examine them. Therefore the testimony on this point stands undisputed and properly comes under the heading of facts not controverted.

(1) The McCormicks personally and actively assisted in bringing about the consolidation of the manufacturers.

Rodney B. Swift (I, 404–437), 22 years in the employ of the McCormicks and in 1902 head of the legal and experimental departments of the McCormick Co., testified as to the part of the McCormick's in bringing about the consolidation. (According to the testimony of Herbert F. Perkins, a witness for defendants (XIII, 304, fol. 3), Swift, in 1902, was one of "a little close corporation," in the McCormick Co., who sat around and talked over important matters together. The others were Mr. McCormick; A. E. Mayer, head of the sales department; H. L. Daniels, head of the fiber department; Alexander Legge, head of the collection department; and Herbert F. Perkins, head of the purchasing department. Mayer, Daniels, and Legge are referred to frequently in this brief).

No part of the testimony Swift gave, referred to below, was contradicted by any of the defendants' witnesses. Moreover he was not even cross-examined, and not a single word of evidence was introduced in the 14 volumes of defendants' record to shake, impeach, or discredit in any respect Swift's testimony regarding the conferences that occurred in 1902.

Swift testified in brief.

Swift took a part in the conferences which resulted in the formation of the International Harvester Co. in 1902 (I, 407, fol. 4). He had talks in the latter part of the year 1901 and the early part of 1902

with reference to the formation of a consolidation of harvester interests with Cyrus, Harold, and Stanley McCormick and Mrs. McCormick, and with Mayer, Daniels, Legge, Cyrus Bentley, the lawyer for the McCormicks, and others (I, 409, fol. 3).

In the early part of 1902 he went to New York with Cyrus McCormick, in connection with this matter (I, 409, fol. 4). "The purpose of this visit to New York was talked over before we left—not talked to me confidentially, but understood by the people about the office" (I, 412, fol. 1).

The purpose of the trip was to consult with some of the leading men of the country and some of the good lawyers in respect to whether a combination of the harvesting machine companies could be made legally, and whether the money could be got to do it with (I, 415, fol. 1). This was in the early part of 1902.

They saw in New York Francis Lynde Stetson, Mr. Morgan, William Nelson Cromwell, and others (I, 415, fol. 2).

The substance of the interview with Stetson was that "Mr. Stetson assured Mr. McCormick that Mr. Morgan would be willing to stand behind the combination of the harvesting machine companies, and that it, in his opinion, could be done legally—such a combination made" (I, 416, fol. 1).

Swift recalled definitely that there was quite a little talk about whether the law would allow such a combination to be made. In later interviews before the consolidation there was reference to the antitrust law (I, 416, fols. 1–2).

Swift and McCormick were several days in New York. They had no business other than this matter (I, 416, fol. 2).

Referring to the interview with Mr. Cromwell, the witness testified (I, 416, fol. 3):

> We saw Mr. Cromwell. I can not tell all he said. He said so much that the gist of it was, in his judgment, a combination of the companies could be made. I remember he said some things that I could understand.
>
> Q. You mean about the antitrust law?—A. Yes. He thought there was nothing that could prevent people from selling their business to whomever they wanted, or anybody else from buying it.

The officers of the McCormick Co. discussed the matter of the consolidation frequently all through the spring of 1902 (I, 416, fol. 4). There were a number of men working on the books, finding out the exact condition of the company.

[H. L. Daniels, another old employee of the McCormick Co. and head of one of the departments, corroborated the testimony of Swift that there were conferences in the spring of 1902 and earlier between the heads of the McCormick Co. (Daniels, III, 323.) These consultations were regarding a reorganization and the securing of a larger amount of capital to take care of increasing business. The bringing in of the other manufacturers was discussed and was one of the means considered which would enable them to get more capital. (III, 323, fol. 3; see also Legge, XIV, 29, fol. 4.)]

In the spring of 1902 one of the New York lawyers, Stetson, came to Chicago about the matter. There was a conference at one of the hotels in Chicago at which Stetson and Swift were present, and also Mrs. Cyrus McCormick, sr., and one of the sons of Cyrus McCormick, sr., either Harold or Stanley. The consolidation of the harvester

interests was the subject matter under discussion at that conference. Nothing else was considered (I, 417, fol. 4).

Swift testified that Mr. McCormick told him that he saw Mr. John J. Glessner in connection with the same matter in the spring of 1902 (I, 418, fol. 1). (This testimony is corroborated by a paragraph in the statement made by Stanley McCormick and Mr. Bentley to Perkins, June 27, 1902. See IV, 359, fol. 3.)

The conferences continued through the spring and early summer of 1902. Cyrus, Harold, and Stanley McCormick, Swift, Bentley, Legge, Daniels, and Mayer participated in them (I, 418, fol. 3).

[The defendants did not put on the stand one of the persons named to contradict the testimony of Swift. The testimony stands undisputed; though Legge and Daniels both took the stand for defendants, neither was questioned in regard to this testimony, nor in regard to the negotiations and conferences which resulted in the consolidation, nor respecting other matters testified to by Swift. The above men and the McCormicks were the most important officials of the McCormick Co. (I, 418, fol. 4).]

In July Swift went to New York in connection with the matter. All the McCormick people, Cyrus, Harold, and Stanley McCormick, Mrs. C. H. McCormick, sr., Cyrus Bentley, Eldridge M. Fowler, Legge, and Swift, stayed at the same hotel (I, 419, fol. 1). Swift was there about two weeks. During that time the persons named were continuously engaged on the same subject; that is, the subject of the consolidation of the harvester interests (I,419, fol. 2).

Q. Did you know at that time that the plan contemplated the bringing in of the other manufacturers?—A. I did.

Q. Were the names of those other manufacturers mentioned?—A. They were.

Q. At these conferences?—A. They were.

Q. And with reference to these other companies which came in, was the subject discussed at these meetings of bringing them in?—A. It was.

Q. State whether or not it was known by all these persons you have named that they were trying to get them all in.—A. It was.

Q. And was that true of the conferences in the spring of 1902?—A. It was not.

Q. But all the time you were in New York you knew that those other manufacturers were being negotiated with?—A. All the time that I was in New York, in July?

Q. Yes, that is what I mean, all the time that you were there in July.—A. In the middle of July.

Q. Did you have meetings of all these persons that you have mentioned, to discuss the proposition at the hotel?—A. We were in almost continuous session.

Perkins came up to the hotel and the McCormick people sent some of their number down to discuss the proposition, who would come back and report (I, 420, fol. 1).

Some of the subjects discussed were the output of the several companies; that is, of these five or six companies and the per cent of business which they together embraced (I, 420, fol. 2).

"We discussed such matters as business men would discuss, that were together thinking to form a combination of the harvesting machine companies" (I, 420, fol. 3).

Q. Now, was it understood all this time that stock was to be received in exchange for the properties conveyed?—A. Yes; it was understood so.

Q. That is, during July?—A. Yes, sir (I, 420, fol. 3).

The question of who should be the officers of the new company was discussed at these conferences. "It was the consensus of opinion among us that Mr. Cyrus McCormick should be president, if there

was a combination, and if he was not there would not be any" (I, 421, fol. 2).

It was discussed who the other officers of the company should be and to which of the five companies the different offices should be allotted (I, 421, fol. 3), and also who should be the vice presidents (I, 421, fol. 4).

The matter of having voting trustees was also discussed at these conferences at the Hotel Manhattan (I, 422, fol. 1). Asked as to the purpose of having voting trustees, Swift said (I, 423, fol. 2): "The purpose was to prevent any one of the concerns from getting control of the business by getting a majority of the stock. Therefore, the stock was to be put into the hands of the trustees for a period of years, so that no one could get control of it, or if they did it would have no effect." The McCormick and Deering companies being the largest, and both of them strong concerns, "I think the McCormick side felt, perhaps, that the Deerings might seek to get control of the business, and the Deerings felt the McCormicks would, and therefore they put it into the hands of voting trustees to keep from being a scramble for it" (I, 423, fol. 3).

It was decided by the McCormick family and the people who were there present who should be the voting trustee representing the McCormicks, and they knew at these meetings who was to be the Deering representative (I, 423, fol. 4).

Asked about the purpose in using Lane, Swift testified (1, 426, fol. 1):

Q. Mr. Swift, going back to this incorporation, to the summer of 1902, state, if you are able to do so, why this plan was adopted of selling to Lane and then selling from Lane to the new company. Whose plan was it?—A. I think it was Stetson's plan.

Q. What was the purpose of it?—A. It was deemed to be a safer method of procedure to avoid the antitrust law.

Q. Were other methods of effecting a consolidation suggested?—A. A great many methods were discussed and talked over between the McCormick people.

Q. And were they discussed at these conferences with these other attorneys in your presence?—A. A number of these schemes were submitted to Mr. Bentley, who decided that they would not do.

Q. Why not?—A. They would not be legal.

Q. Violating the laws?—A. Violating the antitrust laws.

Q. What schemes; can you mention them?—A. I distinctly recall propositions that looked toward forming selling organizations and toward partial combinations, which were decided not to be legal.

Q. And after these other proposed schemes were rejected this plan was finally adopted of transferring to Lane and from Lane to the new company? Is that right?—A. It is right.

Swift knew when Middlekauff obtained the option on the Milwaukee plant (I, 426, fol. 4): "Mr. Middlekauff acted for Cyrus McCormick, of the McCormick Co., to obtain that option. The option was sent to New York and turned over to Mr. Morgan and Mr. Perkins (I, 426, fol. 4).

Referring again to the conferences in July at the Manhattan Hotel, Swift testified that they were there discussing matters for nearly two weeks, and ideas would be brought in from the other side and would be discussed. He knew that the other manufacturers were in New York at that time (I, 427, fol. 1). It was mentioned at the conferences that these other manufacturers were in town and it was understood, of course, what they were doing—namely, that they

were endeavoring to bring about the same results the McCormick people were endeavoring to negotiate (I, 427, fol. 2).

When Swift went to New York with McCormick in the spring of 1902, nothing was said about getting money to expand the foreign business (I, 436, fol. 1). "The purpose was to see what the men having large amounts of capital would say toward financing a consolidation of the harvester machine companies; and, further, to see whether it could be done legally" (I, 436, fol. 2).

Swift was familiar with the situation under which the International Harvester Co. of America was adopted as the selling agency of the International Harvester Co. The proposition was first discussed in the late summer and early fall of 1902, shortly after it had been determined to form a company. "Its purpose was to have a company with less capital to do the interstate trade, a company of less capital to be subjected to the varying laws of the different States on the questions of antitrust laws, taxation, and so forth."

(2) HOW THE MILWAUKEE COMPANY WAS ACQUIRED.

The option on the Milwaukee plant was bought under the direction of Cyrus and Harold McCormick by P. D. Middlekauff on June 24. On that day Middlekauff paid by certified check $100,000 for a 60 days' option on the Milwaukee properties. This money had been received by him in currency from H. L. Daniels on the morning of the same day, Daniels having been instructed by the McCormicks to give Middlekauff the money.

As has been pointed out elsewhere the defendants have repeatedly and stoutly maintained that there was no combination between them in the sale of their properties or in the formation of the International Harvester Co., but that in reality Lane acquired the several properties by a series of separate contracts, independently concluded with the owners of the various concerns. During the period of more than 10 years that have passed since the organization of the company in attempting to keep up this fiction they have found it necessary to deny that the McCormicks had any part in the purchase of the Milwaukee option. In the Missouri suit Cyrus McCormick untruthfully testified under oath that he did not know Middlekauff and did not know how Perkins had secured the good offices of Middlekauff in securing the Milwaukee option (Ranney, XIII, 205–209). Middlekauff was not a witness in the Missouri case. The Government, however, put him on the stand in this case and he gave the full story of the transaction. The fact is that the McCormicks furnished the money to pay for the option, and then sent Middlekauff to Perkins with a letter of introduction and with another letter of instructions, the latter letter expressly authorizing Middlekauff to assign to Perkins the option which he, Middlekauff, had acquired "for us," the McCormicks. Defendants did not dare to put Cyrus McCormick on the stand in this suit. Moreover, their counsel failed to cross-examine Middlekauff in regard to his story of how the Milwaukee option was acquired.

P. D. Middlekauff, like Swift (supra), had been for many years one of the principal men in the harvesting business. More than 20 years he was with the Deering Harvester Co., of which he was manager of sales for a number of years immediately preceding 1901, the year in

which he left the Deerings and went abroad (I, 148, fol. 1). In the early part of 1902 Middlekauff conceived the idea of acquiring the Milwaukee plant. He went up to Racine May 6 and met the principal stockholders. They said their plant and business were not in the market, and that they were not anxious to sell, but they would be very glad to discuss the matter (I, 150, fol. 2). He had several meetings after that and arrived at a verbal understanding, but nothing was written up.

A week or two later Middlekauff took lunch with H. L. Daniels, of the McCormick Co., and remarked that he had practically closed an option for the Milwaukee company. Within a day or two Daniels asked him if he would be willing to meet Cyrus and Harold McCormick, which he did. They suggested that he could get into the harvester business in a larger way and with less of a burden to carry if he united his interests with them in closing up the option (I, 150, fol. 4). Therefore Middlekauff returned to Racine and a form of contract was drawn in which it was provided that Middlekauff was to have a 60-day option on the payment of $100,000, but when he brought the option back to Chicago and submitted it to the McCormicks they said they would not be able to go on with the option, and the matter was dropped.

On June 24 Daniels telephoned Middlekauff that they wished him to go to Racine immediately to close up the option (I, 151, fol. 4). Middlekauff had his check certified for $100,000, and went to Racine that day. (H. L. Daniels gave Middlekauff $100,000 in cash, which Ranney, treasurer of the McCormick Co., provided, acting under the direct instructions of Cyrus H. McCormick. See testimony of Ranney, XIII, 204 et seq.)

When Middlekauff got there they said they would not give him the option on the same terms as before, since they thought they should have some of the earnings for the season for 1902. Middlekauff then called up Daniels on the long-distance telephone, and told him what they wanted, and that he, Middlekauff, had refused to sign up. Daniels left the telephone, and in a few minutes came back and requested him to make the deal, and not to insist on the profits (I, 152, fol. 2). (Daniels testified that he conferred with Harold McCormick when he left the telephone, III, 319, fol. 3.) Middlekauff then signed the option, returned to Chicago, and the next morning, June 25, submitted the option to the McCormicks (I, 152, fol. 4). He left Chicago on that day for New York, and took the option to George W. Perkins, with a letter of introduction to Mr. Perkins from Cyrus H. McCormick (I, 153, fol. 1, and I, 159, fol. 4). A copy of the letter of introduction is printed in the record (Government Exhibit 35, I, 159, fol. 4.) Middlekauff arrived in New York the evening of June 26, and went to the office of J. P. Morgan & Co. on the morning of June 27, met Mr. Perkins there, and gave him the letter of introduction and the option (I, 153 and 160, fol. 1).

The option was assigned by Middlekauff to Lane by an assignment dated July 28, 1902. (Government Exhibit 37, I, 167, fol. 4.) Middlekauff testified that he executed the assignment July 30 (I, 163, fol. 4), and that Perkins stated that he had been unable to get hold of Middlekauff to execute the assignment the day before.

[Defendants, and particularly the defendant George W. Perkins (XIII, 215, fol. 1), have attempted to make it appear that this

purchase of the Milwaukee property was a transaction quite apart from and independent of the other purchases, and that the Milwaukee company was in fact acquired before it was known whether the other companies would sell out through Lane. This statement of defendants is contrary to the facts. The option was not an absolute agreement to purchase. Under the terms of the Milwaukee option the purchasers took a chance on the entire proposition going through; $100,000 was the amount they put up. If the consolidation had failed they would not have closed the deal and would have lost the $100,000 and nothing more. This amount was put up as a forfeiture in case the sale was not consummated. (See terms of the option, I, 157, fol. 2.)]

Before Middlekauff went to Chicago, Daniels gave him a letter of authorization, signed by Harold F. McCormick, stating: "We authorize you to assign to J. P. Morgan & Co., or to any person whom they may designate, the option you obtained from the Milwaukee Harvesting Co. for us. We will see that you incur no damage from such action. Harold F. McCormick, vice president" (I, 158, fol. 4).

On back of this letter were certain instructions to Middlekauff (these instructions were in Daniels's handwriting, written down as given to him by Harold F. McCormick, III, 321, fol. 2). Middlekauff was directed to go to J. P. Morgan & Co.'s office at 10 o'clock, Friday a. m. (this was June 27). He was told to leave a package at the Waldorf-Astoria for Stanley McCormick, but not to see the latter. He was also to "give Perkins all information asked for that you would give us. * * * Put yourself under Mr. Perkins's orders, either to stay in New York or to return here. * * * Be on guard regarding Judge Gary. He may be on train" (I, 159, fol. 2).

During his testimony Middlekauff refreshed his memory as to dates and other matters by referring to certain memoranda made by him on the days on which occurred the incidents in regard to which he testified (I, 149, fol. 4; I, 160, fol. 2; I, 162, fol. 2). Therefore his testimony is exact on these matters, whereas Daniels testified (III, 327, fol. 1), that he did not want to go on record in conflict with what Middlekauff had said. Defendant, George W. Perkins, before testifying had not in any way refreshed his recollection by referring to any contemporaneous papers relating to the formation of the International Harvester Co. nor by reading any of the testimony given in this suit by any of the persons who had dealings with him in 1902. Perkins had made no effort to refresh his recollection as to any of the matters which transpired in 1902 (XIII, 223, fol. 4; 224, fol. 1).

Middlekauff was in New York from June 26 until July 30. He knew the other manufacturers of harvesting machinery were there. During this period he conferred with Mr. Perkins a number of times in regard to harvester matters and in regard to bringing the manufacturers together into one company (I, 160, fol. 4). Perkins in his talk with Middlekauff referred to frequent meetings with the manufacturers (I, 161, fol. 3).

Perkins sent Middlekauff to Washington to see the manager of a trust company to ascertain whether the Warder estate would be willing to sell its interest in the Champion Co., and Middlekauff telephoned July 3, 1902, from Washington to Perkins (I, 162, fol. 1).

Between July 8 and July 29 Middlekauff telephoned Perkins 74 times, as shown by Middlekauff's memorandum (I, 162, fol. 3). These communications were all in connection with this general matter of the consolidation of the harvester business (I, 162, fol. 3).

Middlekauff was trying to help Perkins all he could. In his own mind he was trying to help him to bring the four harvesting companies together (I, 163, fol. 1).

Middlekauff had received instructions to put himself at the disposal of Perkins. He was trying to carry out his, Perkins, orders. His instructions were to call Perkins up frequently during the day (I, 163, fol. 3).

Middlekauff called up Perkins on the telephone on the morning of the 30th, and he, Perkins, wanted to know where Middlekauff had been and asked why he had not called him (Perkins) up during the afternoon of the day before. Perkins asked Middlekauff to meet him on the bank floor of a bank on Wall Street in 15 minutes and they met there. Perkins presented a paper, assigning over the option to Lane (I, 163, fol. 4), which Middlekauff signed. He never met Lane (I, 164, fol. 1) and never saw him.

(3) THE DEERINGS' SHARE IN THE NEGOTIATIONS WHICH PRECEDED THE FORMATION OF THE INTERNATIONAL HARVESTER CO.

Richard F. Howe, one of the partners in the Deering Harvester Co., testified from the Deering point of view in regard to the negotiations and conferences which went on in New York in July, 1902.

He admitted that he knew all the time that the plan contemplated the bringing in of other manufacturers and also the exchange of the stock of the new company for the properties acquired. There was no cross examination, and his testimony stands uncontradicted in the record.

Howe said that about the 1st of July George W. Perkins invited the Deering people to go to New York, to discuss the sale of their business (II, 147, fols. 1–2). When Howe arrived Perkins wanted to know if they would consider selling their business to a new corporation to be formed by him or by J. P. Morgan & Co. The subject was broached by Perkins on the first trip, about the 1st of July. When Howe went to New York he knew in a general way that he was going for that purpose or in connection with that matter (II, 147, fol. 3).

Howe told Perkins that he would be interested in considering such a proposition if a company was formed on conservative lines (II, 148, fol. 2). He understood the proposition to include the purchase of other harvesting businesses than that of the Deering Co. (II, 148, fol. 2).

Howe was in New York not longer than two days and then returned to Chicago and reported to his partner, Charles Deering, who was as familiar as Howe was with the idea, namely, that the new company was to purchase a number of businesses (II, 149, fol. 1).

In a few days Howe, with Charles Deering, went back to New York and saw Perkins again, staying there at the Waldorf-Astoria until July 28, when the paper was signed. They had frequent meetings with Mr. Perkins in connection with the sale of their business (II,

149, fol. 4), and at these meetings discussed the different propositions which would naturally come up in the selling of one business to a corporation to be formed. Howe knew pretty well the names of the other manufacturers whom Perkins was endeavoring to bring in (II, 149, fol. 4); he inferred that others were in New York, because they were discussing the formation of this new company, which included others (II, 150, fol. 1).

On this point Howe said (II, 150, fol. 1): "There were various negotiations between Mr. Perkins and ourselves. He would suggest things which we would have to consider and we would suggest things which he would have to consider."

Q. Then he would have to consider these things with others?—A. I dare say.
Q. Well, did he so state to you?—A. Yes; my impression is that he did at times (II, 150, fol. 2).

The agreement of July 28, 1902, was signed in Paul Cravath's office. The details of the arrangement had been agreed upon before they went down to sign the papers, so that the visit on that day was simply in order to execute the contract, the terms of which had already been agreed to (II, 150, fol. 4).

Howe did not know Lane at all; he understood that Lane was merely a convenient instrument and that he was to convey the property to a new corporation. Howe understood that the method of transfer was advised by the attorneys. He did not recall that the attorneys gave any reason for the adoption of that plan, except that it was stated that it would be a legal way of acting and was advised by the lawyers (II, 152, fol. 3).

Q. Was any reference made at any time to the Sherman antitrust law or the law against monopolies, with which, of course, you are familiar?—A. I have no doubt there was reference made to that law.
Q. Was it in reference to that law that the attorneys said this method of transfer would accomplish the sale in a legal way?—A. I have no recollection of their ever having said that to me.
Q. Was that your understanding as one of the parties interested in the transaction at the time?—A. That it would be——
Q. A legal way?—A. A legal way.
Q. So far as the Sherman Act was concerned, if you did it in this way?—A. A legal way, so far as all of us were concerned.
Q. If you did it this way?—A. If we did it in this way.
Q. Now, you had a knowledge of the Sherman Act at the time?—A. I had a general knowledge (II, 153, fol. 1).

The idea of having three voting trustees was to have a continuity of management of the business for 10 years.

Before the contract of July 28 was executed Howe understood that there were to be three voting trustees after the company was formed. He knew that one was to be a representative of the McCormick Co., another a representative of the Deering Co., and the third was to be a representative of J. P. Morgan & Co. During the month that he was in New York he discussed with Mr. Perkins the subject of having voting trustees (II, 153, fol. 4). There was never any question about the Deerings having one representative, and Howe expected the McCormicks to have one. He understood at the time that this was to be the arrangement (II, 154, fol. 2).

Howe frankly stated that throughout the negotiations the plan was to give stock in the new company as the consideration for the property (II, 155, fol. 3).

Q. Now, when was it suggested to you that you should take stock as consideration for the transfer of your property?—A. All through the discussion.

Q. You understood that was to be the arrangement from the beginning?—A. Yes (II, 155, fol. 3).

Howe did not have any negotiations in New York in connection with the matter with any person other than George W. Perkins (II, 156, fol. 1).

(4) THE PLANO CO.'S PART IN THE CONFERENCES IN NEW YORK PRECEDING THE CONTRACTS OF JULY 28.

To prove the Plano Co.'s part in the July conferences in New York, the Government put on the stand the principal officers of that company, William H. Jones, president (I, 38–52); Silas J. Llewellyn, vice-president (I, 183–191), and O. W. Jones, secretary and treasurer (II, 520–529). They testified that their dealings in New York were with George W. Perkins, who was the "chief mogul" (II, 528, fol. 3); that they understood Perkins was trying also to get in other companies (I, 41, fol. 4), and that they knew before signing the contract of July 28, who was going in. Otherwise they never would have signed it (I, 32, fol. 4; II, 528, fol. 4). Of these three witnesses, W. H. Jones was the only one cross-examined (I, 50–52), but his cross-examination was not directed to the testimony given by him about the July conferences, but related to the character of the competition prevailing in the harvesting-machine business in 1902.

William H. Jones testified in brief (I, 38–52):

About the first of July, Judge Elbert H. Gary telegraphed from New York asking Jones to go to New York (I, 39, fol. 4). Jones went. Gary told him that he wanted to introduce him to George W. Perkins, and took him over to J. P. Morgan & Co.'s office. Perkins wanted to know if the Plano people were willing to sell out. Jones answered that he was willing to do it on any fair basis. Jones stayed in New York from about July 5 until July 28, when the contract was signed. In that time he saw Perkins 15 times, probably. Perkins was asking about the business, how much business they were doing (I, 41, fol. 1).

Jones knew that Perkins was trying to get other companies (I, 41, fol. 4). He knew this some time before he signed the contract in Cravath's office (I, 42, fol. 1). At that time Cyrus McCormick, Charles Deering, J. J. Glessner, and Lane were present. Jones arranged all the terms orally with Perkins (I, 42, fol. 4), discussing the different details of the contract at the numerous conferences they had together; that was the purpose of the conferences (I, 43, fol. 1).

Jones did not meet Lane until the contract was signed (I, 43). Lane was simply the convenient instrument to receive the transfer. (See I, 39, fol. 4.) During these negotiations Jones knew they were going to form some company. He expected all the larger companies would go in (I, 43, fol. 4).

Jones did not know why he sold to Lane instead of directly to the new company. That was a matter that the lawyers arranged. He did not think that Lane wanted to buy his business. He knew Lane was to sell to a new company to be organized (I, 39, fol. 4). Jones signed the deed to Lane on the day the International Harvester Co. was organized (I, 44, fol. 3). Jones received stock in the new company as consideration for the property which the Plano Co. transferred to the harvester company.

He had nothing to do with the selection of the three voting trustees (I, 45, fol. 3).

When Jones signed the contract on July 28 he did not know, but supposed that the other companies, namely, the McCormick, Deering, and Champion companies, were going in on the same terms; that is, that they were receiving stock in the new company as consideration for the transfer of their plants (I, 47, fol. 1). Jones was unable to testify as to the purpose of placing the stock in a voting trust (I, 49, fol. 4).

One of the reasons which induced Jones to sell out in 1902 was the existence of the competition, which he described on cross-examination (I, 52, fol. 3), and the demoralization of the business in general. He knew before the contract of July 28 was signed who was going into the new company. If he had not known, he would never have signed it (I, 52, fol. 4).

Silas J. Llewellyn (I, 183–191), vice president of the Plano Co., testified that he went with W. H. Jones to New York, that there—

> Judge Gary told us something of Mr. George W. Perkins endeavoring to do something with the harvesting machine companies, and he took us over there, after, I think, telephoning for an appointment (I, 185, fol. 2).
>
> Mr. Perkins wanted to know if we would take part in or sell out our business to this company that he was talking of (I, 185, fol. 4).

This witness's recollection of matters was very hazy. He stayed with Jones at the Holland House (I, 186, fol. 3), and waited in New York until the end of July, waiting at the suggestion of Perkins to hear news from day to day (I, 187, fol. 3). All his dealings were with Perkins (I, 189, fol. 4). At one of the interviews with Perkins, Llewellyn saw John Glessner of the Champion Co. in another of the rooms in J. P. Morgan & Co.'s office but he did not have any conversation with him (I, 186, fol. 4).

O. W. Jones (II, 520–529), secretary and treasurer of the Plano Co., went to New York after the contracts of July 28 were signed, in connection with the sale of the business of the Plano Co. in August. He did not know anything about Lane except that he was a New York man (II, 524, fol. 3). He thought Lane was adopted as a convenient instrument to hold the properties for retransfer to the new company. He did not know what was the purpose of employing Lane to transfer the properties. He did not know whether it was the advice of the lawyers.

He knew that all the other properties were transferred in the same way to Lane and then to the new company. Perkins informed the Plano people of these things (II, 235, fol. 3). They did pretty much as Perkins said.

After the harvesting company was formed, O. W. Jones became manager of sales of the Plano division, and had charge of the sales of the Plano lines for 1902 and 1903 (II, 526, fol. 1).

Testifying again about his trips in August, in connection with the formation of the I. H. Co., Jones said (II, 528, fol. 3):

> All the discussion we had about that was with George W. Perkins. He was the chief "mogul," the man we were negotiating with. We had no occasion to talk to the other manufacturers. We supposed they were selling out their business, too. Before we agreed to take the stock in the new company, I think we knew who was going into the new company (II, 528, fols. 3–4).

(5) AS TO THE CHAMPION CO.'S PART IN THE CONFERENCES IN NEW YORK PRECEDING THE CONTRACTS OF JULY 28.

John J. Glessner, the president of the Champion Co. in 1902, who has been a vice president of the International Harvester Co. since its incorporation, a witness very unfriendly to the Government, told about his negotiations with Perkins in July for the sale of the business of his company. His testimony, like that of the others, demonstrates the fact that the International Harvester Co. was the child of a banker and promoter, of one not theretofore interested in the harvesting business, and that it was in no wise the result of natural and normal industrial development.

Sometime in the first week of July, Glessner began to consider the idea of selling out his business (I, 443, fol. 1). George W. Perkins telegraphed to Gov. Bushnell, Glessner's partner, to know if he would go to New York to discuss the sale of his property. Glessner knew Perkins was not engaged in the harvesting business. He went to New York with Gov. Bushnell and saw Mr. Perkins at his office. This was between the 2d and 5th of July (I, 443, fol. 4). Perkins asked whether Gov. Bushnell was willing to sell his business; he did not say to whom. Glessner told Perkins that he was willing to sell the business if he thought he could get what he thought was a fair price for it (I, 444, fol. 3).

Glessner saw Perkins at other times in relation to the sale of the business. He did not see anybody else (I, 444, fol. 4). All these conferences were in regard to the sale of the property (I, 445, fol. 3).

Glessner knew that the business of the company was to be transferred to another company to be organized, and he agreed to take stock in it (I, 445, fol. 4). Before he signed the contract of July 28 he knew who was going into the new company (I, 448, fol. 1). He signed his contract at the same time the others signed theirs in Cravath's office. Charles Deering, William H. Jones, Richard Howe, and himself were present (I, 448, fol. 3). The contracts were all signed in the presence of all the parties named.

Glessner did not know why there was a sale to Lane and then a transfer by him on the next day to the new company. Nor did he know who devised that arrangement (I, 449, fol. 3).

Glessner dealt only with Perkins, who was forming a company for the stockholders, for the men he sold stock to (I, 450, fol. 4). He did not negotiate with anyone else (I, 458, fol. 4).

Glessner recalled being present August 13, 1903, with all the other manufacturers, and that the incorporators of the company resigned, one after the other, and the various manufacturers stepped in as directors, and then had a meeting of their own (I, 451, fol. 2).

Glessner met Lane for the first time on July 28, the day he signed the contract (I, 452, fol. 1).

The provision for a voting trust was probably first discussed the first day Glessner saw Perkins (I, 452, fol. 4). At any rate, the voting trust was very early mentioned (I, 453, fol. 2). The purpose of the voting trust was to insure continuity of management (I, 454, fol. 1).

Glessner did not know why the company was incorporated under the laws of New Jersey instead of Illinois, although the agreement

of July 28 had provided that the company might be organized under the laws of Illinois.

Glessner thought that Judge Gary and Bentley were also present July 28 (I, 458, fol. 2).

The business of the Warder, Bushnell & Glessner Co. had been a profitable one prior to 1902 (I, 461, fol. 1).

An amusing illustration of the way the defendants have persisted in the fiction that Lane bought the properties is furnished by John J. Glessner, who testified (I, 441, fol. 4):

Q. Now, in 1902 your company went into the consolidation of a number of harvesting manufacturers known as the I. H. Co.; did it not?—A. No, sir. I did not understand it that way.

Q. What did happen?—A. I sold my company to Mr. Lane; I sold the property of my company to Mr. Lane; my company did not join in the International Harvester Co.

Q. Well, the business of your company, with the business of a number of other harvester companies, in the year 1902 was transferred over to the International Harvester Co. of New Jersey; is that right?—A. My business was sold to Mr. William C. Lane, who subsequently transferred it to the I. H. Co.

Q. In selling the business of the Warder, Bushnell & Glessner Co. to Mr. W. C. Lane, you had no expectation that Mr. Lane was going to carry on the business which you were transferring over to him, did you?—A. No, sir; I did not.

Q. You knew that he was only a sort of a conduit to the company which was to be formed; did you not?—A. I did not know it; I supposed it.

Q. When in the year 1902 did you hear the first talk of a proposed consolidation of harvesting businesses?—A. Along about the middle or the latter part of the month of July (I, 441–442).

VIII.

Concerning the Manner in Which the International Harvester Co. Was Organized After the Manufacturers, on July 28, 1902, Had Agreed to Sell.

Each of the preliminary agreements of July 28, 1902, between Lane and the McCormick, Champion, Plano, and Deering companies contains these words:

The purchaser desires to acquire said properties and intends, upon the acquisition of said properties, to sell, convey, and transfer the same to a corporation *now existing or hereafter to be organized* under the laws of the State of Illinois or other State (IV, 1, 11, 20; I, 309, fol. 1).

In accordance with this plan the International Harvester Co. was incorporated under the laws of New Jersey on August 12, 1902 (IV, 36–42); on that day Lane submitted his proposition to the newly formed company to sell to it the properties of the five harvesting companies (I, 99). Lane did not acquire these properties until August 12, the day the International Harvester Co. was organized, and on which he made his offer. That afternoon, in the office of the Hudson Trust, at Hoboken, N. J., the board of directors of the International Harvester Co., which was comprised at that time of six dummies, held its first meeting (I, 98, fol. 4). At the meeting the president of the company, one of the dummies, submitted to the other dummies the proposition from Lane, and a committee of three dummies was appointed to consider Lane's proposition, to confer with Lane, examine the papers submitted by him, and report at an adjourned meeting to be held the next morning at 40 Wall Street, New York City (I, 101, fol. 3).

Lane offered to sell, in return for the entire capital stock, $120,000,000, all the property, excluding bills and accounts receivable (except in the case of the Milwaukee Co., whose bills and accounts receivable were included) of the McCormick, Deering, Plano, Champion, and Milwaukee companies. He also agreed to furnish $60,000,000 of working capital to be represented by bills and accounts receivable (exclusive of those of the Champion and Milwaukee companies), received by the McCormick, Deering, and Plano companies in the ordinary course of business and guaranteed, or in cash or partly in accounts and partly in cash (I, 99–100). He stated that the property and receivables aggregated $192,000,000 in value. This paper had been prepared in Cravath's office (I, 354, fol. 1).

Lane's proposition on its face indicates that Lane was but a conduit used in the transfer of the properties. His offer was upon the condition that when he had provided conveyances satisfactory to the board and working capital $60,000,000 in cash or accounts guaranteed he should be relieved of further responsibility (I, 100, fol. 2).

At 10 o'clock on the morning of the next day, August 13, 1902, at a meeting at which all the directors (the six dummies) were present, the president (one of the six dummies) announced that the committee were prepared to report (I, 101, fol. 4), and that upon their invitation Mr. Lane was present to furnish such information as might be required.

The minutes of the meeting state (I, 101, fol. 4):

* * * The committee also stated that they had invited E. H. Gary, Esq., chairman of the executive committee of the United States Steel Corporation, to be present because of his familiarity with the properties covered by Mr. Lane's proposition.

Mr. Lane, after explaining the proposition and furnishing information as to the value and earning capacity of the various properties mentioned in his offer, withdrew.

The committee thereupon submitted their report, which was accepted and ordered on file.

The following is a copy of such report:

AUGUST 13, 1902.

To the board of directors of the International Harvester Co.:

The undersigned committee, appointed to consider the proposition from William C. Lane to your company, makes the following report:

Your committee have conferred with Mr. Lane and obtained from him further information regarding the value, earning capacity, and prospects of the properties mentioned in his proposition, and have also conferred with E. H. Gary, Esq., chair man of the executive committee of the United States Steel Corporation, who for many years has been familiar with the harvester industry, having recently had occasion to inform himself regarding the present value and earning capacity of the several properties.

Your committee are of the opinion that the five properties mentioned in Mr. Lane's offer are the most important in their line of business in the United States, and that each of them has for several years enjoyed a prosperous, profitable, and growing business. Each of the plants is believed to be in excellent condition and supplied with all the facilities necessary for effective manufacturing. (Italics ours.)

The combined sales of the five concerns are believed to be at a rate exceeding $50,000,000 a year, and with that amount of business your company should be able to earn liberal return upon the capital and surplus which it would have in case of the acceptance of Mr. Lane's offer. Considering that under Mr. Lane's proposition the properties come as going concerns with current materials, stock in trade, and goods manufactured and in process of manufacture on hand, it is believed that $60,000,000 of working capital will be ample for the needs of the company, although not excessive, because of the long terms of credit which are customary in the harvester business.

Your committee, therefore, report that the properties offered by Mr. Lane are, in their opinion, worth to this company the sum of $132,000,000, the price mentioned in

Mr. Lane's offer, and they recommend their acquisition by the company, together with the $60,000,000 of working capital, at the aggregate price of $192,000,000 payable by the issue of $120,000,000 of the company's capital stock.

Mr. Green of your committee has examined the instruments of conveyance and draft of agreement which accompanied Mr. Lane's offer, and advises that they are in proper form.

Respectfully submitted.

ROLAND R. DENNIS,
GEORGE W. HEBARD,
ROBERT S. GREEN,
Committee.

In the discussion which followed, Judge Gary and Mr. Dennis supplemented the report of the committee by further information as to the value and earning capacity of the properties mentioned in Mr. Lane's proposition. Judge Gary then withdrew.

It was then resolved that the company accept the proposition of Lane upon the terms mentioned in the offer (I, 104, fol. 4), and the officers were authorized to issue to Lane 1,200,000 shares, par value $120,000,000, less the $60,000 subscribed by the incorporators.

The minutes next record the following resolution relative to the entry to be made on the books of the treasurer (I, 105, fol. 3):

Resolved, That the treasurer of this company is authorized and directed to enter upon the books of this company said properties other than said sixty million dollars ($60,000,000) of working capital at the value of one hundred and thirty-two million dollars ($132,000,000), at which the same have been acquired by the company, and to establish by proper entries a surplus account of seventy-two million dollars ($72,000,000); * * *

At this time the dummies' hour has come. First a recess is taken (I, 105, fol. 4), after which the "entire board" of six dummies unanimously resolve to amend the by-laws so as to increase the number of directors from six to eighteen (I, 106, fol. 1). Thereupon the dummy officers and directors step out one after the other and the real organizers of the corporation take their places (I, 106–113).

The minutes record the presence at the meeting of the following who were not only elected on August 13, but took their places on the board and continued to transact the business of the meeting (I, 109, fol. 2): Cyrus H. McCormick, Charles Deering, Norman B. Ream, Charles Steele, Harold F. McCormick, William H. Jones, John J. Glessner, George W. Perkins, E. H. Gary, Cyrus Bentley, Paul D. Cravath.

Richard F. Howe, Stanley McCormick, James Deering, and William Deering although elected directors were not present (I, 109, fol. 1). Of the eighteen directors elected on August 13 ten were largely interested in the four companies merged, namely: the three McCormicks and Fowler, of the McCormick Co.; the three Deerings and Richard F. Howe, of the Deering Co.; Jones of the Plano Co.; Glessner of the Champion Co. Three more directors, Gary, Bentley and Cravath, had been connected with such concerns as counsel. Of the remaining five directors, two, Perkins and Steele, were partners in J. P. Morgan & Co., appointed fiscal agents of the International Co., and two, Baker and Ream, were New York financiers. The remaining director, Ward, was put in to comply with the corporation laws of New Jersey, which requires a resident director. (For list of directors see IV, 66, and I, 106–109.)

Cyrus H. McCormick was at once elected president; Harold F. McCormick, James Deering, William H. Jones, and John J. Glessner, vice presidents; and Richard F. Howe, secretary and treasurer

(I, 109). The executive committee was then elected—the president, four vice presidents, and George W. Perkins comprising the committee (I, 110, fol. 4).

At the same meeting J. P. Morgan & Co. were appointed the fiscal agents of the company (I, 111, fol. 3), in compliance with the fourteenth paragraph in the agreements of July 28 (I, 317, fol. 1).

George W. Perkins was elected chairman of the finance committee (I, 112, fol. 1) and Norman B. Ream was also elected to that committee.

William C. Lane (I, 239–292), in 1902, was president of the Standard Trust Co., a New York institution; appointed transfer agent in the issue of the stock certificates of the International Harvester Co. (I, 245, fol. 3). He had never been interested in the harvester business (I, 239). The suggestion that he purchase the harvester properties was made to him by his counsel, Guthrie, Cravath & Henderson. He had no intention of acquiring them for his own interest, as a permanent investment (I, 240, fol. 4), or of buying the properties for himself (I, 243, fol. 3).

Lane's recollection was very vague on all the matter. He said:

> That whole thing was in the hands of my counsel. They handled the whole thing. (I, 241, fol. 2.)

He had no recollection of meeting any of the manufacturers in connection with the sale of the properties, nor did he remember where the papers were signed, nor who was present at the time (I, 242, fol. 1). He had no recollection of retaining counsel to secure the properties, nor of the person who suggested that he should acquire them (I, 242, fol. 4), nor did he recall whether he paid counsel for their services in the matter (I, 241, fol. 2).

Each of the contracts of July 28 provided that the purchaser, Lane, might transfer the contract or any part thereof to the purchasing company and that such purchasing company might thereupon enforce all its terms as fully as if it were a party thereto (I, 316, fol. 4). Lane, who did not acquire title to the properties until August 12 and retransferred them on the 13th, was unable to explain why they went through the procedure of having the deeds made out to him, the bills and accounts receivable assigned to him, and all the other papers executed to him by all the different parties when all the property was to be transferred by him on the next day to the new company, instead of adopting the simple method of transferring all his contract rights to the International Harvester Co., as could have been done under the terms of the contracts of July 28 (I, 244). Lane said he was governed in the matter entirely by the advice of his counsel (I, 245, fol. 1). He disliked the word "dummy," saying:

> "Dummy" does not always sound just as dignified as one would like to have it, perhaps. * * * I was acquiring these properties, as I told you, with no desire to own them myself; with no idea of owning them. (I, 245, fol. 1.)

He said, "I carried out exactly the terms which those contracts provided" (I, 246, fol. 1).

He had no distinct recollection of his proposition of August 12 offering the property to the International Harvester Co. He was not interested in the terms of the proposition (I, 246, fol. 3). [Cotton testified that Lane's proposition was prepared in Cravath's office (I, 354, fol. 1).] He did not remember having dealings with any one

other than his counsel in connection with the matter (I, 292, fol. 4). He was guided entirely by their advice and suggestion in every paper that he signed and had no recollection of not signing any paper which they presented to him (I, 259, fol. 1).

He could not state for what purpose he was used in the transaction.

The whole method was carried out under advice of counsel. The motives governing it I can not give you (I, 261, fol. 3).

He had no recollection of anything being said about eliminating the element of combination by such an arrangement (I, 261, fol. 4).

Abraham M. Hyatt, dummy incorporator, vice president of the New York Security & Trust Co., said George W. Perkins asked him to become one of the incorporators (I, 340, fol. 1). He had never been engaged in the harvesting machine business (I, 340, fol. 3) and had no more knowledge of that business than he had of all businesses (I, 343, fol. 4); when at the first meeting he was elected a director of the International Harvester Co. he had no expectation of remaining a director any length of time (I, 340, fol. 3; I, 341, fol. 2). He had not known the other incorporators, except Miller (I, 340–341). It was his understanding that the directors first elected were simply to be temporary directors (I, 342, fol. 3). One of Cravath's firm was present when the company was incorporated in Hoboken (I, 343, fol. 3).

He recalled resigning the next day but could not remember at whose suggestion he did so. The other directors elected with him the day before resigned at the same time he did (I, 344, fol. 1).

There was quite a group of men there, Mr. Deering, the McCormicks, and others. "They stepped in as we stepped out, as I remember it" (I, 344, fol. 4).

The meeting on the morning of August 13 took place in Cravath's office at 40 Wall Street. There was a lawyer present during the proceedings (I, 344, fol. 2).

In forming the company and in these proceedings he was simply carrying out such instructions as he received from the laywers (I, 344, fol. 4).

Hyatt had been one of the organizers of the Northern Securities Co. and was its first president (I, 342, fol. 4).

Edward M. F. Miller, dummy incorporator, director, and president, a stock broker at 40 Wall Street, could not remember who made the suggestion to him (I, 345, fol. 4). He had not been interested in the harvester business and had no special information in regard to it (I, 346, fol. 2). He did not have any negotiations with the harvester manufacturers which resulted in the formation of the harvester company (I, 347, fol. 2). Throughout he acted as a matter of convenience to the person or persons who had asked him to become an incorporator and without any intention or expectation of being permanently connected with the company either as president or director (I, 347, fol. 4).

Edward M. Cravath, another dummy incorporator and one-day director, was in 1903 the South American agent of the Trinidad Asphalt Co., doing business principally in Venezuela (I, 355, fol. 1). He had no interest in the harvester business, and became an incorporator at the suggestion of Mr. Cravath (I, 355, fol. 2). He resigned the next day, August 13, at the meeting in the lawyer's office at 40 Wall Street; also at the suggestion of Mr, Cravath (I, 355, fol. 4).

Joseph P. Cotton, jr., in 1902 law clerk for the firm of Guthrie, Cravath & Henderson, worked on the papers relating to the incorporation of the International Harvester Co., and attended to the incorporators' meeting on August 12 (I, 348, fol. 4). Although this witness helped prepare the papers for the transfer of the several properties to Lane and the other papers relating to the transfer from Lane to the International Harvester Co., he was unable to state the purpose of using Lane in the transaction (I, 349, fol. 3). He said:

> That was a question that did not come before me at all. * * * It was not determined by me at all. I think I would not be sure whom it was determined by * * *. The firm for which I was working were the counsel who were engaged in the matter then (I, 349, fol. 4). * * * I do not recall anything that anybody said to me about the purpose of using Lane in this transaction (I, 351, fol. 3).

The arrangement for 6 directors lasted only a day. On August 13 the by-laws were changed so as to provide for 18 directors (I, 350, fol. 3). The witness said he did not know what the purpose was in having only 6 directors at first (I, 350, fol. 4). The resignations and the subsequent elections were in accordance with the plan which had been adopted for conducting the meeting of August 13. There were no surprises (I, 354, fol. 3). Nor did the witness know why the company was incorporated in New Jersey instead of Illinois (I, 352, fol. 1).

Lane's proposition to the International Harvester Co. was prepared in Cravath's office, Lane leaving "all of those details to us," who were counsel for Lane and J. P. Morgan & Co. (I, 354, fol. 1).

IX.

The Policy Which Defendants Adopted for Marketing Their Output Was Intended to Stifle Competition—Undue Control Over Dealers in Agricultural Implements.

As a rule, there are not more than three dealers in agricultural implements in an ordinary town in the grain sections of the United States. Sometimes, but not often, there are four or five. Frequently there are less than three. (Middlekauff, I, 171, fol. 2.) It has been pointed out above, supra, page 37, that harvesting implements have always been sold under trade names, each trade name applying to the entire line of harvesting implements. Ever since its formation the International Harvester Co. has adopted the policy of dividing its harvester lines among all the dealers in a town. That is, it gives to one dealer the McCormick full lines of binders, mowers, rakes, twine, tedders, corn binders, and so forth; to another dealer, the Deering line; and so on, as long as the dealers last. In respect to this practice the petitioner alleges (petition, p. 21):

> In towns where there are more than one retail implement dealer defendants have adopted and are now carrying out the policy of giving to each dealer the exclusive agency for a certain well-known machine, such as the McCormick or Deering grain binder or mower, instead of giving to one dealer an agency for all defendants' lines, intending thereby to obtain for themselves the services of all implement dealers, and by means of the contracts before described to monopolize all trade and commerce in harvesting and agricultural implements.

To this allegation defendants answer (answer, p. 22):

> They admit that in many cases where there is more than one retail dealer in a town the International Harvester Co. of America gives an agency for the McCormick machines to one and for the Deering machines to another of the dealers, instead of

giving to one dealer an agency for all its said lines. But they deny that the International Harvester Co. of America does this to monopolize trade and commerce in harvesting or agricultural implements, or for any purpose *other* than to stimulate trade and competition.

There is printed in the record (II, 264), a report of the sales committee of the International Harvester Co., comprised of the men directing the selling policy of the company, dated January 15, 1903, which in the form of a declaration of principles describes the selling policy of the company in language almost identical with that quoted above from the petition. The existence of this report was unknown to the Government at the time the petition was drawn. In the report the sales committee unanimously recommends against allowing the Champion agents to sell the Deering header or the McCormick shocker or allowing the Milwaukee agents to sell the Plano header for reasons which it summarizes as follows (II, 264, fol. 2):

First. We believe that so long as there is competition it is desirable for the International Harvester Co., to maintain five selling organizations, for the purpose of getting the largest amount of effort from the greatest number of local agents without expense to the company, and for the purpose of utilizing in its own business as much as possible of the available local agency material rather than permit any of it to become available for competitors.

Second. To carry out this plan it becomes necessary for each division, as far as possible, to make exclusive contracts, and thus get for that division the exclusive effort of the local dealer. To secure this it is necessary to give the local dealer the exclusive sale of the full line of goods of the division he is representing.

Third. The sales committee recommends from its standpoint that each division sell only the product of that division, and that in line with this, if any of the divisions have not already a large enough variety of goods, that the variety be provided either by purchase or by equipping the division to manufacture the articles required to complete the line.

At the time this report was written the International selling organization was divided into five divisions, called McCormick division, Deering division, etc., corresponding to the old selling organizations of the five companies, each division selling only one line. The heads of the five divisions formed the sales committee and were A. E. Mayer, McCormick division; C. H. Haney, Deering division; R. C. Haskins, Champion division; O. W. Jones, Plano division; and M. R. D. Owings, Milwaukee division. Each of these men (except A. E. Mayer, who died a few years ago) holds to-day an important position with the International (II, 275). Each of them signed the sales report above quoted. Haskins is to-day president of the America company and consequently the head of the sales organization of the International; Haney is head of the foreign sales department, and Owings head of the advertising department. Jones is head of the St. Louis collection agency. Before Mayer died he had been promoted to the position of general manager of sales, which position he held a number of years. Alex. Legge, Haskins, and Haney comprise to-day the three men most influential in determining the selling policy of the International (excluding, of course, the McCormicks and Deerings, large stockholders, and important officers, who will be referred to later). Alex. Legge recently succeeded Clarence S. Funk as general manager of the company. The general manager takes the place of the executive committee to be described below (I, 33, fol. 1).

There has occurred a gradual elimination of the Plano and to some extent of the Milwaukee lines so that to-day the International Harvester Co. maintains throughout the country three lines, McCormick,

Deering, and Champion, and in the eastern States also the Osborne (III, 295, fol. 2; III, 292, Exhibits 263–A–P, IV, 298–313). These lines are divided among the dealers according to the policy adopted in 1902.

Nearly every implement dealer called by defendants who came from a town in which there are three or more dealers testified that each dealer in his town carries one of the International harvesting lines, each dealer in the town having a different line from the others. In most towns there are two implement dealers, one carrying the McCormick, and the other the Deering lines. Each of the following witnesses testified that there are three dealers in his town (a few of them said four or five dealers) and that each of the three dealers has one of the International harvesting lines, no two dealers carrying the same International line in the same town:

Jones, Ed. S., Falls City, Nebr. (VII, 192, fol. 4).
Bachelor, J. G., Cuba, Kans. (VII, 378, fol. 1).
Champlin, J. B., Canton, Kans. (VII, 453, fols. 1–2).
Collins, George W., Belleville, Kans. (VII, 439, fols. 2–4)
James, Ed., Beloit, Kans. (VII, 356, fols. 1–2).
Max, Louis, Union, Mo. (VIII, 114, fol. 1).
McNaul, George L., Maitland, Mo. (VII, 207, fols. 2–3).
Mosiman, John, Falls City, Nebr. (VII, 284, fols. 2–3).
Muenzenmayer, William F., Junction City, Kans. (VII, 574, fol. 4; 575, fol. 1).
Nise, P. H., Moberly, Mo. (VII, 332, fols. 1–2).
Robertson, G. W., Mexico, Mo. (VIII, 40, fols. 1–4).
Scoville, A. L. L., Seneca, Kans. (VII, 222, fols. 2–4).
Smith, Murray, Clay Center, Kans. (VII, 545, fols. 1–3).
Spillman, J. A., Rolla, Mo. (VIII, 80, fols. 1–3).
Wilkening, W. J., Odessa, Mo. (VIII, 168, fols. 3–4).
Hodge, J. E., Elkton, S. Dak. (VIII, 295, fols. 2–4).
Jones, H. E., Revillo, S. Dak. (VIII, 304, fols. 2–4).
Boyer, Henry A., Faribault, Minn. (IX, 152, fols. 1–4).
Lovell, G. D., Beach, N. Dak. (IX, 544, fol. 3).
McIntyre, James, Osseo, Wis. (IX, 45, fols. 1–3).
O'Brien, Patrick, Norwood, Minn. (IX, 194, fols. 2–4).
Peterson, Louis, Dorchester, Wis. (IX, 30, fols. 1–4).
Snell, A. F., Lake Park, Minn. (IX, 110, fols. 2–4).
Stelloh, Fred, Neillsville, Wis. (IX, 51, fols. 1–3).
Turner, L. E., Aitken, Minn. (X, 198, fols. 2–4).
Washburne, Eugene, Humbird, Wis. (IX, 42, fols. 1–3).
Baumgartner, William Berne, Ind. (X, 464, fols. 1–3).
Bulliert, V. H., Corydon, Ind. (XI, 72, fol. 4; 73, fols. 1–3).
Burnham, F. H., Watseka, Ill. (XI, 104, fols. 3–4).
Conrad, J. P., Monee, Ill. (XI, 101, fols. 1–3).
Dillavou, S. E., Champaign, Ill. (XI, 113, fol. 4).
Emison, John W., Vincennes, Ind. (X, 305, fol. 4; 306, fols. 1–6).
Foster, Edwin J., Grass Lake, Mich. (X, 505, fol. 4; 506, fols. 1–3).
Franklin, S. H., Glasgow, Ky. (XI, 81, fols. 3–4).
Gilstrap, John W., Samle, Ind. (XI, 78, fols. 2–4).
Huston, A. B., Paris, Ill. (X, 301, fols. 2–4).
Marshall, J. A., Manito, Ill. (X, 443, fol. 4; 444, fols. 1–3).
McGlasham, Charles G., Rockford, Ill. (XI, 209, fols. 1–2).
Miller, Joseph, Payne, Ohio (X, 455, fols. 3–4).
Nordgren, C. A., Paxton, Ill. (XI, 116, fols. 3–4).
Payne, William E., Owasso, Mich. (X, 501, fols. 2–4).
Scheve, F. C., Sumner, Iowa (XI, 51, fols. 1–4).
Taylor, J. E., Mason, Mich. (X, 501, fols. 2–4).
Leon, C. H., Decatur, Ill. (XI, 143, fols. 2–4).
Purchase, J. L., Grand Rapids, Mich. (XI, 455, fols. 1–2).
Crary, A. R., Boone, Iowa (XII, 565, fols. 1–3).
Epperson, George F., Sumter, S. C. (XII, 375, fols. 1–3).
Landaal, John, Waupun, Wis. (XII, 390, fol. 4; 391, fols. 1–3).

Lindhal, Al., South Bend, Ill. (XII, 518, fols. 1–2).
McGeehan, Grover T., De Pere, Wis. (XII, 490, fols. 2–3).
Babb, Chas. L., Xenia, Ohio (XII, 44, fol. 4; 45, fols. 1–3).
Brobst, Harvey, Findlay, Ohio (XI, 504, fols. 2–4).
Bupp, Edw., York, Pa. (XII, 123, fol. 4).
Doyle, Michael A., Westminster, Md. (XII, 126, fols. 2–3).
Dwyer, Thomas, London, Ohio (XII, 80, fols. 2–4).
Foltz, F. F., Hagerstown, Md. (XII, 216, fols. 3–4).
Gillan, C. D., Chambersburg, Pa. (XII, 139, fols. 1–3).
Hobart, H. W., Pemberville, Ohio (XI, 488, fols. 3–4).
Laderer, W. G., Evans City, Pa. (XII, 291, fols. 3–4).
O'Rorke, John, Mansfield, Ohio (XII, 65, fol. 4).
Phalen, Barney A., Newark, Ohio (XII, 57, fols. 1–3).
Sapp, Chas. S., Mount Vernon, Ohio (XII, 84, fols. 2–4).
Turner, Josiah, Marysville, Ohio (XII, 61, fols. 3–4).
Hanson, J. O., McPherson, Kans. (VI, 851, fols. 1–3).

General Manager Legge, witness for defendants, stated on direct examination by defendants' counsel that the International Harvester Co. to-day pursues the policy of having separate representations, so far as it can, for the separate harvesting lines that it manufactures. (Legge, XIV, 36, fol. 4.) He said also that his company has preferred and still prefers to have the exclusive service of an agent if it can get it (XIV, 37, fol. 3).

Since 1902 the International Harvester Co. has entered upon the manufacture of many new kinds of agricultural implements, particularly wagons, manure spreaders, engines; hay tools, such as tedders, presses, and loaders; seeding machines and tillage implements. The complete list of new machines is stated in Government Exhibit 22 (IV, 116), together with the year each new kind was first manufactured. For each of these new kinds the International Harvester Co. has adopted the same policy of distribution and marketing that it adopted in 1902 for its harvesting implements; that is, it manufactures several lines of each machine, gives to each line a different trade name, and then distributes the different lines to the several dealers in a town. The machines of the several lines are substantially identical with each other, differing only in trade names.

The purpose of this method of marketing is made clear by a letter written by the head of the sales department, A. E. Mayer, general manager of sales, to James Deering, vice president, June 7, 1904.

He says (III, 248, fol. 3):

> We have, as you know, reached the conclusion in connection with the elimination of two of the present lines, that it is absolutely necessary that each of the agents who is to handle one of the three lines be supplied with a tedder or any other article which we may see fit to manufacture. *We will, of course, by supplying each of the three sets of agents with a separate line of tools be able to cover the best of the selling organization of the country, in so far as local agents are concerned.* Having reached this conclusion, we are naturally led to suggest that in developing further lines of implements it will be well for the experimental department to take into consideration the immediate necessity for supplying the sales department with three lines of tools. In the development of the cream separator we could, for instance, build one line of the De Laval type; we might take for a second line the Sharples type; and perhaps develop for the third line a separator patterned somewhat after the Reid machine. In view of the findings of the patent department that the field is rather an open one, this should make the proposition very simple. The same policy should prevail in the development of drills.
>
> As time goes on, after we have fully developed and established our line of gasoline engines, and they have become standard machines, we will wish to make some variations in these engines, in order to give our three sets of agents an independent line of gasoline engines to sell. It would probably take a year to bring about such a situation. In the meantime, we think we can do a large profitable business with the gasoline engine as an International tool. Eventually, however, as stated, we must provide,

either by different painting or different branding, the three lines of these engines. In our judgment it will be a simple matter to arrange our stacker and sweep rake so that we can supply each of these agents with something different. Perhaps in that case, these tools being so much like many others that are on the market at this time, simply a little variation in painting, with the names Deering, McCormick, and Champion stenciled, will meet the situation. (Italics ours.)

Regarding tedders, we can market the present tedder, known as the International, now built at the Champion Works, through Deering agents; the Reynolds tedder, already developed and now being offered for sale in small quantities, through McCormick agents; and we can, in order to complete the line, make a copy of the Osborne tedder for the Champion agents.

After reading these suggestions, I trust the officers of the company may see fit to suggest that the experimental work be shaped to the end that in the development of any new tool this policy may continually be borne in mind.

Respectfully,

A. E. MAYER.

Four days later, June 11, 1904, James Deering, vice president, writing Mayer, for the executive department, stated that Mayer's policy of having three lines was "accepted and approved" (III, 249, fol. 4).

To-day the International Harvester Co. sells three lines of *wagons*, under the trade names "Weber," "Columbus," and "Bettendorf" wagons; three lines of *manure spreaders*, whose trade names are "Corn King," "Clover Leaf," and "Twentieth Century" (IV, 132, fol. 3); three lines of *cream separators*, with trade names "Dairymaid" and "Bluebell" and "Lily" (IV, 137, fol. 3); three lines of *drills*, called "Hoosier," "Kentucky," and "Empire" (III, 218, fol. 2; 220, fol. 4); six lines of *cultivators*, called "Champion," "Deering," "McCormick," "Milwaukee," "Osborn," and "Keystone" (IV, 309); six lines of *disk harrows*, six lines of *spring-tooth harrows*, and six lines of *peg-tooth harrows*, all with the trade names "Champion," "Deering," "McCormick," "Milwaukee," "Osborne," and "Keystone" (IV, 310–312); three lines of *tedders*, called "Deering," "McCormick,' and "*Osborne*' (IV, 308); three lines of *side delivery rakes*, known as "Deering," "McCormick," and "Osborne" (IV, 307).

All the implements named in the last paragraph are lines which the International Harvester Co. has begun to sell since 1902, as appears from Government Exhibit 22 (IV, 116).

Sometimes a supply of sweep rakes and stackers is shipped to general agents, who are supplied with stencils, so that they may stencil the machine "Deering" or "McCormick," depending upon whether the implement dealer who may buy them is a Deering or McCormick agent (III, 259, fol. 1; 261, fol. 2; 459, fol. 4).

(See also Carr, II, 482, fol. 2.)

A circular letter to the general agents issued April 30, 1907, announces that the International Harvester Co. is now in a position to furnish the Bettendorf line of farm wagons to all the general agents and urges that the sale of their goods "be pushed to the utmost." The circular states (III, 468, fol. 4):

> It is not our purpose to sell the Bettendorf and Weber lines to the same dealer, but rather to keep them separate.

That the effect of the international policy of dividing its lines among the dealers in a town is to make it difficult for another manufacturer of harvesting implements to get a sufficient number of agents was the testimony of the president of the Acme Harvesting Machine Co. (Middlekauff, I, 173.)

Its monopoly of harvesting lines enables the International to force in its new lines spreaders, wagons, etc., by threatening to withhold from the dealer its harvesting lines, which the dealer must have unless he will take on the new lines. This power it exercises. A clear instance is furnished by the Perrott letters (IV, 396–403).

Perrott for over six years was a block man at the Fort Dodge, Iowa, general agency, his duties being to make contracts with the implement dealers located in the block. He reported directly to C. A. Claypool, general agent, who gave him instructions as to the making of contracts for the different lines of International goods (IV, 397, fols. 1–2). Several letters from Claypool were introduced. The following, a fair sample, is self-explanatory:

FORT DODGE, IOWA, *November 25, 1911.*

Mr. G. G. PERROTT, *Early, Iowa.*

DEAR SIR: We have received commission agency contracts for approval covering the McCormick and Champion lines, arranged with Martin Sauer, of Ida Grove. These contracts will not be approved until the necessary sale orders covering kindred sales lines are placed in our hands. There is nothing to be gained by writing commission agency contract alone.

This year we are going to insist more than ever before that our McCormick and Deering lines shall carry the kindred sales lines, the sale orders to cover goods in such quantities as under ordinary conditions the dealer can reasonably be expected to handle during the season, taking into consideration his territory and other conditions.

Very truly, yours,

INTERNATIONAL HARVESTER CO. OF AMERICA,
By C. A. CLAYPOOL, *General Agent.*

(Italics ours.)

In January, 1912, Perrott sent in, for the approval of the general agent, two commission agency contracts, but Claypool withheld approval, because the dealers had not ordered other lines, writing February 3, 1912 (IV, 398, fol. 4):

How about manure spreaders, wagons, cream harvesters, engines, tillage implements, etc.? * * * If these two dealers will not take hold of our other lines, it will be necessary, for our own protection, to make other arrangements.

Claypool wrote on February 13, referring to the same dealers (IV, 400, fol. 1):

The plan we suggest is to return to both of these points and take the matter up again with these agents, explaining to them regarding the large line of goods this company is manufacturing and handling, and the importance and necessity of our selling these goods. Let them understand that wagons, spreaders, tillage implements, cream harvesters, engines, and a large number of other goods in our sales lines are of more importance to us than commission lines of goods on which trade has been established for many years. Let them know that it is up to you to sell these lines in those towns. If they will not take on a sufficient quantity of these goods to warrant us in approving contracts, we will be obliged to look around with a view to getting new timber into the business.

With these old-line fellows we have learned by sad experience that promises amount to nothing, and we can never expect to secure even a fairly satisfactory amount of business from such dealers if we do not secure it now. If they can not be lined up on these other goods, make it your business to camp at those towns until you can locate some financially responsible party who is energetic and a hustler, and who is anxious to work up a profitable business, and arrange with him for the McCormick and kindred lines. At a number of points we have this year, on some of the other blocks, already located a number of new dealers, who are taking on our entire line, and who will push them. This matter should be given your immediate attention.

On March 14, 1912, Claypool returned unaccepted another commission agency contract, this time that of a McCormick dealer who

wanted Deering twine and would not take McCormick twine. Claypool wrote (IV, 401, fol. 2):

> If this is the case, we will be obliged to look for some one else at Yetter to handle our McCormick and kindred lines for this season * * *
>
> In your letter you say he has all of the hay tools that he will require. How about manure spreaders, wagons, cream separators, tillage implements, engines, feed grinders, corn shellers, and numerous other sales goods in our lines? Why is it you have not been selling any of these articles to Mr. Ashford. Even if he should conclude that he can handle McCormick brand of twine, it would not seem to the writer that we would be justified in approving the contracts if they are not supported by orders for some of the other sales lines.

These letters are typcial of the oral instructions received by Perrott from Claypool in connection with the making of contracts with implement dealers, during the six years he was blockman under him. (Perrott, IV, 402, fol. 4.) Claypool is still the general agent and has held the position over six years (IV, 403, fol. 1; 396, fol. 4).

W. L. Carr employed at the Salina and Kansas City general agencies from 1902 to 1907 testified that the repair lines make an important part of the business of dealers handling the major lines, McCormick, Deering, etc., and that the repair lines were used at his general agency as an inducement or club in order to get the dealer to take on the new lines, such as spreaders, wagons, tillage tools, and hayrakes. (Carr, II, 482–483.)

The petition alleges that in the years 1902, 1903, 1904, and 1905 defendants attempted to secure control of all the retail implement dealers in the United States through contracts with such dealers making them exclusively agents of defendants and binding them under penalties not to sell other harvesting machinery. (Petition, p. 20.) Defendants admit (answer, p. 20) the inclusion of such a clause in the commission agency contracts for the years named, but aver that these clauses had always been used by harvesting manufacturers, and they deny any intent to eliminate competitors or secure control of implement dealers by that means.

The record contains a great number of circular letters issued in 1902, 1903, and 1904 by the heads of the five selling divisions of the International to the general agents insisting that the general agents should secure exclusive contracts and no other kind of contract. These circulars establish conclusively the intent alleged in the petition.

The following is a typical letter of instructions. The writer, C. H. Haney, to-day head of the foreign sales department of the International, at that time head of the Deering selling division, in regard to exclusive contracts, instructs his general agents (Oct. 1, 1902, II, 106, fol. 1):

> In regard to this we wish to say most emphatically that it is just as necessary now and just as desirable, or even more desirable, to have exclusive agents as in the past, and we wish to say absolutely that we will not permit any of our agents who have been exclusive in the past to now become combination agencies with other machines, whether machines of other divisions of this company or outside machines. The permission to have combination agencies was intended to cover those points where such combination agencies had existed in the past, and even then it is the desire of the manager of each division that whenever possible for one of the divisions having such a combined agency to find another agent he should withdraw; where you have not had suitable agents in the past, you must hunt for independent material, either in that town or a nearby town, and not permit your contracting agents to cover their inability to properly look after the trade in their division by sliding in with the agent of some other division of the International Harvester Co. of America. This is probably the simplest and easiest way for a weak contracting agent to cover his territory.

The following references are to other letters giving the same instructions to general agents:

Champion selling division: II, 20, fol. 3; II, 21, fols. 2–4; II, 28, fol. 4.

Deering division: September 6, 1902. Circular letter marked "Private" reads: "General policy. Contracts provide for exclusive arrangements." II, 104, fol. 1; II, 108, fol. 4; II, 109, fol. 4; II, 119, fol. 4.

McCormick division: II, 36, fol. 4.

Milwaukee division: II, 41, fol. 1; II, 45, fol. 3.

Plano division: II, 67, fol. 1; II, 74, fol. 3; this letter is quoted in full, infra, p. 138; II, 77, fol. 2; II, 82; II, 99, fol. 3. (On this point see Swift, I, 427–433.)

On November 11, 1904, R. C. Haskins, at that time head of the domestic sales division and to-day the president of the America Co., and consequently head of the tremendous selling organization of the International dictated the following circular letter of instructions to the general agents (III, 458, fol. 2):

> There has been some discussion lately on the subject of the exclusive feature of our commission contract, and we desire at this time to state the principle that will govern in this matter. Where we furnish goods to an agent for sale on a commission or consignment contract, our interests demand that such articles be handled solely on an exclusive basis. Such articles as are included in our sales contract and are bought outright by the agent need not be on an exclusive basis provided the agent will buy such reasonable number as will protect us in the trade.

General Manager Legge was familiar with the circulars to general agents and the sales reports printed in the record, a few of which are referred to in this brief. They were called to his attention, and he was asked whether any circulars had been issued to the general agents giving them instructions contrary to or revoking the instructions contained in those circulars. He said: "I am quite certain that no such circulars were issued revoking or changing those instructions." (Legge, XIV, 66, fol. 1.) And at another time he said: "I do not believe any exist." (Legge, IV, 413, fol. 3.)

The general agents seldom put in writing their selling instructions to their blockmen. Most communications are verbal. This policy of avoiding written instructions was adopted early. In February, 1903, the five divisions issued to the general agents detailed instructions pointing out how trade conditions had been changed owing to the formation of the International Harvester Co., and instructing the general agents as to the relations of the several divisions to each other. Each circular closes with this significant statement:

> P. S.—Give these instructions orally to the canvassers yourself or through your blockmen. Don't put them in writing in the hands of the canvassers (II, 27, 35, 43, 98, 117).

There has been a rapid extension by the International Harvester Co. into new lines. In 1902 it manufactured and sold the following implements only, all belonging to the harvesting class (IV, 115):

Binders, reapers, headers, header binders, mowers, rakes, corn-binders, huskers and shredders, shockers, knife grinders, binder twine.

The following list states the implements, all sold through the America Co., the International Harvester Co. has added to its old

lines with the year it began to manufacture each machine (IV, 116, 118):

1904: Hay presses, haystackers, sweep rakes, tedders, strippers, corn pickers, broadcast seeders.

1905: Cultivators, disk harrows, peg tooth harrows, spring tooth harrows, cream separators, engines, manure spreaders, corn planters.

1906: Wagons, hay loaders, side delivery rakes, corn shellers.

1907: Feed grinders, combined reaper and mower.

1908: Auto delivery wagons, tractors, automobiles.

1909: Sawing outfits.

1910: Drills.

1911: Combined rake and stacker, combined rake and tedder.

(See further, III, 339–347.)

The International Harvester Co. has also increased its lines through various contracts with implement manufacturers to buy their output. The most conspicuous instance of this is the contract with the American Seeding Machine Co. (Mar. 1, 1912, III, 220)., by which it secured control of three well-known lines of drills ("Hoosier," "Kentucky," and "Empire"). This contract, under which it agreed to take no less than 22,000 drills a year (III, 223), at once gave the International Harvester Co. at least 25 per cent of the drill business in the United States (Beam, III, 218–219). Prior to that time the International Harvester Co. had sold very few seeding machines (IV, 298).

Under contracts the International Harvester Co. buys for distribution by the America Co. the output of the following companies:

Keller Manufacturing Co., Corydon, Ind., a wagon manufacturer (IV, 246), from whom the International Harvester Co. bought 8,345 wagons in 1911 (III, 450).

Buffalo Pitts Co., Buffalo, N. Y., manufacturer of grain thrashers (IV, 288).

Heebner & Sons, Lansdale, Pa., grain thrashers (IV, 293).

Belle City Manufacturing Co., Racine, Wis., thrashers (III, 450).

W. C. Meadows Mill Co., North Wilkesboro, N. C., grist mills (IV, 291).

Aultman & Taylor Machinery Co., Mansfield, Ohio, grain separators (IV, 391).

It jobs the Hart Ware grain elevators (Jones, XI, 431, fol. 3), and in certain sections of the country sells Parlin & Orendorf plows and Oliver plows (Hamey, IX, 453, fol. 3).

The methods and policy of distribution described above have proven most successful. To-day the International Harvester Co. sells more wagons than any other one competitor, more manure spreaders, more corn shellers, more harrows, more cultivators, more hay presses, and more farm engines. That is to say, there is no competitor which sells as many as the International Harvester Co. of any one of the above kinds of implements. It has become the second largest manufacturer of cream separators, perhaps the largest.

A. E. Mayer, manager of sales, on March 10, 1909, wrote C. S. Funk, general manager:

> We have, as you know, after some length of time, become the leaders in the wagon business (III, 401, fol. 3).

In five years the output of the International doubled, having been 25,466 wagons in 1906 and 51,977 in 1911 (IV, 297). This does not

include 8,345 purchased from the Keller Manufacturing Co. (III, 450)' It sells more wagons than any other company in the United States. (Kinney, XII, 400, fol. 4.) In the last ten years a large number of manufacturers have gone out of business. (James, XII, 554, fol. 4.)

One manufacturer of spreaders stated that the International Harvester Co. sells 60 per cent of the spreaders sold in the United States (Curtis, III, 387, fol. 4; 393); another said 40 per cent (Todd, XIII, 108, fol. 3).

One hundred and eighteen dealers, defendants' witnesses, testifying as to the percentage of the spreader business done in their towns by the International Harvester Co., gave an average of 54 per cent. (Appendix to Brief, pp. 21–22.)

The International Harvester Co. sells more farm engines than any other company (Shryer, XIII, 66, fol. 3; Smith, XI, 252, fol. 1), more corn shellers (Blake, XIII, 126, fol. 3), more hay presses (Brown, XII, 512, fol. 4), more disk harrows, more wagons, and more spreaders (Barber, XI, 348, fols. 1–3). For the comparative growth of the International Harvester Co. and Deere & Co., the second largest manufacturer, see the testimony of Todd, director of Deere & Co. (XIII, 111–113).

The following figures of the output of the International Harvester Co. for the years stated show how rapid has been its expansion (IV, 297):

	1903.	1911.
Tillage implements, cultivators	11,122	42,629
Disk and spring-tooth harrows	10,791	131,521
Harrows, peg-tooth	38,594	100,419
	1905.	
Engines	9,776	36,200
Manure spreaders	2,813	41,103
	1906.	
Wagons	25,466	51,977
Cream separators	3,472	26,977

The vast extent of the International Harvester Co.'s selling organization, embracing the entire United States in its scope, and its tremendous power as a selling force are manifested by the enormous number of implement dealers who are its agents.

In 1912 the International Harvester Co. had in all 41,663 agents (III, 456); 30,731 of these, being agents for the old lines, binders, mowers, etc. (XIV, 44), were located in 21,127 different towns in the United States (XIV, 39). Twenty-six thousand nine hundred and forty of the 30,731 dealers handled machines on the commission agency basis (III, 474; XIV, 39). Of the total number of dealers, 41,663, doing business with the International Harvester Co. in 1912, 36,294 dealers bought implements on the direct or net sales basis (III, 456), and 25,059 dealers handled goods on *both* commission and direct (net) sales basis (III, 456). It is evident, therefore, that most dealers having business with the International take both the old lines and the new lines. Only 5,369 dealers out of the 41,663 in 1912 handled goods on commission basis without taking any goods on direct sales basis (III, 456), and only 11,235 handled implements on the direct (net) sales basis without taking any on the commission agency basis (III, 456).

Of course, the number of towns represented by International dealers in 1912 was much larger than 21,127, for this figure represents only the number of towns reached by the 30,731 dealers handling binders, mowers, and reapers.

The competitors of the International Harvester Co. have a far less number of agents. The Acme Harvesting Machine Co., Peoria, Ill., the largest independent company in harvesting lines, had only 3,000 agents in 1912. (Middlekauff, I, 179, fol. 3.) The president of this company testified that he found it difficult to get a sufficient number of agents owing to the practice of the International Harvester Co. of dividing its harvester lines among the several agents in a town. (Middlekauff, I, 173, fol. 2.)

Deere & Co., Moline, Ill., principal lines plows, cultivating machinery, and planting machinery, which started in business in 1837 and is to-day the largest manufacturer of agricultural implements in the United States outside the International Harvester Co., had only 15,000 agents in 1912, a little over one-third the number doing business with the International Harvester Co. (Butterworth, II, 52, fol. 4; 54, fol. 2; 56, fol. 3.)

Emerson-Brantingham Co., Rockford, Ill., principal lines, plows, cultivators, harrows, and other lines outside of harvesting machinery, established in 1852, had 12,000 implement dealers handling its goods in 1912. (United, II, 191, fol. 3; 199, fol. 3.)

The J. I. Case Threshing Machine Co., Racine, Wis., principal lines, threshing machinery, steam and gas traction engines, hay balers, and road-making machinery, had 10,000 agents in 1912. (Robinson, II, 130, fol. 1; 137, fol. 3.)

The M. Rumely Co., Laporte, Ind., principal lines, threshers, steam engines, traction plowing engines, clover hullers, wind stackers, corn shredders and huskers, established in 1853, had 12,000 agents in 1912. (Rumely, II, 156, fol. 4; 164, fol. 1; 165, fol. 2.)

The above companies are the largest competitors of the International Harvester Co.

The credit and collection departments of the International Harvester Co. are familiar with the standing, credit, and reputation of every implement dealer in the country. (For a description of these departments, see the report of M. R. D. Owings, Sept. 13, 1903, III, 238–242, which was approved by the sales committee (III, 242, fol. 4).)

The International Harvester Co. knows what is being sold in every town and county in the United States. (Wood, III, 466, fol. 4.)

The defendants introduced a great number of so-called "recapitulation sheets" printed in volumes 15, 16, 17, and 18, and purporting to give the name of every dealer located in 54 of the general agencies, or in portions of such general agencies, the location of each dealer, the lines of binders and mowers he handles, and also the name of one or more manufacturers supplying him with lines of agricultural implements other than harvesting machines. We print in the appendix to this brief (p. 44) an analysis of these sheets. According to this analysis the total number of dealers named on the recapitulation sheets is 18,781. Of these, 13,721 dealers, 73 per cent handle binders of the International Harvester Co.; 13,707, or 73 per cent, handle International mowers; 13,828, or 73 per cent, handle the

International Harvester Co.'s new lines—that is, lines other than the harvesting lines; and 14,512 dealers, or 77 per cent, have International accounts.

Of the 13,828 dealers handling International new lines, only 702 dealers, or 5 per cent, do not carry the harvesting lines of the International. That is to say, 95 per cent of the dealers named on the recapitulation sheets who do business with the International Co. handle its new lines with the old lines. This fact tends to establish that the International forces its new lines through its old lines.

The recapitulation sheets cover the principal grain-growing sections between the Alleghenies and the Rocky Mountains. Approximately 75 per cent of the domestic trade on binders of the International Harvester Co. is in the territory covered by the recapitulation sheets. (Legge, XIV, 23, fol. 1.)

There is no class of agricultural implements in which one company controls so large a per cent of the total volume of sales as is controlled by the International Harvester Co. in harvesting lines. (Barber, XI, 349, fol. 2; Brinton, XI, 356, fol. 2; Wallis, XI, 254, fol. 4.)

X.

The Power of the Combination—Conduct Toward Competitors.

The following report, addressed to Cyrus H. McCormick, president International Harvester Co., of a meeting of the sales committee held March 16, 1903, is an admission on its face that suppression of competition had resulted in a power to control prices. It shows also that the officers of the International use that power for the purpose of crushing competitors (II, 272):

REPORT OF MEETING OF SALES COMMITTEE.

Present: R. C. Haskins, C. H. Haney, Alex. Legge, O. W. Jones.

Pursuant to request the sales committee met at No. 7 Monroe Street, to make recommendation as to the price to be made for twine.

This committee recommends a price of 10 cents per pound on sisal and standard twine, with prices on other grades in proportion. While realizing this price does not leave as large a margin of profit in the business as could be desired, the committee recommends this price for the following reasons:

First. It considers it of the utmost importance, for the purpose of encouraging and promoting the sale of grain harvesters, that the retail price be kept low.

Second. It believes a reasonably low price on twine this season will discourage smaller manufacturers from competing for the business for 1903 and for the future.

Third. It believes the present price of fiber would enable a manufacturer to produce twine at a cost of not to exceed 9 cents per pound and that any price over 10 cents would make the business more attractive to the smaller manufacturer than is desirable.

R. C. Haskins.
C. H. Haney.
Alex. Legge.
O. W. Jones.

The policy outlined in the sales report above quoted received the sanction of the executive committee at a meeting held one week later, at which were present Cyrus H. McCormick, Charles Deering, John J. Glessner, Harold F. McCormick, and James Deering (II, 275, fol. 1). As the sales committee and the executive committee included all the

important officials of the International this report is equivalent to and in fact was a declaration by the International of a fixed and definite policy to be taken toward its competitors.

The executive committee at that time was composed of Charles Deering (chairman), Cyrus H. McCormick, George W. Perkins, Harold F. McCormick, W. H. Jones, J. J. Glessner, and James Deering (IV, 385, and IV, 69). This committee was abolished November, 1906 (IV, 386), and its duties taken over by the general manager, a new office created at that time, and to which Clarence S. Funk was appointed (I, 2, and I, 33).

Alexander Legge, who signed the sales report last quoted, was appointed assistant general manager when the office of general manager was created, and in June of this year became general manager.

In the summer of 1903, the only companies competing with the International in selling harvesting machines in the great grain sections of the Central West were the Acme Co., of Peoria, Ill., which was in the hands of a creditors' committee; the Aultman Miller Co., of Dayton, Ohio, bought by the International Harvester Co. July, 1903; and the Minnie Harvester Co., of Minneapolis. The latter company started in business in the early part of 1902. (Ottis, XIII, 46–47.) It put on the market in that year 2,500 machines and in 1903, 3,000 machines. The following sales report, dated April 30, 1903, signed by each of the sales committee, and approved by the executive committee of the International, discloses the character of the competition the Minnie Co. encountered (II, 283):

> The Grass Twine Co. has a few good agents in points in Minnesota, the Dakotas, Iowa, Kansas, and Oklahoma. It is desired to keep the trade of these agents as small as possible and get them as agents for this company next year, and it is believed this can be accomplished if the divisions are especially active at these places. It is therefore decided that each division shall be permitted to locate a canvasser at each of these places where the volume of trade will justify it and where the division is well enough organized at the town to make the work effective—these men not to count on the regular allotment.

The above report was "approved and ordered placed on file" at a meeting of the executive committee May 4, 1903, at which were present Charles Deering, Cyrus H. McCormick, James Deering, William H. Jones, Harold F. McCormick, and J. J. Glessner. The minutes of the executive committee are printed in the record (III, 284, fol. 4).

Each one of the members of the sales committee is to-day in the employ of the International except Mayer, who was employed by it until he died.

A later sales report, May 14, 1903, recommends a definite plan for additional canvassing in accordance with the recommendation of the sales report given above. It reads (II, 287, fol. 4):

> 3. Sales committee report of April 30, paragraph 1, recommends some additional canvassing in Minnesota, the Dakotas, Iowa, Kansas, and Oklahoma to meet grass-twine competition. Recommendations from the general agents for a plan to meet this competition were submitted, and the sales committee, after revising these plans, suggests the following allotment of men to the different divisions for this work, in accordance with the recommendation of paragraph 1 in report of April 30:
>
> McCormick division, 20; Deering division, 20; Champion division, 15; Plano division, 10; Milwaukee division, 10.
>
> These figures to represent the maximum, and not to be reached unless the expense seems justifiable.

This report was also approved by the executive committee. (II, 287, fol. 1.)

The record contains other instances of action taken by the sales committee, to employ extra canvassing against the Minnie Co. (See report at II, 286, fol. 4, approved by the executive committee, II, 285, fol. 4. See also II, 260, fol. 1, and III, 365, fol. 1, and III, 368, fol. 1.)

No wonder the company was glad to sell out in the fall of 1903; it could not get capital to continue its business. (Ottis, XIII, 52.) For two years thereafter the International operated it as a fake "independent."

O. W. Jones, member of the sales committee, head of the Plano division, one of the former owners of the Plano Co., and one of those who had gone to New York in connection with the formation of the International Co. in August (II, 528), sent the following circular letter on October 4, 1902, to all the general agents of the Plano division (II, 74):

To general agents:

DEAR SIR: Exclusive contracts: We want to inform you that it is the policy of the International Harvester Co. of America to have five good live machine agents in every important city or machine center to act as agents, one for each of its divisions. They will not be satisfied until the time will have arrived that each of the divisions have a good, live, exclusive agent in each important center.

The International Harvester Co. of America has not been organized for the purpose of monopolizing or creating monopoly, and so no agent will have a monopoly on more than one machine on the International Harvester Co.'s lines. *We believe that in the near future this great company will do practically all the harvester business of the world,* for the company is organized wisely, and it is going to be, and is, managed on broad-gauged, unselfish principles. It is going to sell its goods for reasonable prices and deal justly with all men, employees, agents, and farmers, and that sort of treatment and operation will succeed everywhere. *It is according to and in harmony with the divine plan.*

(Italics ours.)

Do not attempt to make a contract with any agent who has already got another line of machines of the International Harvester Co. of America, but go quick and find the best material you can and cover the territory properly. Give every good agent plenty of territory—all that he will work effectively. The International Harvester Co. of America want to sell more machines now than all the divisions did heretofore. Joint agencies will not be tolerated, except in cases where heretofore an agent has handled two or more of the machines of the International Harvester Co. of America and still desires to continue to do so, but in each and every case it is more desirable to have an exclusive agency. Please get these facts intrenched in your mind and act thereon promptly. Notify all your assistants.

May success attend all your efforts.

Yours, truly,

PLANO DIVISION, INTERNATIONAL HARVESTER CO. OF AMERICA,
By O. W. JONES.

When organized, the International Harvester Co. controlled a somewhat smaller per cent of the hayrake business than of the trade in grain binders and mowers. The sale of the latter implements, binders and mowers, is larger than of any other harvesting implements (Funk, I, 5, fol. 3), and in dollars and cents aggregates more, binders ranging in price from $102.50 to $130 and mowers from $36 to $40 (IV, 122), while rakes range from $14 to $22 (IV, 124). After binders and mowers in value probably come corn binders, headers, header binders, and reapers (Funk, I, 5, fols. 4, 6, fol. 1), although in numbers the sale of rakes far exceeds the sales of those articles

(IV, 299–303). Hayrakes have usually been sold on a direct or net sales basis, as distinguished from the more high-priced harvesting implements, which have almost always been sold on a commission basis (see list of goods sold on commission and direct or net sales basis, IV, 339–346).

Immediately after its organization the International Harvester Co. started out to get the hayrake business, the sales committee authorizing special terms to dealers in order "to take the trade from outside competitors." The report of the meeting of the sales committee held September 9, 1902, states (II, 253, fol. 2):

> It was decided that on an order for a carload of hayrakes for the use of one agent only, it would be permissible to name a discount of $1 per rake when necessary to meet outside competition. *If any cases arise where this is not sufficient to take the trade from outside competitors, the matter is to be brought up at a sales committee meeting for their consideration.* Each division is to inform the other divisions of any sales made at less than schedule and give the price.

(Italics ours.)

This policy proved effective. A year later the sales committee, in a report describing the selling policy to be adopted for 1904, comment on the improvement in the hayrake business of the company and recommend a further plan which they believe "will make it well-nigh impossible for any of the outside manufacturers to compete with this company for hayrake business" (III, 236, fol. 4). The report, dated July 16, 1903, is addressed to "Cyrus H. McCormick, president, Charles Deering, chairman, and members of the executive committee" (III, 231) and signed by R. C. Haskins, C. H. Haney, A. E. Mayer, M. R. D. Owings, O. W. Jones, sales committee. It closes with the following recommendation as to hayrakes (III, 236, fol. 3):

> HAYRAKES.—It is desired to get a larger percentage of the hayrake business for this company and still further cut into the business of the outside makers of hayrakes. The sales committee believes the plan that will give the best results in this direction is to increase last year's schedule price on rakes $1 each, furnish them to agents on commission, and allow the agent to pay for them in good notes, due in one fall where the rake is sold alone, and in two falls where sold with a mower. It is believed that the permission given to agents during the past season to pay in this way for rakes sold with mowers has greatly helped the sale of rakes, and *it is believed the extension of this, as suggested above, will make it well-nigh impossible for any of the outside manufacturers to compete with this company for hayrake business.* Wherever we were getting satisfactory percentage of the business on last year's plan of selling outright, it will be the policy to continue handling the rakes with that agent on a sales basis at last year's prices (italics ours).

As was anticipated the "outside competitors" could not cope with the monopoly. The Richardson Manufacturing Co. of Worcester, Mass., in business since 1864, quit in 1904 manufacturing rakes because it could not compete. (Curtis, III, 386, fols. 1–2.)

The output in rakes of the Thomas Manufacturing Co. of Springfield, Ohio, decreased from 6,000 rakes in 1902, to 2,300 in 1904, and it has remained at about the latter figure ever since. (Beam, III, 217.) The company was unable to meet the selling conditions of the market. (Beam, III, 230, fol. 1.) The output in rakes of the Walter A. Wood Co., in business at Hoosick Falls, N. Y., since 1852, fell from 7,078 rakes in 1902 to 3,802 rakes in 1904, decreasing to 2,893 in 1912. (Geer, III, 305.)

William Butterworth, president of Deere & Co., in business for one-half a century at Moline, Ill., and the largest manufacturer of agri-

cultural implements outside the International, testified that they manufactured hayrakes some years ago, but are practically out of the rake business to-day (II, 57, fol. 4).

The following extract from a report dated August 30, 1902, of a sales committee appointed to formulate plans for sales fairly illustrates the attitude of the International Harvester Co. toward its competitors (II, 245, fol. 1):

> The foregoing prices are f. o. b. Chicago, except where it has been trade custom to deliver and where we will have the greatest competition from the companies competing with the International Harvester Co.—the territory east and south of Chicago. We also believe it will possibly be necessary to make concessions to the extent of about $5 on H. and B.'s and $2 on mowers in territory generally speaking east of Pittsburgh, the definite territory to be, however, such as may be agreed on by the different division sales managers; this for the purpose of meeting conditions and prices that have existed in the past and where, no doubt, our strongest competition will be in the future.
>
> We desire to recommend also, that in connection with the general price, authority be given to each division to make some concessions from the regular schedule in certain cases (special) on which the sales managers of all divisions may agree, the special purpose of this being to enable us to take care of certain of the larger class of agents who have in the past had lower prices than the schedule, and with whom we might consider it advisable to continue to do business, even at reduced prices, rather than to allow them to become a part of the organization of any one of the companies with which the International Harvester Co. will have to compete.

From the circulars and sales committee reports of 1902 and 1903 it is evident that the International Harvester Co. tries to compel the dealers to buy all repairs from it. The profits on repairs are very large. [In 1901 the McCormick Co. made a 45 per cent profit on $1,000,000 of repairs (IV, 358, fol. 3). In the statement of Stanley McCormick to George W. Perkins of June 27, 1902, it is stated: "It is estimated that a combination will produce an increase in the sale of repairs; so that even if the sale of machines fell off in the next five years the sale of repairs would necessarily increase, and the percentage of profit on repairs is very large" (IV, 358, fol. 4).]

The following quotations on the subject of buying repairs are pertinent.

From a Deering division circular letter to general agents, September 9, 1902 (II, 104, fol. 4):

> Now, as we have information that outside manufacturers of this class of goods are exceedingly active, we believe it would be well for you to write a good, strong letter to your local agents cautioning them against buying any of these parts from any of the outside concerns. We want all of this trade of our agents in the future that we have had in the past, and even to a greater extent. It will certainly not be looked on favorably if at any time we find any of the agents of the Deering division, International Harvester Co., handling repairs for our machines that have not been made by us.
>
> It will be necessary for the general agents and blockmen to watch the matter very carefully to know that this class of goods is not being purchased from outsiders and that we actually do get the trade on these goods from all of our agents. * * * *We want all of the trade of all of our agents on the entire line of goods that we manufacture, and shall not consider a blockman as properly handling his block if we find agents under his charge who are giving a part of their business to another make of goods.*

(Italics ours.)

There was a clause in the commission-agency contract in those years prohibiting the dealer from buying repairs elsewhere.

From a Deering division circular, August 17, 1903 (II, 118, fol. 4):

Clause 8 in the old contract prohibited the agent from buying repairs from any other than this company under penalty of forfeiture of commissions earned on the sale of such outside repairs. * * * We wish to send word now to such of your agents as bought these repairs from outsiders last year, or are likely to buy them this year, that you want their business this year on a plan that will be attractive to them, and ask them not to place their order until our blockmen call upon them. *This is to shut out the outside concerns who will make it a point to work this trade, if possible, in advance of the harvester companies.* * * * [Italics ours.]

(See also, recommendation of sales committee, July 16, 1903, III, 232.)

Many times in the circular letters to the general agents and in the sales committee reports the important officials of the International Harvester Co. referring to the enormous power of the combination in effect state that it is a monopoly. Some extracts follow:

A Milwaukee division circular to the general agents, September 18, 1902 (II, 37, fol. 4), states that in the International Harvester Co. there has been a "merging of those interests which heretofore have been your chief sources of competition, and which represent the main harvester interests in the world."

A Plano circular, September 4, 1902 (II, 64, fol. 3), says:

International Harvester Co. has colossal capital (an almost inconceivable amount).

From a Plano circular letter of September 12, 1902 (II, 68, fol. 3):

With the practically unlimited resources of the International Co. behind us and with the greatest line of harvesting machinery on earth Plano should be able to secure the cream of the country for local agents next season.

O. W. Jones, one of the former owners of the Plano Co., and after the merger head of the sales department of the Plano division, wrote his general agents on October 4, 1902 (II, 74, fol. 4):

We believe that in the near future this great company will do practically all the harvester business of the world. * * * It is according to and in harmony with the Divine plan.

A. E. Mayer, sales manager of the McCormick division, subsequently general sales manager of the America Co., in a circular letter to his general agents, July 18, 1903, said (II, 35, fol. 4):

We wish you to make a strong push for corn harvester trade in your territory. * * * As there is not the same competition in the corn harvester business from concerns outside this company there is no excuse for cut prices or irregular terms, and you must check any tendency on the part of your agents to demoralize prices or grant irregular terms in sale of corn harvesters.

The following is from a sales committee report dated September 18, 1902 (II, 255, fol. 1):

It is very essential that we should command the largest possible eastern trade in the vicinity of the factories of competitors.

A. E. Mayer, general manager of sales, wrote James Deering May 6, 1904 (III, 293, fol. 3):

We now control the trade in this country.

The officials of the International Harvester Co. appreciated the fact that the popular prejudice against trusts helped an independent company to secure business. A. E. Mayer, head of the sales department, wrote James Deering, vice president, September 13, 1905 (III, 309, fol. 3):

The sales department feels that we do not need another line of harvesting machinery. You are aware that we are experiencing considerable difficulty in placing our present

five machines in the hands of good working agents. The representation which the Keystone Co. secured was due to lower prices and the fact that they were an independent company, fighting the so-called trust. When their independence ceased, the Keystone line of binders and mowers lost its standing in the trade.

The above letter was written one year after the Keystone Co. had been acquired by the International Harvester Co. During that year the Keystone Co. had been operated as an independent and had been widely advertised to be independent of any trust, although all the time it had been owned by the International Harvester Co. In the summer of 1905, when the relationship became known, the usefulness of the Keystone Co. was gone and Mayer recommended that the Keystone lines of binders and mowers be discontinued. The executive committee approved this recommendation (III, 308, fol. 3).

(See III, 79–88; III, 372–374; and also testimony of Green, III, 6–19.)

The sales reports and circular letters, particularly those written in 1902 and 1903, evidence in many ways the practical effects upon commerce of the destruction of competition and the setting up of monopoly. We quote below some instances in point:

Special favors to local dealers in the way of price concessions, longer terms, larger discounts, or commissions are done away with. (Jones to general agents, Mar. 3, 1903, II, 99, fol. 1.)

Salaried local agents' contracts, bonus, side deals of every kind are also abolished (II, 66, fol. 4).

Every local dealer or agent is guaranteed the same prices, the same terms, and the same privileges as his competitors in business. (Plano circular, Sept. 17, 1902, II, 73, fol. 4.)

"Field trials" and "delivery days" are abolished. The giving of canvas covers, extra knives, oil, etc., is forbidden. Prices are made uniform (II, 26, 34, 42, 97, 116).

All five divisions operated under the same form of commission agency contracts and were governed by the same net prices and terms. (Deering division circular, II, 103, fol. 1.)

During the strife that existed between the old companies, contracts were made with parties who were undesirable from a credit standpoint or because of the small amount of trade, or their indifference or unwillingness to put forth the necessary effort. Such contracts were not renewed by the International Harvester Co. (II, 37, fol. 1; see also Deering division circular, II, 120, fol. 4.)

Before the merger the five companies competed for the best local agents. After the merger no division would contract with or try to secure the services of any local dealer who was under contract with another division. The Plano division wants the name of "every high-grade agent outside the ranks of the International Harvester Co." (II, 63, fol. 4).

A. E. Mayer, general manager of sales on June 29, 1903, made a report addressed to President McCormick and Charles Deering, chairman of the executive committee, in which he forecasts the policy of the company in making contracts for 1904, as follows (III, 291, fol. 4):

It is expected to continue as many of the present local agencies as will use up the good local agency material, and it is expected the good agents will from choice continue to handle the machines they are now selling. The undesirable and unproductive agencies that have been maintained heretofore at the expense of the manufacturer will be dropped, thus reducing the total number of local agencies probably 10 per cent. [Italic ours.]

This recommendation was approved by Charles Deering in a letter to Mayer, July 14, 1903 (III, 291, fol. 3).

Expert service to the farmers is curtailed. O. W. Jones, general manager, Plano division, instructs his general agents as follows on this point, February 7, 1903 (II, 87):

This season we want you to make every practicable effort to cut down expenses for experting. We know that by persistent and judicious effort you can forestall a large per cent of this expense.

Educate your local agents to handle the bulk of this work themselves. Wean them from the idea that an expert from the factory is needed to set up and start every machine they sell, or to repair and adjust it whenever complaint is made. * * *

Instead of promptly sending an expert whenever demanded, if possible call up the complaining dealer by phone, ascertain the nature of the difficulty, suggest the remedy, explain your shortage of assistants, and induce the dealer to adjust the matter himself. Don't be too ready to send an expensive man to adjust ordinary difficulties. Napoleon's method of procrastination will often save much needless expense applied to this particular field.

So-called "demoralizing of retail prices" is to be done away with. Jones instructs his block men on this subject (Feb. 24, 1903, 1, 90):

* * * This is one of the things that the International Harvester Co. of America was organized for—to prevent and abolish abuses of this kind. The prices to local agents are to be uniform, the prices to the farmer will also be reasonably uniform because of the uniform prices to local agents. We believe there is more opportunity for local agents to make a satisfactory and reasonable profit out of the harvester business in 1903 than for many years past.

The sales committee, R. C. Haskins, C. H. Haney, A. E. Mayer, O. W. Jones, and M. R. D. Owings decided, June 8, 1903, to send a letter to each of the general agents, instructing them as follows (II, 293, fol. 2):

If any of your local agents persist in selling machines at such price as to make the bhsiness unprofitable for agents of the other divisions, it will be your duty to cancel his contract.

This letter was approved by the executive committee on June 8, 1903 (II, 292, fol. 1).

General agents, with the assistance of his block men, are expected to control agents' retail prices. (Plano division circular, II, 66, fol. 4.)

The committee appointed from the sales department in August, 1902, to confer regarding contracts and sales reported (III, 38):

It is also the unanimous opinion of the representatives present that prices to local agents should be absolutely uniform for the different divisions, but that it may be possible for some variation to exist in different sections of the country to meet local conditions; that the executive committee should instruct in writing, giving their prices together with firm instructions to the sales department of each division; that all contracts should be written at the schedule of prices that may be named, and that that schedule of prices should be the season's prices; that if at any time, from any cause, it becomes necessary or desirable for any concession in price to be made by one or all of the several divisions at any point, that the other divisions shall be notified of that concession.

It was discussed somewhat and thought worthy of your consideration, to bring before you the question of making all prices delivered and prepaying freights. We do not wish to be understood to be recommending this, but only suggesting it for your consideration, the intent of doing this being its effect in our favor as against competing harvester companies, and securing and holding to us the best dealers of the country. This would be an extremely popular concession, and one that more than likely competing companies would not be financially able to grant.

The above recommendation was approved by the executive committee (III, 335, fol. 4).

The tremendous organization of the International Harvester Co. reaching as it does into every village in the land, enables it to watch each implement dealer and to take such action as to it may seem expedient if a dealer is not "good." As an illustration of its power and an example of defendants' methods, the Government put in evidence a report made by Clarence S. Funk, subsequently general manager, after a visit paid by him to such a dealer. The paper is entitled "Report on the general situation at Litchfield, Minn.," and was submitted by Funk to the sales committee in April, 1903 (II, 277). In Litchfield a dealer named Mill, formerly the McCormick agent, had dropped the McCormick lines and taken up the Minneapolis machines which he was reported to be selling at very low prices. Funk was sent to Litchfield by the sales committee to make a personal investigation (II, 277). After stating that Mill was the best dealer in the place and that the trade was strongly populistic in sentiment, Funk said in his report (II, 280, fol. 4):

* * * I took the whole matter up very frankly with Mill and showed him how his actions in stirring up the farmers through the newspapers, circular letters, etc., would appear to indicate a deliberate intention on his part to start a fight against the International, and he very promptly disclaimed any such intention or desire. I impressed upon him the fact that by making any threats the International Harvester Co. might be forced to a position where they would have to protect themselves, and pointed out to him that this might result unpleasantly for him. He was prompt to see the point and acknowledged that it was entirely possible for the International to make the business so unprofitable for him that he would have to get out of it, but claimed there was no reason for their taking such steps, and did not propose to give them any reason for so doing. He claims to have had nothing to do with the newspaper article and explains his circular to the farmers as simply a notification to them that he was no longer handling McCormick machines, and excuses his reference to the "trust" that he had to give them some reason for dropping the machines, as he found a good many of them were somewhat stirred up over it on account of repairs, having old machines to look after, etc. As to the matter of prices, he claimed he was absolutely frank and was willing to produce any orders or papers I wanted to see. He claims to have sold but 2 binders, but estimates that he will sell from 15 to 20, and also points out that it would be foolish for him to try to make a killing on Minneapolis machines, as there would be no prospect of his being able to obtain a large number. He says he is going to sell the machines at regular prices, and if he can not do so will not sell them at all. He does not want to fight the International Harvester Co. either on the "trust" proposition or on prices, and seemed to be considerably concerned along this line, and, in fact, visited me at the hotel late in the evening after I had left him to go into the matter further. I am not prepared to believe all he told me regarding his methods or policy and think it wise to watch him very closely, but from what he said to me and others I am of the opinion that he is not looking for trouble with the International Harvester Co.

Litchfield is an excellent machine town and in an average year will probably sell 75 to 100 binders, 75 cornbinders, 75 to 100 mowers, a number of shredders, and a large number of hayrakes. * * * Mill is at a decided disadvantage is not having a satisfactory mower and no cornbinder and a poor rake.

The following recommendation sent by A. E. Mayer to Harold F. McCormick, vice-president, May 13, 1903, and approved by the sales committee on the next day, and by the executive committee four days later, throws light upon the way in which huge combinations of capital may try to mold public opinion through the press in respect to matters in which they are interested. No argument could so convincingly demonstrate the wise policy of the Sherman law as does the writing of this letter (II, 288, fol. 4):

Mr. HAROLD F. MCCORMICK,
Vice President, Office.

DEAR SIR: It has occurred to me that the strike at the Deering plant, the nine-hour day which you have introduced at your works, and the increase of wages which will probably follow from the labor trouble at the Deering plant before matters are settled, could be made use of to justify an increase in prices for the output of the International Harvester Co. for the coming season. The matter could be quietly submitted to the different implement papers, and they could feel the pulse, so to speak, of the trade by stating that owing to the high price of materials; the fact that all the various tools and devices of the country, none is sold at this time, at the lowest price they have ever reached, except harvesting machines; and the shortened hours and high price of labor; it would probably be impossible for the builders of agricultural implements, especially of harvesters, binders, reapers, mowers, and hay-rakes, to go through another season without a 10 per cent increase in price.

I can not see how such a "feeler" could have any bad results; on the contrary, I think it would stimulate trade at this time and prepare the dealers and farmers to expect higher prices.

After the matter had been outlined in the implement-trade papers it could be enlarged in the farm papers and somewhat in the large weekly papers of the country.

I think you should take advantage of this situation at this time to get your prices onto a better basis for the coming season. [Italics ours.]

The sales committee approved Mayer's suggestion in the sales report of May 14, 1903 (II, 288), signed by Haskins, Haney, Mayer, Jones, and Owings, which, after referring to the letter as "proposing a newspaper campaign on the subject of the probable increase in prices on harvesting machines to the consumer in 1904," continues: "Sales committee concurs in the wisdom of the course proposed and requests the executive committee to put the plan in operation."

On May 18 the executive committee approved the action of the sales committee and asked Mayer and Rodney B. Swift "to draw up plan for action" in accordance with Mayer's recommendation (II, 287, fol. 3).

A. E. Mayer, general manager of sales, recommended that the sum of $27,000 be added to the original advertising appropriation for 1904 for the purpose of advertising in the agricultural press as a protection against attacks on the trust question. Mayer said in his report (III, 244, fol. 3):

* * * It would seem to be very unwise to eliminate this class of advertising for the season of 1904. The average agricultural paper has a large circulation and a wide influence. Were we to give them no business for this season we are inclined to the notion that their columns would be open for a general attack upon the International Harvester Co. all along the line. We have to consider, in this connection, that we are confronted with the presidential year, when, unquestionably, the "trust" question will be thoroughly agitated. Outside of the influence which the placing of a judicious amount of advertising in the papers will give us, we are inclined to believe it would be shortsighted policy not to advertise in this class of papers, as we believe that from a business standpoint it will pay.

That Mayer's recommendation was approved by the executive committee is stated by Cyrus H. McCormick, president, in a letter to Mayer, printed in the record (III, 245, fol. 2):

XI.

THE BINDER-TWINE MONOPOLY.

Binder twine is used on harvester machines for tying the bundles; the entire output of binder twine is used by farmers on farms, and therefore it is to be distinguished from merchant or wrapping twine, which is a different article and made by other manufacturers. (Groendyke, II, 168.)

The chief raw material employed in making binder twine is sisal, 95 per cent of which comes from Yucatan. (Daniels, III, 411; Groendyke, II, 169.) Binder twine is sold generally to the farmer by the implement dealers who handle binders, mowers, and other harvesting implements. Like harvesting implements, binder twine has been sold by brands or under trade names for many years, the best known trade names being "McCormick" and "Deering." Three harvesting manufacturers, the McCormick, Deering, and Osborne companies, made and sold binder twine before the consolidation of 1902. (Osborne, I, 364; fol. 1.) There were also a number of companies not manufacturing agricultural implements which sold twine. In 1902 the McCormick Co. sold 47,679,865 pounds and the Deering Co. 58,463,685 pounds (IV, 215 and 204), the combined output of these two companies for that year amounting to about 53,000 tons.

R. B. Swift, over 20 years with the McCormicks, testified that in 1903 the McCormick, Deering, and Osborne companies did 60 per cent of the business in binder twine in the United States (I, 433, fol. 3).

The answer admits that the International Harvester Co. acquired 40 per cent of the binder-twine business when it was formed, but denied that it acquired any larger per cent than 40 per cent. (Answer, p. 7.)

As to present conditions the answer admits that defendants are selling to-day 55 per cent and no more of the twine sold in the United States. (Answer, p. 51.)

The twine output of the International Harvester Co. for the years 907–1912 was the following (III, 444):

Year.	Sales in United States.	Exported.	Total.
	Tons.	*Tons.*	*Tons.*
1907	48,000	16,000	64,000
1908	48,000	18,000	66,000
1909	48,000	21,000	69,000
1910	51,000	24,000	75,000
1911	57,000	35,000	92,000
1912	67,000	43,000	110,000

The larger proportion of the raw material of binder twine is a fiber called sisal, nearly 99 per cent of which comes from Yucatan, Mexico. (Daniels, III, 411–412.) The International Harvester Co. imports considerably over 60 per cent of all the sisal imported into the United States.

The following table from "Commerce and Navigation of the United States for 1910," a Government publication, gives the importations of sisal for the years 1906 to 1910 (III, 348):

Year.	Mexico.	Total.
	Tons.	*Tons.*
1906	95,043	98,037
1907	96,491	99,061
1908	101,060	103,994
1909	87,360	91,451
1910	94,838	99,966

The following is a statement prepared by the International Harvester Co., giving the importations of sisal by that company for the seasons stated (Government Exhibit 229, III, 347):

Season.	Tons.
Sept. 1–Aug. 31:	
1903–4	47,268
1904–5	43,540
1905–6	38,240
1906–7	51,683
1907–8	57,084
1908–9	53,672
1909–10	76,375
1910–11	61,959
1911–12 to Aug. 17	61,583

The manufacturers of binder twine are the International Harvester Co., Plymouth Cordage Co., North Plymouth, Mass.; Hooven & Allison Co., Xenia, Ohio; Peoria Cordage Co., Peoria, Ill.; J. C. Groendyke Co., Miamisburg, Ohio; St. Louis Cordage Co., R. A. Kelly Co., and eight State penitentiaries owned and operated by the States of Minnesota, North and South Dakota, Michigan, Indiani, Missouri, Wisconsin, and Kansas.

J. C. Groendyke, of the J. C. Groendyke Co., 25 years in business manufacturing and selling binder twine, testified that the combined output of the eight penitentiaries is from 18,000 to 25,000 tons annually (II, 170, fol. 4). Hooven & Allison Co., J. C. Groendyke Co., and the Peoria Cordage Co. he estimated each sell about 3,000 tons a year, and the Plymouth Cordage Co. about 25,000 tons from their United States plant (II, 171). The St. Louis Cordage Co. and R. A. Kelly Co. are small unimportant manufacturers, who sell less than the others (II, 171).

The reports of the sales committee of the International Harvester Co. prove that the officials of that company realize that they have the power to fix the market price for twine owing to the large production of the International Harvester Co.

The following from a report of a meeting of the sales committee called to fix the price of twine, dated March 16, 1903, subsequently approved by the executive committee (II, 272) demonstrates that the highest officers of the International Harvester Co. do not hesitate to use that power to put competitors out of business and to maintain their monopoly of the harvesting business:

> This committee recommends a price of ten cents per pound on sisal and standard twine, with prices on other grades in proportion. While realizing this price does not leave as large a margin of profit in the business as could be desired, the committee recommends this price for the following reasons:
>
> First. It considers it of the utmost importance, for the purpose of encouraging and promoting the sale of grain harvesters, that the retail price be kept low.
>
> Second. It believes a reasonably low price on twine this season will discourage smaller manufacturers from competing for the business for 1903 and for the future.
>
> Third. It believes the present price of fiber would enable a manufacturer to produce twine at a cost of not to exceed nine cents per pound and that any price over ten cents would make the business more attractive to the smaller manufacturer than is desirable.

The above report is signed by Haskins, Haney, Legge, and Jones (II, 273).

The first three men comprise the three men most influential to-day in the councils of the International Harvester Co. outside the McCor-

micks and Deerings. Legge is to-day the general manager. This report was approved by the executive committee of the International Harvester Co. at a meeting on March 22, 1903, at which were present Cyrus H. McCormick, John J. Glessner, Harold McCormick, James Deering, and Charles Deering (II, 275, fol. 1).

That the International Harvester Co. is an unlawful monopoly of binder twine with the power to control prices is evidenced by the fact that upon its organization it acquired power to change radically the custom theretofore prevailing in the trade for fixing the price of binder twine from the manufacturer to the dealer. The fact that it immediately exercised this power and completely altered the method of doing business, compelling the smaller manufacturers to follow its lead, conclusively establishes that the International Harvester Co. had, by means of the purchase of the McCormick, Deering, and Osborne plants, and the suppression of competition thereby resulting, secured an unlawful and monopolistic power to control and fix prices. This power was the direct result of the destruction of competition between the McCormick, Deering, and Osborne companies.

Prior to 1902 there was no fixing of prices for the season. (Groendyke, II, 172.) There was an absolute sale by the manufacturer on the basis of what the raw fiber or sisal cost. That is, if the manufacturer entered into a contract, say, in November for the sale of twine to an agent for the following year he would give the dealer a price at the time, based on the cost of the raw material at that time (II, 172, fol. 3). After the International Harvester Co. was formed the custom changed (Gibbs, III, 126, fols. 2–3), so that to-day the smaller manufacturers make sales by leaving the price unfixed in the contract and guaranteeing against the prices of the International Harvester Co. and Plymouth Cordage Co. That is to say, these two companies fix the price which the smaller ones follow. They, however, do not fix the price for the season until spring, and therefore contracts made by the smaller manufacturers before the price is fixed by the two larger companies guarantee against that price; that is, guarantee that the price will not be higher than the prices subsequently fixed by the International Harvester and Plymouth companies.

It is necessary for the smaller companies to do this in order to be able to sell. (Groendyke, II, 173, fol. 2.)

M. H. Gibbs, manager of the Minneapolis branch of Hooven & Allison Co., of Xenia, Ohio, having charge of sales in Minnesota, North and South Dakota, and Montana since 1905, testified that the International Harvester Co. and Plymouth Cordage Co. do about 80 to 85 per cent of the business in that territory (III, 117, fol. 2).

His company sells most of its product without any price at all, guaranteeing the prices to be as low as the prices of the International Harvester Co. or Plymouth Cordage Co. (III, 125, fol. 4). Hooven & Allison take orders before any prices are named for the coming season by those two companies (III, 117, fol. 4), which generally establish a price about the same time, all the way from January to March or April (III, 118, fol. 1).

The price is fixed that way by reason of the fact that the two companies named supply the greater part of the demand (III, 118, fol. 1). In the last seven years the prices of the International Harvester Co. and the Plymouth Cordage Co. have been about the same (III, 128, fol. 1).

Hooven & Allison Co. could not sell unless they agreed to sell as low as those two companies sell (III, 118, fol. 2).

The testimony of Groendyke and Gibbs just referred to respecting the power of the International Harvester Co. to control the market price for binder twine is supported by circulars sent to general agents of the International Harvester Co.

The following circular was issued April 14, 1903 (II, 100):

To general agents:

DEAR SIR: Twine.—This is to notify you that we have withdrawn from the twine market entirely for the present. Do not hold out any inducements to any agents that we will be able to supply them additional twine hereafter. Notify your blockmen to cease soliciting twine orders at once. Do not send us any more twine contracts, but notify such agents as you have twine contracts in your hands unaccepted at this time, that they are at liberty to buy elsewhere.

It is our desire that this matter, namely, withdrawing from the twine market, gain no publicity whatever; so inform your blockmen to keep the matter perfectly quiet and say nothing about the twine business unless they are obliged to; then, of course, they must refuse to take orders.

For another withdrawal from the market see II, 307, folio 2.

The following extract from a report of the sales committee of November 25, 1903, approved by the executive committee November 27, 1903 (III, 243, fol. 1), also corroborates the testimony of Groendyke and Gibbs, respecting the fixing of twine prices by the International Harvester Co. (III, 243):

It was further agreed that we should begin writing twine contracts without naming price, on December 1. No date at which we should name price was agreed on, the guaranty clause in the contracts being the same as last year—May 1. Presumably prices will have to be named not later than May 1. April 1 was mentioned, but no definite conclusion was reached. It was, however, understood that twine contracts would be handled, so far as price was concerned, substantially as during the season of 1903. * * *

C. H. Haney, R. C. Haskins, Alex. Legge, H. L. Daniels, and A. E. Mayer were present at the meeting which adopted the report (III, 243).

Daniels, head of the International's twine department, named the dates on which the International Harvester Co. had fixed the market price of twine for each of the years, 1903–1912, thus corroborating the testimony of Groendyke and Gibbs as to the manner in which the price is established (III, 446, fol. 3).

The International Harvester Co. has preserved the old trade names in the sale of its twine, for the sales committee recommended against the adoption of a universal tag on twine—

believing the doing away with the distinctive trade names on which the business has been built up would result in a loss of trade, tend to lower prices, and give the outside manufacturers too good an opportunity for business. * * * (Report of Aug. 17, 1903, II, 297, fol. 4.)

The following appears in a report of the sales committee of December 27, 1902, which was approved by the executive committee December 31, 1902 (II, 260, fol. 4):

Seventh. Twine.—Decided that when we receive orders to sell twine that we instruct our general agents not to sell twine to agents of any other division but their own.

That intimate and unlawful relations existed between the International Harvester Co. and the Plymouth Cordage Co., the largest twine competitor of the International, is evidenced by the following extract from a report of the sales committee (II, 264, fol. 4).

We recommend that no concession in price be made for quantity order of twine under 50 tons, provided the Plymouth Cordage Co. agree to maintain the same rule in the conduct of their business. * * *

The above paragraph is taken from a sales report January 15, 1903, approved by the executive committee (II, 263, fol. 4), on January 20, 1903.

It is quoted again the sales report of March 16, 1903, at which time the committee recommends (II, 273, fol. 2):

We suggest that, if possible, an agreement along this line be made with the Plymouth Co. in the conference to be held with them this week.

Nearly 99 per cent of the sisal supplies come from Yucatan. (Daniels, III, 412.)

In 1909 the International Harvester Co. attempted to corner the sisal market as is proven by the following extracts from the minutes of a meeting of the finance committee of the International Harvester Co., held May 27, 1909, at the office of Judge E. H. Gary, 71 Broadway (I, 120, fol. 3):

Present: George W. Perkins, chairman, E. H. Gary, George F. Baker, Norman B. Ream, and Cyrus H. McCormick. Also: Harold F. McCormick, W. H. Jones, John P. Wilson, and Edgar A. Bancroft.

In the absence of the secretary, Cyrus H. McCormick acted as secretary pro tempore.

1. The minutes of the meeting of this committee of May 14, 1909, were read, and, on motion, duly made and seconded, they were approved.

2. The president reported that the firm of Avelina Montes, S. en C., which is the dominant factor in the Yucatan fiber market, contracted recently, on its own initiative and responsibility, with Yucatan planters, for a considerable amount of fiber, to be delivered during a succession of months in 1909, and that the International Harvester Co. has since agreed to purchase this fiber from Montes & Co.

Upon motion, duly made and seconded, the following resolution was adopted:

Resolved, That the above purchase from Montes & Co. is hereby approved.

Under the above resolution 220,000 bales of sisal was contracted for, which was a much greater quantity than was in existence at that time (Daniels, III, 413, fol. 1), and, in fact, was in the neighborhood of one-third of what would be produced during that season (Daniels, III, 413, fol. 2).

Right after this purchase the price of sisal jumped from $4\frac{3}{4}$ to 6 cents a pound (Groendyke, II, 174, fol. 1), and thereafter the International Harvester Co. made what they called in their letters a "campaign" to keep the price of sisal at the advanced figure (Daniels, III, 415, fol. 4). They fixed the price of twine for 1910 at $7\frac{1}{4}$ for carload lots, after they had closed the deal for the 220,000 bales and had forced the price of sisal to 6 cents. (Daniels, III, 421, fol. 3.) Groendyke, a small manufacturer, found the price of binder twine that year pretty close to the price of sisal, for he had not bought his supply of sisal, as the International Harvester Co. had done before the price went up, but the International Harvester and Plymouth companies paid no attention to his request that they advanced the price of binder twine. (Daniels, III, 422.)

XII.

THE ECONOMIC POLICY DECLARED BY CONGRESS IS THAT PRICES SHALL BE DETERMINED UNDER COMPETITIVE CONDITIONS. THE UNDUE SUPPRESSION OF COMPETITION BY COMBINATION VIOLATES THIS POLICY AND IS CONTRARY TO THE STATUTE. THE PRIMARY MOTIVE OF THOSE ENTERING A COMBINATION CAN NOT DETERMINE ITS LEGALITY; THAT DEPENDS ON THE NATURAL TENDENCY OR EFFECT. THE ANSWER—DEFENDANTS' TESTIMONY.

Defendants stoutly deny all manner of purpose to restrain or monopolize trade and strenuously urge that benefits to the public have resulted from the organization of the International Harvester Co. This we deny.

It is elementary that the lawfulness or unlawfulness of a combination of competing concerns does not depend upon the primary intent or motive of the parties forming it. Otherwise the actual destruction of competition would become immaterial. Necessary consequences are presumed to have been intended and the lawfulness of defendants' actions must be determined by the direct results.

Upon a misconception of fundamental law defendants have built their entire defense. The following paragraph of the answer summarizes the defense (p. 18):

PURPOSE OF ORGANIZATION.

23. They aver that the purpose of the formation of the International Harvester Co. was to secure large economics in the manufacture of harvesting machinery and other agricultural implements by producing more cheaply and of better quality the principal raw materials required therefor; by enlarging the facilities and at the same time correcting the wasteful methods then employed in the distribution of such machines and which ultimately would have resulted in higher prices, or in serious curtailment of the service and credit extended, to the farmer; by expanding the foreign trade in such machines and implements; and by better organized experimental and inspection departments, making the machines and implements more durable and efficient, without increasing their cost to the farmer.

Subseqeuntly defendants enlarge upon this theory, devoting 9 pages of the answer (answer, pp. 58–67), to . n elaboration of benefits alleged to have resulted from the formation of the International Harvester Co.; they assert this to be a complete defense.

The fallacy of their contention was long since declared by the Supreme Court. The statute is its own measure of right and wrong. By enacting the Sherman Act Congress adopted as the economic policy of the country the principle of free competition. It preferred the evils of competition to the dangers of monopoly. Consequently testimony introduced for the purpose of showing that some economic benefits may possibly have resulted from the formation of the International Harvester Co. is wholly irrelevant and can no have bearing on the question whether or not competition has been suppressed, and the statute violated. Such evidence has no place here for the court has no authority to consider it. The proper forum for its presentation is the hall of Congress as an argument for the repeal or modification of the statute.

In view, however, of defendants' insistence on this point and their determined effort to justify the formation of the International

Harvester Co. by testimony introduced in order to show that alleged economic advantages have resulted, we quote below at some length from opinions of the Supreme Court.

Judge Hook said in the Union Pacific case (188 Fed., 102, 121):

> I grant it is a serious thing to disturb a great business transaction like that shown in the case at bar; but given the power of Congress to legislate, and clear words to express what a judge conceives to have been its purpose, his duty is plain, whatever he may think of the wisdom of the law. Even if public regulation is believed to be a wiser solution of the important economic problem than enforced competition, with its necessary wastes and burdens, nevertheless his judgment of a law embodying the latter policy should proceed as with distinct approval of its selection.

In the same case, when it came to the Supreme Court, Mr. Justice Day said (226 U. S., 61, 87):

> To preserve from undue restraint the free action of competition in interstate commerce was the purpose which controlled Congress in enacting this statute, and the courts should construe the law with a view to effecting the object of its enactment.

Mr. Justice Peckham said in the Trans-Missouri freight case (166 U. S., 340):

> When the law-making power speaks upon a particular subject, over which it has constitutional power to legislate, public policy in such a case is what the statute enacts.
>
> In the view we have taken of the question the intent alleged by the Government is not necessary to be proved. The question is one of law in regard to the meaning and effect of the agreement itself, namely: Does the agreement restrain trade or commerce in a way so as to be a violation of the act? We have no doubt that it does. The necessary effect of the agreement is to restrain trade or commerce no matter what the intent was on the part of those who signed it.

The following is the language of Mr. Justice Harlan in the Northern Securities case (193 U. S., 339), and is quoted by Justice Day in the Union Pacific case (226 U. S., 83):

> Whether the free operation of the normal laws of competition is a wise and wholesome rule for trade and commerce is an economic question which this court need not consider or determine.

Moreover, acts which the statute prohibits can not be removed from the control of its prohibitions by a finding that they are reasonable. (Chief Justice White in the Tobacco case, 221 U. S., 179.)

Mr. Justice Peckham said, in the Addyston case (175 U. S., 211, 234):

> If the necessary, direct, and immediate effect of the contract be to violate an act of Congress and also to restrain and regulate interstate commerce, it is manifestly immaterial whether the design to so regulate was or was not in existence when the contract was entered into. In such case the design does not constitute the material thing. The fact of a direct and substantial regulation is the important part of the contract, and, that regulation existing, it is unimportant that it was not designed.

In the National Cotton Oil Co. *v.* Texas (197 U. S., 115 129) Mr. Justice McKenna said that under the Sherman Act competition, not combination, must be the law of trade. He continued: "If there is evil in this, it is accepted as less than that which may result from the unification of interests and the power such unification gives."

In a very recent case, the so-called Bathtub Trust case (226 U. S., 20, 49), the Supreme Court went so far as to accept as true, for the purposes of argument, the alleged intent of the defendants to improve the quality of the ware and thereby benefit the public by forming the combination. Mr. Justice McKenna stated, however,

that the prohibitions of the statute can not be evaded by good motives:

> The law is its own measure of right and wrong, of what it permits, or forbids, and the judgment of the courts can not be set up against it in a supposed accommodation of its policy with the good intention of parties and, it may be, of some good results. (United States *v.* Trans-Missouri Freight Asso., 166 U. S., 290; Armour Packing Co. *v.* United States, 209 U. S., 56, 62.)

In the cotton case (226 U. S., 525, 543), after holding that the conspiracy burdened commerce and inflicted upon the public the injuries which the Sherman Act is designed to prevent, Mr. Justice Van Devanter continued:

> And that there is no allegation of a specific intent to restrain such trade or commerce does not make against this conclusion, for, as is shown by prior decisions of this court, the conspirators must be held to have intended the necessary and direct consequences of their acts and can not be heard to say the contrary. In other words, by purposely engaging in a conspiracy which necessarily and directly produces the result which the statute is designed to prevent, they are, in legal contemplation chargeable with intending that result. (Addyston Pipe & Steel Co. *v.* United States, 175 U. S., 211, 243; United States *v.* Reading Co., 226 U. S., 324, 370.)

Only in doubtful cases does intent become material. In such cases the presence or absence of intent is a circumstance to be taken into consideration with all the other circumstances in determining whether an unlawful combination restraining trade has been formed.

Mr. Justice Lurton in United States *v.* Reading Co. (226 U. S., 324, 370) said:

> Of course, if the necessary result is materially to restrain trade between the States, the intent with which the thing was done is of no consequence. But when there is only a probability, the intent to produce the consequences may become important. (U. S. *v.* St. Louis Term. Assoc., 224 U. S., 383, 394; Swift *v.* U. S., 196 U. S., 375.)

The authorities cited above dispose of any attempted justification on the ground of an alleged intent to develop the export trade and establish an all the year round selling organization. (Perkins, XIII, 216, fol. 3; answer, p. 18.)

As a matter of fact the McCormick, Deering, Osborne, Milwaukee, Champion, Johnston, and Wood Cos. had each been doing a prosperous and rapidly growing export trade long before the birth of the International Harvester Co. (Bartlett, XIII, 313, fol. 1.)

In five years, 1898 to 1902, the McCormick foreign sales increased from $1,864,280.36 in 1898 to $4,336,557.96 in 1902, an increase of 136.6 per cent. (Couchman, XIII, 200, fol. 2.) In 1902 it exported 7,570 binders, 12,499 reapers, 23,241 mowers, and 7,396 hayrakes, not including exports to Canada. (Couchman, XIII, 199, fol. 4.)

In the same years the foreign sales of the Deering Harvester Co. grew from $1,414,891.55 in 1898 to $3,488,249.61 in 1902, an increase of 146.5 per cent. (Haney, XIII, 179.) In 1902 the Deering Co. exported 5,389 binders, 5,665 reapers, 17,540 mowers, and 6,529 rakes (XIII, 179, fol. 4). This business had been developed from nothing in the 10 years preceding the formation of the International Harvester Co. (Haney, XIII, 176, fol. 2.) The Deering Co. was selling machines in Australia, New Zealand, Argentina, Uruguay, Great Britain, France, Spain, Belgium, Italy, Switzerland, Holland, Germany, Austria, Hungary, Roumania, Turkey, Norway, Sweden, Denmark, Finland, Russia, and Siberia. (Haney, XIII, 177, fol. 2.)

D. M. Osborne & Co. before its purchase by the International Harvester Co. did business all over Europe, South America, Australia, and also in Asia and Africa (Metcalf, I, 371, fol. 3); in fact, wherever grain was cut (I, 378, fol. 1). The foreign business of the company had grown from $20,000 in 1890 to upwards of $2,000,000 in 1902 (I, 388, fol. 1).

The Milwaukee Harvester Co. was selling its machines in France, England, Scotland, Germany, Denmark, Sweden, Norway, and Russia. (Bartlett, XIII, 312, fol. 4.)

The total export business done in 1902 by the five companies which went into the International Harvester Co., and excluding the Osborne export business, was $10,433,000 (IV, 407, fol. 4).

The defense put on the stand 1,172 witnesses. Their testimony appears in Volumes V–XIV, inclusive; exhibits in Volumes XV–XVIII. Of the total number, 826 were dealers and 233 farmers. The balance was made up largely of officials and employees of the International Harvester Co. and of employees of companies selling plows and tillage implements, or wagons or spreaders or engines, called to testify that they knew of no instances of coercion practiced by the International Harvester Co.

In respect to the circumstances attending the formation of the International Harvester Co. the defendants called only George W. Perkins, putting on the stand none of the owners of the several businesses which combined in 1902. This witness urged as justification for his actions an intent to form an all the year round selling organization and to increase the export trade.

Questioned on cross-examination as to why he kept all the manufacturers apart during the negotiations in July, 1902, in New York (see supra, Part VII, pp. 81–104), he said (Perkins, XIII, 273, fol. 3):

> A. If I had been desirous of forming simply a combination, as the term is commonly known, and of bringing these gentlemen all together at somebody's request, why, that is what I would have done; I would have brought them all into one room and said, "Now, gentlemen, I want you to get together," or "Let us get together and do this thing." But that is not what I was trying to do.
>
> Q. You would call that a combination?—A. So bringing them together and so acting I would have called a merger.
>
> Q. Bringing them together and their selling out at the same time you would call a combination?—A. I would have kept the gentlemen together; I would not have kept them apart.

It is not true that fierce competition compelled the companies to go into a combination in order to save their several businesses. (Answer, pp. 7–8.)

Between 1899 and 1902 the McCormick Co., capital stock $2,500,000, paid a total of 463 per cent dividends, and during the same period the book value of the assets increased from $12,000,000 to $50,000,000, all piled up out of earnings. (Swift, I, 407, fols. 1–3.) For the seasons 1900, 1901, and 1902 the net profits averaged considerably over $5,000,000 a year. (Exhibit 70, IV, pp. 212–214, 218; Swift, I, 406, fol. 4.)

The net profits of the Deering Harvester Co., a copartnership, for the seasons 1900, 1901, and 1902 were $3,970,951.34, $3,130,269.22, and $4,401,578.03 respectively. (Exhibit 69, IV, 200–204, 207.)

The Milwaukee Harvester Co., capital stock $1,000,000, made net profits of about $500,000 in 1900, $500,000 in 1901 and $700,000 in 1902. (Robinson, II, 131, fols. 3–4; 132, fol. 1.)

The president of the Champion Co. testified that the business of that company had been a profitable one prior to 1902. (John J. Glessner, I, 461, fol. 1. See also statement of profits in Government Exhibit 71, IV, pp. 223–226.)

During the 10 ye rs preceding 1902 the business of D. M. Osborne & Co. had become increasingly profitable, so that the years 1901 and 1902 were better than the others; the business was a growing business. (Metcalf, vice president and general manager, I, 371, fol. 4.) In 10 years in addition to paying dividends the company had accumulated a surplus of between two and three million dollars.

The Plano Co., the smallest company of the six, while not making as large profits as the others, paid handsome salaries to the officers, its principal owners, and was in a safe financial condition. (Government Exhibit 72, IV, 231–233.) Its president, W. H. Jones, told one of the McCormicks a few weeks before the combination that he thought the prices of harvesting machines would have to be reduced considerably, and that in his judgment smaller companies like the Plano Co. would stand a better show in the case of strenuous competition than the larger companies (IV, 360, fol. 2).

XIII.

The Decision of the Missouri Supreme Court Holding the International Harvester Co. an Unlawful Combination to Suppress Competition and Regulate Prices.

In the case of State of Missouri *v.* International Harvester Co. of America (237 Mo., 369), an original proceeding brought in the Supreme Court of Missouri on the information of Attorney General Hadley, charging a violation of the antitrust laws of that State, the defendants contended that the formation of the International Harvester Co. was for the purpose of bringing about a more rational and conservative method of conducting the business of manufacturing and selling agricultural implements, and with no purpose of creating a monopoly or suppressing competition or regulating prices. The court held that the International Harvester Co., the New Jersey corporation, was an unlawful combination to suppress competition and regulate prices. Chief Judge Valiant handed down the opinion of the court after the Supreme Court of the United States had decided the Standard Oil and Tobacco cases. He said:

(394) In the case at bar we are to take the acts of the parties and judge their purpose by the consequence that would naturally result. When men deliberately and intelligently go to work and acquire power that will enable them to control the market. if they choose to exercise it, there is no use for them to say that they did not intend to control the trade or limit competition, nor when the legality of their act of acquisition is in question is it any use for them to say we have not used the power to oppress anyone. * * * The law regards such a power acquired by such a combination as dangerous to the rights of the people and forbids its acquisition. If immediately on the organization of the International Harvester Co. and its appointing the respondent to act as its agent, and before any of its products were put on the market, an information in quo warranto had been presented in Court against it, it would have been no answer to the complaint for the respondent to say: True it is we have this power, but we are not going to use it to the injury of the farmers or of other dealers in the same kind of implements. Neither is it any defense, after operating under the power for a time, to say we have not up to this date used the power to injure anyone.

Doubtless it could have been well said in behalf of the Standard Oil Co. in the case above cited, that under its operation the price of coal oil had not been increased and that many products of petroleum other than illumunating oil, not before known or used, had been developed, and on the whole the public had been benefited, although in the acquirement of the power small producers and dealers may have been driven out of business and ceased to compete in the market. * * *

There can be no doubt but that the competition that existed between the concerns that were engaged in manufacturing and selling harvester machines in 1902, was the moving cause of the organization of the International Harvester Co., and there can be no doubt but that that competition ceased when that corporation took charge of the business. The suppressing of that competition may not have been Mr. Perkins's purpose; he may have thought that he could organize a great corporation that could live and prosper in spite of competition. He bought the Milwaukee company without waiting to see what he could do with others, and he said that he would have bought the McCormick even if he could not have bought the others. But we are not concerned with what he would have done; our attention is directed to what he did, and that was the buying of all these concerns and combining them in one corporation, with the result that the fierce competition which had existed ceased. He said that he bought the property of each of these companies just as he would buy a horse in the market. He was probably mistaken in that figure of speech. This transaction was conducted with great skill and ability and evidently with an eye on the antitrust statutes of this and other States, with the purpose of either avoiding or evading those statutes. Whilst the negotiations with each company were conducted separately, yet they were conducted with reference to the result of like negotiations with the other companies. No definite contract of purchase was concluded with either company, except the Milwaukee, until like contracts were made with the others and the agreement to take pay in stock of the corporation to be formed showed that the managers of each company knew of what the corporation was to consist. The managers of these several corporations were men of conspicuous business intelligence, they would never have agreed to sell the property of their companies and take pay in stock of a corporation to be formed unless they knew of what that corporation was to consist. The fact that they did not all get together and agree to merge their companies in one, but on the contrary each conducted its part of the scheme in form as if it were simply making a sale of its property, shows that they were acting in fear of the antitrust statutes. And the fact that they did not all sign one contract, but each a separate one, shows caution to avoid the appearance of combination, yet when all the several contracts were signed the effect was the same as if they had all signed one contract. And the fact that the representatives of the five companies were all in New York on that business at the same time but stopping at different hotels and holding no communication with each other, again shows caution. If there had been no antitrust laws in the land and these gentlemen had all concluded, in order to suppress what they call this unbusinesslike and ruinous competition, to unite their interests in one great company (as in fact they did) the most natural thing for them to have done would have been to meet together and talk it over and agree on the details.

* * * * * * *

(399) We have already said in effect that when a party is called into court to answer a charge of unlawful combination in restraint of trade, it is no defense to say that the power thus acquired has been or will be used with moderation.

(400) If the International Harvester Co. were disposed to exercise the power its enormous wealth gives, and if it were left unrestrained to do so, it could drive every competitor it now has from the field.

XIV.

As to the Decree.

We submit that at this time a decree should be entered adjudging that all defendants are parties to an unlawful combination and monopoly, that the International Harvester Co. is, in and of itself, a combination in restraint of trade, and that it has acquired and holds a monopoly of harvesting implements—all contrary to the provisions of the statute. The continuance of the combination should be enjoined. The decree should then provide that unless the defendants

submit to the court a plan for restoring bona fide competitive conditions and bringing about a situation in harmony with the true intent and purpose of the law within 60 days a receiver shall be appointed to take possession of all the property and business of the defendant corporations who shall bring about such results under direction of the court. In order that the plan may establish a condition in honest harmony with the law it is imperative that it shall disintegrate the business of the principal defendant in such a manner that no two of the disintegrated parts shall be acquired by, or come under the control of companies having common stockholders or companies otherwise under common control or influence

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Attorney General.

EDWIN P. GROSVENOR,
Special Assistant to the Attorney General.

OCTOBER, 1913.

APPENDIX TO BRIEF FOR THE UNITED STATES.

CONTENTS.

In the District Court of the United States for the District of Minnesota.

UNITED STATES OF AMERICA AGAINST INTERNATIONAL HARVESTER COMPANY AND OTHERS.

APPENDIX TO BRIEF FOR THE UNITED STATES.

APPENDIX A.

TABLES SHOWING COMPARATIVE OUTPUTS OF THE SEVERAL HARVESTING MACHINE COMPANIES FOR 1912.

TABLE I.—*Table showing output of all companies for 1912 in binders.*

International Harvester Co. (XIV, 126)		111,447
Competitors:		
Acme (I, 181)	11,000	
Adriance Platt & Co. (IV, 414)	898	
Deere & Co. (XIII, 109)	931	
Independent Harvester Co. (II, 185)	1,921	
Johnston Harvester Co. (IV, 414)	2,798	
Minnesota State Prison (IV, 415)	1,127	
Walter A. Wood Co. (IV, 414)	860	
Total for competitors		19,535
Total in United States		130,982

Percentage of total business in United States in binders done by International Harvester Co. in 1912, 85.086.

TABLE II.—*Table showing output of all companies for 1912 in mowers.*

International Harvester Company (XIV, 126)		164,287
Competitors:		
Acme Harvester Machine Co. (I, 181)	9,000	
Adriance Platt & Co. (IV, 414)	5,683	
Deere & Co. (IV, 415)	9,560	
Emerson Brantingham Co. (II, 194)	9,592	
Eureka Mower Co. (III, 352) [1]	38	
Independent Harvester Co. (II, 182–188)	2,750	
Johnston Harvester Co. (IV, 414)	7,843	
Messenger Manufacturing Co. (III, 399) [1]	34	
Minnesota State Prison (IV, 415)	2,175	
Plattner Implement Co. (II, 516)	587	
Richardson Manufacturing Co. (IV, 414)	2,026	
Thomas Manufacturing Co. (IV, 414)	4,000	
Walter A. Wood Co. (IV, 414)	7,125	
Total of competitors		60,413
Total for United States		224,700

Therefore the percentage of the total business in the United States in mowers done by the International Harvester Co. in 1912 was 73 per cent.

The company which sold the second largest number of mowers, the Emerson Brantingham Co., output 9,592 mowers, sold less than 6 per cent of the output of the International Harvester Co.

[1] The figures of the Eureka Mower Co. and Messinger Manufacturing Co. are stated for 1911, the figures for 1912 not appearing in the record (III, 352, and III, 399).

TABLE III.—*Table showing output of all companies for 1911 in corn binders.*

International Harvester Company (IV, 303)		39,007
Competitors:		
Adriance Platt & Co. (III, 360)	330	
Independent Harvester Co. (II, 182, fol. 4)	6	
Johnston Harvester Co. (III, 378)	3,150	
Total sales of competitors		3,486
Total for United States, all companies		42,493

Therefore the percentage of the total business in the United States in corn binders done by the International Harvester Co. in 1911 was 92 per cent.

APPENDIX B.

TABLES SHOWING OUTPUT OF ALL THE HARVESTING MACHINE COMPANIES (1902–1912).

TABLE 1.—*Acme Harvesting Machine Co., Peoria, Ill.*

[I, 181.]

	Binders.	Mowers.	Corn binders.	Hay tools.[1]	Headers.
1902					
1903					
1904					
1905	2,920	4,174	(2)	6,520	1,515
1906	3,884	6,047	(2)	6,714	1,770
1907	2,002	4,186	(2)	5,000	816
1908	2,588	3,488	(2)	5,359	673
1909	4,352	5,694	(2)	7,500	798
1910	6,195	6,196	(2)	9,293	1,300
1911	7,829	6,092	(2)	8,888	794
1912	11,000	9,000	(2)	9,600	1,305

[1] This column includes, in the case of the Acme Co. only, rakes, sweep rakes, and stackers (I, 178, fol. 1). In the ensuing tables the column includes rakes only and no sweep rakes or stackers.
[2] None.

TABLE 2.—*Adriance Platt Co.,*[1] *Poughkeepsie, N. Y.*

[III, 360; see also IV, 414.]

	Binders.	Mowers.	Corn binders.	Rakes.	Reapers.
1902	732	6,276	43	11	340
1903	816	5,401	243	443	344
1904	615	5,792	202	657	250
1905	879	5,871	223	1,637	286
1906	1,155	6,443	296	1,768	387
1907	1,126	6,659	257	1,969	325
1908	583	4,471	151	1,498	196
1909	882	4,959	238	1,724	219
1910	1,051	5,660	360	2,151	298
1911	1,056	4,763	330	1,792	252
1912	898	5,683	336	2,286	230

[1] This company was purchased in January, 1913, by the Moline Plow Co.

TABLE 3.—*Charles G. Allen Co.,*[1] *Barre, Mass.*

[III, 363.]

	Rakes.
1902	655
1903	674
1904	832
1905	1,039
1906	1,024
1907	1,203
1908	1,200
1909	1,334
1910	1,523
1911	1,411
1912	

TABLE 4.—*Bateman Manufacturing Co.,*[1] *Greenloch, N. J.*

[III, 398.]

	Rakes.
1909	1,026
1910	1,226
1911	1,198
1912	989

TABLE 5.—*Belcher & Taylor Agr. Tool Co.,*[1] *Chicopee Falls, Mass.*

[III, 397.]

	Rakes.
1902	62
1903	65
1904	73
1905	94
1906	87
1907	58
1908	89
1909	94
1910	94
1911	125
1912	

TABLE 6.—*Deere & Co., Moline, Ill.*

[II, 53, 59; see also IV, 415, and XIII, 109.]

Season.	Binders.	Mowers.[2]	Corn binders.	Rakes.	Reapers.
1902				[3]	[3]
1903				[3]	[3]
1904				[3]	[3]
1905		39	[3]	[3]	[3]
1906		490	[3]	[3]	[3]
1907		1,930	[3]	[3]	[3]
1908		3,092	[3]	[3]	[3]
1909		4,660	[3]	[3]	[3]
1910		6,930	[3]	[3]	[3]
1911		7,314	[3]	[3]	[3]
1912	933	9,560	[3]	[3]	[3]

[1] This company makes no other harvesting machines.
[2] The figures for mowers include sales in Canada (II, 53).
[3] None.

The following figures state the output of Deere & Co. in certain other lines, IV, 415:

Season.	Spreaders.	Wagons.	Hay loaders.	Sweep rakes.	Stackers.
1902	2,223	14,834	5,253	5,367	2,056
1903	4,269	14,692	8,634	6,509	2,146
1904	4,927	15,712	11,286	8,213	2,730
1905	5,704	19,787	11,223	8,344	3,005
1906	8,811	23,171	10,330	6,463	2,794
1907	10,448	23,520	8,222	8,740	3,421
1908	7,236	12,075	13,487	10,794	4,415
1909	10,568	18,638	11,462	12,633	5,311
1910	7,769	24,353	11,518	13,318	5,722
1911	4,551	21,348	7,310	7,638	2,539
1912					

TABLE 7.—*Emerson Brantingham Co., Rockford, Ill.*

[II, 194.]

Season.	Binders.	Mowers.	Corn binders.	Rakes.	Reapers.
1902–3	(1)	2,201	(1)	6,514	(1)
1903–4	(1)	2,871	(1)	2,159	(1)
1904–5	(1)	3,555	(1)	1,784	(1)
1905–6	(1)	4,627	(1)	2,117	(1)
1906–7	(1)	5,000	(1)	2,818	(1)
1907–8	(1)	5,912	(1)	3,189	(1)
1908–9	(1)	9,519	(1)	5,839	(1)
1909–10	(1)	11,460	(1)	4,460	(1)
1910–11	(1)	9,553	(1)	4,927	(1)
1911–12	(1)	9,592	(1)	3,812	(1)

[1] None.

TABLE 8.—*Eureka Mower Co.,*[1] *Utica, N. Y.*

[III, 352.]

	Mowers.
1902	49
1903	2
1904	50
1905	54
1906	8
1907	29
1908	20
1909	24
1910	20
1911	38
1912	

TABLE 9.—*Granite State Mowing Machine Co.,*[2] *Hinsdale, N. H.*

[III, 312.]

	Mowers.
1911	1
1912	2

[1] This company makes no other harvesting machines.
[2] This company sold a total of 286 mowers in the last 10 years. This company makes no other harvesting machines.

TABLE 10.—*Independent Harvester Co., Plano, Ill.*

[II, 182, 184–188.]

	Binders.	Mowers.	Corn binders.	Rakes.	Reapers.
1902					
1903					
1904					
1905			5	(1)	(1)
1906			21	(1)	(1)
1907			16	(1)	(1)
1908			4	(1)	(1)
1909	6			(1)	(1)
1910	135	194		(1)	(1)
1911	560	1,121	6	(1)	(1)
1912	1,921	2,750		(1)	(1)

[1] None.

TABLE 11a.—*International Harvester Co.—Kind and number of implements manufactured by International Harvester Co., seasons 1903 to 1911, at United States Works.*

[IV, 296.]

	1903	1904	1905	1906	1907	1908	1909	1910	1911
Grain machines:									
Binders	184,817	87,371	102,832	108,666	117,854	104,547	100,204	125,382	146,981
Reapers	40,396	45,685	37,365	39,458	52,262	43,425	43,971	42,176	63,864
Reapers, 2-wheel			14	25	1,070	571	1,009	617	248
Headers and push binders	5,989	7,181	11,024	9,542	11,914	12,720	10,890	13,993	9,574
Strippers		136	717	1,115	860	453	151	928	1,099
Grass machines:									
Mowers	318,505	221,186	250,677	213,269	260,764	276,349	279,589	260,526	241,285
Rakes	239,406	165,838	123,194	131,403	158,418	161,959	156,010	159,226	142,990
Rakes, side-delivery				4,551	6,066	10,112	10,755	10,102	9,433
Hay loaders				6,138	7,444	8,898	7,217	8,737	11,258
Tedders	9,167	18,815	31,153	31,459	18,754	21,186	25,184	16,251	15,419
Sweep rakes		1,829	11,975	7,102	9,998	13,065	17,231	23,001	11,823
Hay stackers		501	4,055	1,813	3,411	3,960	4,169	4,707	1,824
Combined sweep rakes and stackers									
Hay presses		46	2,638	3,098	2,516	3,687	3,019	4,315	6,277
Corn machines:									
Binders	20,971	4,853	3,931	7,950	12,472	16,980	14,874	19,031	43,737
Shredders	2,678	167	371	220	777	972	691	1,115	1,739
Shockers	2,315	441	694	658	778	178			184
Huskers				2		4	5		
Pickers		211	154	34	149	1,128	709	50	1,696
Shellers				2,829	9,890	6,411	5,883	8,517	10,216
Planters			15	1,552	1,471	753	1,857	2,646	2,003
Ensilage cutters									
Stalk cutters									
Tillage implements:									
Cultivators	11,122	8,851	25,022	26,183	29,304	16,280	50,180	65,601	42,629
Harrows, disk and spring-tooth	10,791	11,302	74,374	73,645	71,724	60,040	105,379	154,153	131,521
Harrows, peg-tooth	38,594	50,729	41,695	38,575	41,399	44,071	76,470	99,720	100,419
Seeding machines:									
Seeders			1,578	4,403	3,915	2,397	1,429	3,878	1,234
Grain drills								449	3,227
Engines and motors:									
Engines, gasoline and kerosene[1]		4	9,776	17,602	19,731	14,837	23,914	26,300	36,200
Tractors						672	700	1,992	2,420
Auto wagons and automobiles						725	2,465	3,559	3,158
Wagons and spreaders:									
Manure spreaders			2,813	18,702	41,136	34,540	30,059	47,873	41,103
Farm wagons				25,466	36,242	29,468	42,442	46,131	51,977
Running gears				3,774	9,582	8,039	13,475	13,455	14,483
Bob sleds				51	252				
Miscellaneous:									
Cream separators			49	3,472	10,910	14,365	30,910	27,445	26,977
Knife grinders	71,718	36,485	42,800	33,830	47,821	36,402	46,462	41,361	51,766
Feed grinders					4,879	5,531	2,929	6,454	7,530
Pump jacks					3,623	2,206	5,684	5,908	9,623
Horse powers				50	95	27			
Saw trucks						60	551	480	533

[1] Includes engines mounted on hay presses and on purchased motor trucks.

TABLE 11b.—*International Harvester Co.—Grain binders—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 298.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	11,054	33,956	33,828	9,936	6,372	8,796	.....	103,942
1904	8,863	29,532	27,613	7,673	6,776	5,797	.....	86,254
1905	5,963	35,941	33,988	5,413	4,392	4,007	671	90,375
1906	4,757	38,728	35,820	5,139	4,995	3,047	88	92,574
1907	4,270	37,500	35,393	5,355	4,887	2,146	75	89,626
1908	2,000	28,736	26,795	3,615	2,164	1,006	52	64,368
1909	2,360	38,789	36,287	4,423	3,202	914	31	86,006
1910	2,541	41,701	38,416	5,360	4,217	686	16	92,937
1911	2,400	44,455	39,980	5,737	4,316	447	.....	97,335
1912, total output for United States (XIV, 126)	.....	.....	.....	.....	.....	.....	.....	111,447

TABLE 11c.—*International Harvester Co.—Mowers—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 301.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	27,908	58,885	78,337	14,326	12,900	13,337	.....	205,693
1904	22,625	53,764	72,721	11,655	16,120	10,461	.....	187,346
1905	14,969	52,487	74,131	8,766	11,352	4,896	4,775	171,376
1906	12,425	51,801	74,154	7,393	11,611	3,551	982	161,917
1907	12,084	60,299	85,048	8,861	12,210	2,760	459	181,721
1908	8,088	53,655	75,422	7,269	9,305	1,506	339	155,584
1909	7,493	57,299	80,584	6,923	8,756	1,362	132	162,549
1910	6,662	60,440	80,046	6,746	10,010	1,074	408	165,386
1911	5,069	52,555	67,759	6,012	9,231	512	92	141,330
1912, total output for United States (XIV, 126)	.....	.....	.....	.....	.....	.....	.....	164,287

TABLE 11d.—*International Harvester Co.—Rakes—Number sold in the United States, by lines, by I. H. Co. of Am., seasons of 1903–1911.*

[IV, 302.]

[This table does not include sweep rakes or side-delivery rakes.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	28,352	45,366	52,975	4,361	13,559	12,547	.....	157,160
1904	14,956	33,110	44,291	6,031	15,236	5,534	.....	119,158
1905	11,756	34,871	47,106	4,629	12,343	3,183	.....	113,888
1906	10,123	33,235	47,284	3,976	11,774	2,113	97	108,602
1907	10,284	37,111	53,992	4,459	13,116	2,050	232	121,244
1908	7,383	31,796	46,719	3,866	11,153	1,228	185	102,330
1909	6,848	32,636	48,242	3,594	11,197	770	187	103,474
1910	6,327	35,065	49,522	3,275	11,250	882	263	106,584
1911	5,093	30,175	41,063	2,918	10,116	413	134	89,912

TABLE 11e.—*International Harvester Co.—Corn binders—Number sold in the United States, by lines, by I. H. Co. of Am., seasons of 1903–1911.*

[IV, 303.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	658	5,604	7,590	1,495	1,812	320	.....	17,479
1904	576	5,165	6,776	1,436	2,023	193	.....	16,169
1905	232	3,567	5,217	997	906	34	.....	10,953
1906	228	4,387	6,737	1,498	1,205	16	.....	14,071
1907	190	5,201	8,112	1,782	1,377	11	.....	16,673
1908	64	3,658	5,248	1,182	647	.....	.....	10,799
1909	73	5,376	7,934	1,821	954	.....	.....	16,158
1910	64	9,321	12,188	2,881	1,295	.....	.....	25,749
1911	6	16,063	17,647	3,751	1,540	.....	.....	39,007

TABLE 11f.—*International Harvester Co.—Reapers—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 299.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	469	1,480	2,507	317	551	313	.....	5,637
1904	339	1,015	1,575	174	547	137	.....	3,787
1905	211	1,033	1,562	179	431	59	1	3,476
1906	241	954	1,492	149	482	43	.....	3,361
1907	167	794	1,259	119	396	16	.....	2,751
1908	122	750	1,223	97	258	12	.....	2,462
1909	97	651	994	87	246	9	5	2,089
1910	95	806	1,290	99	334	10	6	2,640
1911	111	845	1,250	64	206	6	3	2,485

TABLE 11g.—*International Harvester Co.—Headers and push binders—Number sold in the United States, by lines, by I. H. Co. of Am., season 1903–1911.*

[IV, 300.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	.....	1,346	1,909	.....	.....	540	.....	3,795
1904	.....	1,185	1,450	.....	.....	453	.....	3,088
1905	.....	2,052	2,328	22	.....	411	.....	4,813
1906	184	2,241	2,559	.....	.....	311	.....	5,295
1907	322	2,123	2,702	.....	.....	304	13	5,464
1908	154	1,698	2,106	.....	.....	157	.....	4,115
1909	186	2,001	2,233	.....	.....	166	1	4,587
1910	210	2,537	3,437	.....	13	132	.....	6,329
1911	114	1,786	2,329	.....	13	79	.....	4,321

TABLE 11h.—*International Harvester Co.—Tedders—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 308.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	31	.....	.....	.....	6,863	.....	.....	6,894
1904	1,555	1,527	1,870	284	8,242	246	.....	13,724
1905	2,090	5,482	6,238	614	9,104	254	98	23,880
1906	1,205	4,780	5,818	841	5,814	174	214	18,846
1907	690	3,444	4,123	530	3,600	94	285	12,766
1908	1,052	5,424	6,548	743	5,066	116	462	19,411
1909	643	3,569	4,168	483	3,199	77	223	12,362
1910	694	4,627	4,981	573	3,387	61	248	14,571
1911	330	2,026	2,298	310	1,885	13	76	6,938

TABLE 11i.—*International Harvester Co.—Side-delivery rakes—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 307.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	.....	.....	.....	.....	.....	.....	.....	.....
1904	.....	.....	.....	.....	.....	.....	.....	.....
1905	.....	.....	1	.....	.....	.....	1,327	1,328
1906	124	578	532	111	385	20	1,425	3,175
1907	164	1,534	1,687	267	1,077	62	1,373	6,164
1908	340	2,569	2,920	420	1,418	44	667	8,378
1909	264	2,643	3,035	446	1,341	37	700	8,466
1910	321	2,848	3,168	417	1,780	17	760	9,311
1911	222	2,437	2,745	365	1,808	33	376	7,986

TABLE 11j.—*International Harvester Co.—Cultivators—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 309.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	.....	.....	.....	.....	6,331	.....	.....	6,331
1904	.....	.....	.....	.....	6,095	.....	.....	6,095
1905	81	3,311	3,617	71	5,002	30	14	12,126
1906	631	4,593	5,315	351	6,767	171	776	18,604
1907	715	4,523	5,501	308	7,341	177	223	18,788
1908	1,049	5,563	6,881	683	6,443	254	840	21,713
1909	1,478	9,605	12,702	1,273	12,473	422	598	38,551
1910	1,408	9,799	13,248	1,757	9,250	193	1,299	36,954
1911	1,160	9,429	11,190	948	9,532	383	1,692	34,334

TABLE 11k.—*International Harvester Co.—Harrows (disk)—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 310.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	.....	.....	.....	.....	8,484	.....	.....	8,484
1904	.....	.....	.....	.....	10,525	.....	.....	10,525
1905	150	2,718	4,405	69	10,499	67	494	18,402
1906	731	5,240	7,823	381	13,651	227	553	28,606
1907	1,240	6,005	8,716	489	11,839	304	357	28,950
1908	1,136	7,582	10,599	893	6,657	315	450	27,632
1909	1,653	12,406	16,277	1,398	14,171	437	373	46,715
1910	1,660	16,937	22,226	1,608	13,889	376	2,440	50,136
1911	1,593	19,918	22,964	1,770	15,070	272	2,648	64,235

TABLE 11l.—*International Harvester Co.—Harrows (spring-tooth, including combination sections)—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 311.]

Seasons.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	.....	.....	.....	.....	11,634	.....	.....	11,634
1904	.....	.....	.....	.....	14,342	.....	.....	14,342
1905	68	3,246	3,461	40	12,477	21	2	19,315
1906	477	3,869	4,127	314	13,470	116	20	22,393
1907	609	3,818	4,804	590	13,424	156	42	23,443
1908	610	4,536	5,130	661	10,037	77	108	21,159
1909	897	6,694	8,876	1,154	16,657	155	187	34,620
1910	1,019	7,507	9,323	1,643	12,566	126	174	32,358
1911	708	8,114	9,593	1,614	12,003	211	477	32,720

TABLE 11m.—*International Harvester Co.—Harrows (peg-tooth sections)—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 312.]

Seasons.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	.....	.....	.....	.....	17,290	.....	.....	17,290
1904	.....	.....	.....	.....	18,903	.....	.....	18,903
1905	202	5,009	5,164	111	16,611	210	2	27,309
1906	837	6,473	8,509	615	20,720	284	70	37,508
1907	1,731	8,601	12,693	1,017	21,721	470	508	46,741
1908	2,049	12,002	16,156	1,770	12,330	494	798	45,599
1909	2,812	18,211	24,068	2,345	22,195	739	661	71,031
1910	2,982	22,882	29,967	2,908	20,280	356	2,510	81,885
1911	2,747	24,230	28,871	2,649	19,480	627	6,518	85,122

TABLE 11n.—*International Harvester Co.—Knife grinders—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 313.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	12,274	.....	24,595	3,599	120	7,855	.....	48,443
1904	4,428	11,385	17,030	1,146	94	2,738	.....	36,821
1905	2,411	8,250	14,157	1,062	95	1,290	.....	27,265
1906	1,643	7,106	12,213	738	1,074	712	19	23,505
1907	1,509	6,822	11,511	598	1,569	557	389	22,955
1908	829	5,576	8,976	466	1,062	260	690	17,859
1909	848	5,930	10,010	456	931	317	104	18,596
1910	663	6,201	10,068	366	1,021	221	82	18,622
1911	620	5,701	8,350	322	885	107	312	16,297

TABLE 11o.—*International Harvester Co.—Shredders—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911.*

[IV, 304.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	.....	322	717	.....	.....	347	.....	1,386
1904	.....	646	1,110	2	.....	254	.....	2,012
1905	.....	252	674	.....	.....	141	48	1,115
1906	1	258	953	.....	1	204	43	1,460
1907	.....	263	859	2	.....	80	4	1,208
1908	.....	152	486	.....	.....	40	1	679
1909	.....	302	763	.....	.....	69	2	1,137
1910	.....	356	936	4	1	60	3	1,360
1911	3	693	1,808	1	1	133	1	2,640

TABLE 11p.—*International Harvester Co.—Number sold in the United States, by lines, seasons 1903–1911—Corn shockers.*

[IV 305.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903	.....	328	240	.....	.....	.....	.....	568
1904	.....	277	784	.....	.....	.....	.....	1,061
1905	.....	316	411	.....	.....	.....	.....	727
1906	.....	378	280	.....	.....	.....	.....	658
1907	.....	361	302	.....	.....	.....	.....	663
1908	.....	112	77	.....	.....	.....	.....	189
1909	.....	166	115	.....	.....	.....	.....	281
1910	.....	123	221	.....	.....	.....	.....	344
1911	.....	34	139	.....	.....	.....	.....	173

TABLE 11q.—*International Harvester Co.—Number sold in the United States, by lines, by I. H. Co. of Am., seasons 1903–1911—Corn pickers.*

[IV 306.]

Season.	Champion.	Deering.	McCormick.	Milwaukee.	Osborne.	Plano.	Keystone and other.	Total.
1903								
1904		110	82					192
1905		50	13				1	64
1906		141	22					163
1907		549	30					579
1908		315	13	1	1			330
1909		705	14					719
1910		1,311	108					1,419
1911		226	58	2				286

TABLE 12.—*Johnston Harvester Co., Batavia, N. Y.*

[III, 378; IV, 414.]

Seasons.	Binders.	Mowers.	Rakes.	Corn binders.	Reapers.	Headers.	Tedders.
1902	780	2,416	2,056	711	270	220	623
1903	1,002	2,527	1,855	528	272	203	1,051
1904	918	3,300	2,237	625	267	202	2,017
1905	1,766	4,456	2,802	474	341	155	1,982
1906	2,655	5,814	4,368	781	266	35	2,552
1907	2,653	6,047	5,030	983	263		1,675
1908	2,528	6,386	4,905	1,015	228		2,250
1909	3,026	7,011	5,497	1,576	265	5	1,889
1910	3,468	8,457	6,098	1,638	352	7	2,232
1911	3,027	7,026	5,200	3,150	235	46	969
1912	2,798	7,843	5,653	3,870	216		

TABLE 13.—*Messinger Manufacturing Co.,*[1] *Tatamy, Pa.*

[III, 399.]

Seasons.	Mowers.	Rakes.	Tedders.
1902	23	21	9
1903	14	10	3
1904	10	8	10
1905	16	18	3
1906	16	19	3
1907	15	16	6
1908	26	30	8
1909	32	49	6
1910	20	14	4
1911	34	15	2
1912			

[1] This company makes no other harvesting machines.

TABLE 14.—*Minnesota State Prison,*[1] *Stillwater, Minn.*

[IV, 415.]

Seasons.	Binders.	Mowers.	Rakes.
1908		5	
1909	8	25	
1910	72	232	
1911	685	958	23
1912	1,127	1,674	730
1913	2,032	2,173	1,079

[1] The Minnesota prison makes no other harvesting machines.

TABLE 15.—*Plattner Implement Co.,*[1] *Denver, Colo.*

[II, 515–516.]

Seasons.	Mowers.	Sweep rakes.
1905	60	70
1906	140	112
1907	220	180
1908	312	240
1909	390	360
1910	430	420
1911	542	516
1912	587	550

[1] This company makes no other harvesting machines.

TABLE 16.—*Richardson Manufacturing Co.,*[1] *Worcester, Mass.*

[III, 388; see also IV, 414.]

Seasons.	Mowers.	Rakes.	Tedders.
1902	2,618	1,000	390
1903	2,500	1,720	658
1904	1,553	200	532
1905	1,228	1,000	554
1906	1,500	986	471
1907	2,050	1,250	460
1908	2,028	600	450
1909	1,044	1,000	150
1910	1,225	1,300	340
1911	1,695	1,200	200
1912	2,026	.....	.....

[1] This company makes no other harvesting machines.

TABLE 17.—*Thomas Manufacturing Co.,*[1] *Springfield, Ohio.*

[III, 217; see also IV, 414.]

Seasons.	Mowers.	Rakes.	Tedders.
1902	.....	6,000	2,800
1903	.....	3,300	3,600
1904	.....	2,300	3,500
1905	.....	2,400	2,100
1906	275	2,700	2,100
1907	900	2,500	600
1908	1,400	2,800	1,200
1909	2,200	2,600	1,200
1910	3,200	2,900	800
1911	3,400	2,400	400
1912	4,000	2,700	200

[1] This company makes no other harvesting machines.

TABLE 18.—*Walter A. Wood M. & R. M. Co., Hoosick Falls, N. Y.*

[III, 305; see also IV, 414.]

Season.	Binders.	Mowers.	Rakes.	Corn binders.	Reapers.	Tedders.
1902	919	4,916	7,078	106	108	1,526
1903	67	5,140	3,831	.....	163	1,917
1904	763	6,199	3,802	91	153	2,525
1905	980	6,352	5,040	.....	210	2,802
1906	1,817	9,356	6,037	.....	216	3,297
1907	1,807	6,019	3,910	.....	198	605
1908	515	5,560	2,561	.....	68	534
1909	778	7,898	3,442	.....	182	1,700
1910	1,229	7,401	4,214	.....	172	400
1911	1,043	6,612	5,173	.....	189	1,169
1912[1]	860	7,125	3,586	.....	105	53

[1] The figures for 1912 were stated differently by the Wood Co. at different times (III, 305, and IV, 414). We have printed in the table the largest figure given by them for 1912.

APPENDIX C.

TABLES SHOWING PERCENTAGES OF BUSINESS CONTROLLED BY INTERNATIONAL HARVESTER CO. IN 648 TOWNS OF THE UNITED STATES, AS TESTIFIED TO BY DEFENDANTS' WITNESSES.

The following tables form an analysis of the testimony given by defendants' witnesses only. They are figures taken from and averages based upon the testimony of 652 dealers called by defendants from 648 towns in the United States.

These tables do not include any of the testimony given by the witnesses for the United States. Therefore, they state the percentages from the point of view most favorable to defendants.

100 followed by a minus sign, thus "100—," stands for "nearly 100 per cent," or "nearly all."

A figure followed by a plus sign, thus "90+," means "more than 90."

Two figures with a dash between, thus "90-95," mean "between 90 and 95."

TABLE 1.—*Table showing for each State the average percentage of business in the several harvesting lines done by the International Harvester Co., testified to by defendants' witnesses.*

[The following table shows the average percentage of business done by the International Harvester Co. in each State named in the table in binders, mowers, rakes, twine, corn binders, spreaders, tedders, and headers, as testified to by defendants' witnesses:]

State.	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Spreaders.	Tedders.	Headers.
Illinois	84	82	79	64	92	60	84	.....
Indiana	85	81	66	58	79	54	69	.....
Iowa	86	73	70	67	93	46	.....	.....
Kansas	83	75	77	64	94	62	.....	80
Kentucky	94	85	77	86	75	84	.....	.....
Maryland	78	75	62	73	57	50	65	.....
Michigan	85	85	66	59	98	70	100	.....
Minnesota	81	85	84	48	89	48	82	.....
Missouri	86	77	71	67	87	100	.....	.....
Montana	80	66	66	.....	.....	.....	.....	.....
Nebraska	86	80	78	66	92	56	.....	90
New York	74	70	75	67	90	55	65	.....
North Dakota	84	88	89	52	95	45	.....	.....
Ohio	82	78	69	53	84	53	64	.....
Oklahoma	82	72	71	65	92	.....	.....	90
Pennsylvania	77	75	69	59	75	53	62	.....
South Carolina	75	75	75	.....	.....	.....	.....	.....
South Dakota	88	78	83	61	99	.....	.....	50
Tennessee	87	80	95	75	.....	75	100	.....
Virginia	90	90	.....	50	.....	.....	100	.....
Utah	65	65	65	.....	.....	.....	.....	.....
Wisconsin	85	81	79	61	88	58	69	.....
Average for all States, per cent	83	78	75	63	86	54	78	78

TABLE 2.—*Table showing the number in each State of defendants' witnesses who testified as to percentage of business done in their towns by the International Harvester Co. in binders, mowers, rakes, twine, corn binders, spreaders, tedders, and headers.*

[The following table gives the number of defendants' witnesses from each State who testified in respect to percentages controlled by the International Harvester Co. in the agricultural machines stated in the table.]

State.	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Spreaders.	Tedders.	Headers.
Illinois	45	39	29	34	30	12	6	.....
Indiana	21	20	15	17	8	9	4	.....
Iowa	73	70	36	49	45	11	.....	.....
Kansas	100	103	88	89	91	14	.....	39
Kentucky	5	4	4	4	3	4	.....	.....
Maryland	4	4	4	4	2	1	3	.....
Michigan	17	17	10	11	12	6	1	.....
Minnesota	64	56	51	27	52	15	2	.....
Missouri	77	75	66	63	44	1	.....	.....
Montana	1	1	1	.....	.....	.....	.....	.....
Nebraska	58	54	45	32	12	9	.....	1
New York	5	4	2	3	1	2	1	.....
North Dakota	22	22	19	18	17	3	.....	.....
Ohio	21	19	12	12	9	10	10	.....
Oklahoma	21	18	15	21	23	.....	.....	1
Pennsylvania	17	16	12	8	2	6	13	.....
South Carolina	1	1	1	.....	.....	.....	.....	.....
South Dakota	24	24	21	8	20	.....	.....	1
Tennessee	2	2	1	2	.....	1	1	.....
Virginia	1	1	.....	1	.....	.....	1	.....
Utah	1	1	1	.....	.....	.....	.....	.....
Wisconsin	40	37	32	30	37	14	10	.....
Total number of witnesses	620	588	465	433	408	118	52	42

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to.*

ILLINOIS PERCENTAGES.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Alexis: Ed Bangston (X 408–409).	100	.....	.....	.....	100	
Aurora: L. J. Wolf (X 545)	80–85	80–85	75–80	75–80	80	Shredders, 50 per cent; tedders, 80.
Barrington: J. A. Jenks (X 548).	95	95	95	33+	90	Tedders, 100; hay loaders, 50; shredders, 95.
Batavia: J. W. Warne (X 555).	90	85	85	75	85–90	
Canton: T. B. Bass (X 381)	75	50+	.....	.....	75	
Caledonis: J. R. Ralston	80	80	50	.....	95	Spreaders, 60; tedders, 40.
Carlinville: A. Paul (XI 170)	90	60	70	75	.....	Spreaders, 70; cream separators, 50.
Champaign: S. E. Dillavou (XI 113–114).	75	50	.....	.....	.....	
Clinton: I. N. Bailor (XI 173).	66	95	75	60–75	.....	
Eden: C. F. Holt (X 378–379).	90	80	90	60	.....	
Edenburg: A. M. Firey (XI 146).	80	70	.....	50+	100	
Elgin: B. H. Britton (X 551–552).	90	90	95	50	80	Separators, 5; shredders, 10.
Elkhart: C. Stahl (XI 152)	75	.....	.....	.....	.....	
Essex: B. A. Burgess (XI 110–111).	95	95	95	80	100—	
Foosland: G. A. De Long (XI 96–97).	100	100	100	50	.....	Wagons, 30.
Gelesburg: C. M. Edmondson (X 416).	50+	50+	50+	.....	.....	
Genesco: O. W. Holt (XI 395).	95	75	50–60	50+	85–90	
Harvard: A. C. Manley (XI 243).	100	100	100	75	100	Spreaders, 66; tedders, 90+.

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

ILLINOIS PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Jerseyville: J. M. Beatty (XI 276).	60	.....	.....	.....	.....	
Kirkland: P. J. Lundberg (XI 248–9).	75	95	100	50	60	Spreaders, 75–80; S. D. rakes, 80—.
Lewistown: W. C. Purdy (X 418).	80	90	90	75	100	Spreaders, 50.
Manito: J. A. Marshall (X 444).	90	90	50	70	100	Spreaders, 30–40.
Marengo: H. P. Hauschildt (XI 259).	.....	.....	.....	.....	90–95	Spreaders, 90–95.
Marley: C. F. Haley (X 530–531).	90–95	90–95	75–80	80–85	90	Spreaders, 40–50; wagons, 5–10; S. D. rakes, 5–10.
Milan: H. S. Dibbern (XI 408–409).	95	80	100	80	100	Tedders, 100.
Minonka and Joliet: W. H. Kaffer (X 529).	75	75	90–95	50–60	[1] 100 [2] 90	
Monee: J. P. Conrad (XI 101).	100	100	100	50+	100—	
Morris: D. G. Cronin (X 542).	90–95	75	.....	40–50	.....	
Mount Carmel: P. Shaw (X 461).	90	90	75	60	.....	Spreaders, 10.
Mount Vernon: F. P. Watson (XI 271–272).	75–80	75–80	75	100	.....	
Ottawa: E. A. Reed (X 838–839).	95	95	.....	80	95	
Paris: A. B. Huston (X 302).	95	.....	.....	.....	.....	
Paxton: C. A. Nordgren (XI 117).	75–80	85	.....	80	.....	Spreaders, 95.
Polo: A. S. Tavenner (XI 268).	80	.....	.....	25	100	
Poplar Grove: J. Robinson (XI 220–221).	80	80	80	.....	90	
Rantoul: E. Talbot (XI 127).	90–95	85	85	80	.....	Spreaders, 75.
Rossville: C. A. Shumate (XI 90–91).	90	70–75	50+	50—	.....	
Shelbyville: B. S. Yost (XI 163).	90	85	50	40	100	
Somonauk: A. H. Betz (X 523–524).	95	90	.....	.....	100	
Springfield: A. W. Sicking (XI 159–160).	75	75	.....	75	100	
Stillman Valley; A. E. Agnew (XI 223–224).	75	75	.....	50+	75	
Vandalia: J. S. Evans (XI 279).	90	.....	.....	.....	.....	Spreaders, 60–70.
Virginia: W. W. Bishop (XI 166).	50+	90	90	60	100	
Warren: W. E. Stackpole (XI 215).	80	100	.....	80	.....	
Watseka: F. H. Burnham (XI 104).	100	75	75	90	100	
Woodstock: F. A. Walters (XI 235).	75	90	90–95	75–80	90	Tedders, 95.

INDIANA PERCENTAGES.

Berne: W. Baumgartner (X 465).	100	85	75	65	.....	
Brazil: P. C. Tilley (X 314).	96–98	90	.....	.....	100	
Corydon: N. H. Bulliert (XI 73).	90	80	65	75	65	Spreaders, 50.
E. Germantown: B. T. Sourbeer (X 310).	100	95–100	100	60–70	.....	Spreaders, 50; tedders, 75.
Goshen: O. M. Curtis (XII 534).	60–65	.....	.....	.....	.....	
Lebanon: J. W. Shelby (X 392–393).	95	95+	100	40	90–95	Spreaders, 35–40; shredders, 75.
Lowell: A. H. Maxwell (XI 123–124).	90–95	90–95	60	60–75	80	Spreaders, 70–75 last year, 50 this year; hay presses, 75.

[1] Minonka. [2] Joliet.

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

INDIANA PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Michigan City: A. C. Heidtschmidt (XII 520-521).	90	90	90	10	.....	Tedders, 50.
Middlebury: E. Varns (XII 515-6).	80	85	S. D. 50	50	.....	Hay loaders, 25.
Milford: W. O. Scott (XII 526-7).	90-95	90-95	S. D. 50	.....	100	
Monterey: J. Marbaugh (XII 493-4).	90	90	50	40	.....	Hay loaders, 90.
Morocco: J. R. McMarty (XI 119-120).	60	60	50	70	.....	Spreaders, 75.
New Carlisle: F. Zeck (XII 509).	90-95	85-90	.....	75	50	
Owensville: W. H. Tichenor (X 483).	100—	75	40	75	.....	Tedders, 50.
Peru: C. Betzner (X 385)....	50+	50+	50+	40	.....	
Salem: J. W. Gielstrap (XI 78-9).	75	75	75	75	100	Spreaders, 50; hay presses, 100; tedders, 100; S. D. rakes, 100.
Sidney: E. P. Tridle (XII 497).	75-80	80	40	60	50	Spreaders, 50; hay loaders, 40.
Silver Lake: J. Summe (XII 529-30).	90-95	75	.....	75	.....	
South Bend: Al. Lindhal (XII 518).	85-90	60	.....	50	.....	S. D. rakes, 50.
Three Oaks: C. F. Bachman (XII 523).	100	90	85-90	.....	.....	Spreaders, 65.
Vincennes: J. W. Emison (X 306).	90	90	.....	60	.....	Spreaders, 60-70.

IOWA PERCENTAGES.

Ackley: H. H. Hetland (XII 344).	85	75	85	60-70	95	
Adair: W. C. Lyle (V 354-355).	90-95	80+	.....	66+	.....	
Allison: W. M. Hunter (XII 336).	75-80	70	.....	70	.....	
Ames: S. L. Longbrau (V 238).	50+	.....	.....	.....	.....	
Anamosa: J. A. Hartman (XI 18).	100	60-75	100	.....	100	
Atlantic: W. D. Lowe (V 725).	.....	65	.....	55-60	.....	
Barnum: J. H. Eastman (VIII 406-7).	100	100	100	.....	100	
Belmont: V. Griesy (VIII 420-1).	80	65	65	.....	100	
Bode: E. J. Ericson (XII 581).	80	70	75-80	50—	100	
Boone: A. R. Crary (XII 565).	90	50	50-75	50	90-100	
Britt: F. B. Glidden (VIII 384).	100—	66+	66+	.....	100	
Claremont: J. H. Sheehan (XI 39).	85-90	85-90	.....	40	85-90	
Cresco: O. J. McHugh (IX 385-6).	80-85	90	90	65	100	Spreaders, 30-40.
Dana: J. W. Jameson (V 36).	95	80-95	.....	.....	.....	
Dike: C. H. Myers (XII 327).	90	90	40-50	75-80	95	
Donnelson: E. Parmknecht (XI 412-3).	100—	50+	.....	50	.....	
Dows: O. G. Longley (XII 600-1).	90	50—	66+	66+	100	
Dunlap: M. C. Dally (V 62-63).	100	75	50+	.....	.....	
Earling: J. Ford (V 692-3)..	.....	100	85	100	100	
Essex: A. E. Osterholm (V 707).	.....	75	50+	50	60-75	
Everley: F. G. Ruge (XII 568).	90	75	75	40	80	
Fairfield: R. H. Spence (XI 447).	80	.....	.....	.....	100	

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

IOWA PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Farnhamville: P. A. Jurgensen (XII 562).	95	95	95	95	.....	Spreaders, 70.
Farragut: J. C. Jones (V 697).	.....	95	50	100	.....	
Fonda: H. Leef (XII 559)...	90	60	90	90	.....	
Galt: W. R. Burt (XII 578).	75	75	.....	50	.....	
Gilmore City: C. W. Edgington (XII 571).	85	100	95	80	100	Spreaders, 50.
J. L. Hunter (VIII 429).....	85–90	85–90	85–90	75	100	Spreaders, 25.
Greene: M. H. Sproul (XII 318).	60–75	50	.....	.....	.....	
Greenfield: T. Coffey (V 209).	75	40	40	.....	.....	
Grundy Center: A. Meier (XII 350).	75	75	60	75	100	
Guthrie Center: F. Webb (V 366).	.....	.....	.....	50	.....	
Hamburg: C. W. Davey (V 246).	100	90	100	.....	.....	
Hull: J. Gorzeman (VIII 409)	80–85	75	80–85	.....	100	
Ladora: M. D. Snavely (XI 30).	100	66+	50	50	100	
Lake Park: H. C. Meyer (VIII 515–6).	80	55	100–	50+	100	Binders, last 2 or 3 years, 100.
Lansing: R. Hufschmidt (XI 21).	75	75	75	75	75	
Le Mars:						
G. E. Pew (VIII 400–1)..	75	60	60	60	75–80	
W. H. Zimmerman (V 374).	90–95	70–75	50	.....	.....	
Logan: F. D. Stearns (V 183–4).	90–95	65	65	.....	90–95	
Macedonia: C. H. McCready (V 652).	75	75	75	.....	.....	
Marathon: J. A. Hitchcock (VIII 413).	90	90	90	75	100	
Manchester: W. D. Hoyt (XI 45–6).	75	50	.....	75	75	
Maquoketa: C. A. Leach (XI 49).	95	90	100	.....	100	
Marengo: J. W. Lonergan (XI 11).	95	75	50+	50+	100	
Menlo: G. C. Buckley (V 349).	100	100	100	.....	.....	
Morning Sun: B. McKinley (XI 418).	100	80	95	90+	95	
Missouri Valley: W. S. Tamisieea (V 251).	100	75	90	.....	.....	
New Hampton: C. W. Schnurr (XI 33).	75–80	65	65	70	95+	Spreaders, 20.
Newton: W. C. Bergman (XI 7).	50–60	.....	.....	.....	.....	
Oldebolt: J. Mattes (V 286–7).	100	75	75	.....	.....	
Osage: W. J. Towner (IX 400–1).	90	95	100	40	100	Spreaders, 25.
Osceola: J. W. McDonough (V 415–6).	100	75–80	.....	.....	.....	
Oskaloosa: I. E. Thomas (XI 24–5).	80	60	60	100	100	
Ottomwa: W. H. Giltner (XI 444–5).	95	.....	.....	50	95	
Peterson: D. McMillan (XII 596–7).	95	.....	.....	33+	100	Spreaders and wagons, 50.
Prairie City: J. H. Little (XI 14–15).	100	75	50	75	100	
Redfield: G. F. Armfield (V 361).	95	80	50	75	.....	Spreaders and wagons, 50; engines, 75.
Rembrandt: A. C. Schluntz (XII 321).	80	75	65–70	40	.....	
Remsen: J. Groth (V 389)...	100	.....	.....	.....	.....	
Renwick: P. Claussen (XII 586–7).	90	100	90	75	100	Spreaders, 85; wagons, 75–80; S. D. rakes, 75; sweep rakes, 75; engines, 75; harrows, 50.
Riverton: J. W. McMichael (V 703–4).	100	55+	.....	80	.....	

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

IOWA PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Rockwell: J. Johnson (IX 398–9).	100	95	100	50	100	Spreaders, 80–85.
Sac City: Jas. Wilson (V 220).	90	50	.....	.....	.....	
Scott: P. Kraft (XI 36–37)..	75–80	75–80	50	65	75–80	
Sidney: C. J. Esden (V 632).	75–80	66+	.....	.....	.....	
Sloan: J. W. Murphy (V 384).	90	75	50	85	95	Wagons, 20; cream separators, 50; engines, 10.
Spencer: H. E. Pitcher (VIII 425–426).	75	75	50	.....	75	
Stanhope: P. A. Mathre (VIII 404).	60	60	60	.....	80	
Sumner: F. C. Shreve (XI 51).	95	80–85	50	50	99	
Tabor: P. B. Laird (V 322–3).	50+	50+	.....	.....	.....	
Van West: W. D. Hard (X 448–9).	90	90	.....	.....	90	
Varina: R. Lilly (VIII 416–417).	90	90	100	75	.....	
Victor: G. Steffy (XI 27–28)	100	50	50	95	100	
Wall Lake: V. Staab (XII 574–5).	95	.....	75	90	95–100	Spreaders, 25.
Whiting: W. C. Whiting (V 461).	75	75	75	100	.....	
Winterest: W. F. Smith (V 15–16).	100	50	33+	75	.....	
Woodbine: A. E. De Cou (V. 260).	100—	75	30–40	.....	.....	

KANSAS PERCENTAGES.

Abilene: G. W. Minick (VII 580).	75–80	50–60	75	50	90	
Ada: J. H. Kreamer (VII 537).	90–95	95	95	.....	100	Headers, 95
Alton: S. J. Hibbs (VII 420).	100—	75	75	75–80	100	Headers, 25–35.
Anthony: R. O. Farmer (VI 744).	50+	.....	.....	.....	.....	
Arcadia: L. H. Dunton (VI 623–4).	100	50+	.....	50+	.....	
Arlington: J. S. Trembley (VI 540–541).	90+	100—	90–100	.....	90	
Attica: L. A. Jones (VI 792).	50	50+	100	75	100	
Atwood: U. C. Thomas (VII 392).	95	90	90	100	100	Headers, 90.
Axtell: D. C. O'Neill (VII 160).	100	100	100	50	100	
Bancroft: J. E. Wilcox (VI 213–4).	95	50–60	60–75	60	100—	
Barnard: W. R. Blanding (VII, 540–541).	100	60	70	70	100	Headers, 60 (to 1911, 100).
Beattie: L. E. Helvern (VII 156).	100	75	66+	.....	.....	
Belleville: G. H. Collins (VII 441).	75	80	.....	.....	90–95	
Beloit: E. James (VII 355)..	75	50	50	50	.....	Headers, 75.
Bemington: W. O. Ostrander (VII 460).	95	60–70	95	60	100	Headers, 95; spreaders 95.
Beverley: P. Bergman (VII 525).	90	75	90	50	100—	Headers, 60; spreaders, 80.
Bluff City: C. R. Clift (VI 766).	85	50	.....	80–90	95	
Brewster: F. H. Horney (VII 414–415).	100	75	75	90	100	Headers, 90.
Bronson: E. W. Dunkerton (VI 588–9).	.....	100	.....	50	75	
Burdett: R M. Norris (VI 468).	75–80	75–80	75–80	60–75	100	Headers, 75.
Burlingame: F. W. Miner (VII 479–480).	95	80	90	60	100	Spreaders, 10; wagons, 5.
Caldwell: S. S. Clark (VI 707–708).	90	90	75	33+	100	

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

KANSAS PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Canton: J. B. Champlin (VII 453).	90–95	90–95	90–95	50	100	Headers, 100.
Chapman: Chas. London (VII 560).	70	90	90	75	100—	Headers, 50; spreaders, 80–85.
Cherokee: T. G. Wiles (VI 515).	90+	60–75	65–75	50+	100	
Cherryvale: J. A. Clayton (VII 528–529).	75	60	60	60	95–100	Spreaders, 75.
Cimarron: J. A. Evans (VI 422).	.....	75	.....	.....	.....	Headers, 50.
Clay Center: M. Smith (VII 545–546).	90	80	80	90	100	Spreaders, 50.
Clearwater:						
L. S. Geisendorf (VI 761).	90–95	90–95	90–95	50	90	
W. H. Matthews (VI 701)	50+	50+	.....	.....	.....	
Colby: J. T. Fitzgerald (VII 348).	100—	75–80	75	.....	100	Headers, 65.
Conway Springs: W. H. Hubbard (VI 781–2).	90	90	90	50	90–95	
Corning: J. Tomlinson (VII 256).	95	75	75	75	100	
Cuba: J. G. Bachelor (VII 378).	85–90	75	60–75	50	100	
Culon: C. N. Mayo (VII 510).	80	.....	.....	.....	.....	
Delia: J. H. Mills (VIII 57).	95	90	90	60–70	95	
Delphos: R. H. James (VII 517).	90	75	75	50	100	Headers, 95.
Denton: J. H. Curtis (VII 209–10).	100	25	25	90	100	
Eldorado: J. C. Powell (VI 750–1).	.....	75	75	.....	50+	
Elmo: A. L. Schrader (VIII 17).	60	50	80–85	40	75	
Emporia: W. E. Haynes (VII 568).	75–80	85–90	85–90	50	75	Spreaders, 50.
Eskridge: W. Trusler (VII 554–5).	90	100—	100	70	100	
Falun: E. Sundgren (VII 475–7).	90	90	95	75	98	Headers, 85; spreaders, 75; wagons, 75; engines, 90; separators, 75; sweep rakes, 50.
Garden City: S. Schulman (VI 461).	75–80	50+	60–70	60–70	100	Headers, 75–80; engines, 25.
Garnett: R. R. Anderson (VII 329–330).	90–95	50	60	50	80–85	
Germantown: L. Roberts (VII 323).	60–75	50	75	75	.....	
Goddard: H. C. Linnebur (VI 846).	100	98	90	50	100	
Goodland: W. Walker (VII 400).	75	70–75	70–75	.....	100	
Greenleaf: L. Schriner (VII 425).	50	50	50+	50	100	
Haven: T. K. Kennedy (VI 410).	95	80–90	100—	60	.....	
Hazleton: D. O. Edwards (VI 776).	85	.....	85	50–60	100	
Herndon:						
J. R. Kirchner (VII 387).	85–90	80	90	90	100	Headers, 85–90.
L. L. Tongish (VII 472).	90	85	90	100	100	Headers, 85.
Hiawatha:						
E. Meyer (VII 64)	90—	90	75	75	100	
J. Sterns (VII 51–52)	90	90	75	60	100	
Hill City: C. E. Webster (VII 506).	.....	.....	.....	50 *U*	.....	
Hoisington: G. Nuss (VI 822–3).	70–75	70–75	70–75	50	60–65	Headers, 65.
Howard: E. K. Dobbins (VI 741–2).	.....	75	75	80–90	[1] 100—	
Huron: W. E. English (VII 218–9).	[2] 50	.....	.....	.....	.....	Sulky rakes, 50.
Independence: A. C. Whitman (VI 602–3).	50+	50+	50+	50	100	
Iola: T. B. Shannon (VI 636).	80–90	50	.....	.....	80–90	
Jennings: W. P. Noone (VII 429).	100	75	50	.....	.....	Headers, 75.

[1] All except 1 sale.

[2] All to 1911.

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

KANSAS PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Junction City: W. F. Muenzenmyer (VII 575).	95	75–80	90–95	60–75	100	
Kensington: J. S. Shinkle (VII 383).	80	80	75–80	75	100—	Headers, 65.
Kiowa: L. R. Benton (VI 877).	75	50–60	50–60	50	80	
Larned: E. R. Frizell (VI 403).	66+	50–60	50–60	50	100—	Headers, 60.
Lebanon: J. M. Tygart (VII 367).	75	90	95–100	100	.....	Headers, 100.
Liberal: M. H. Scandrett (VI 501).	80	100	75	60–75	95	Headers, 70.
Liberty: P. F. Heckman (VI 690–1).	90+	50+	.....	50	100	
Lincoln: A. E. Achterberg (VII 533–4).	90	80–85	90	70	100	Headers, 70; spreaders, 70.
Little River: F. Hodgson (VII 449–50).	90	75	75	60	95	Headers, 75–80.
Ludlow: E. A. Dusenberry (VI 321).	80	50	.....	20	.....	
Marquette: T. J. Collier (VII 445–6).	80	90	90	80	95	Headers, 95.
Mayetta: J. Slattery (VII 488–9).	50+	60	50	75–80	100	
McPherson: J. O. Henson (VI 851–2).	50+	.....	.....	.....	.....	
Meade: W. F. Casteen (VI 456–7).	80	75	75	60	80	
Milford: A. F. Fawley (VII 587).	60	60	60	.....	.....	
Miltonville: S. K. Ober (VII 410).	95	75	75	75	100	Headers, 100; wagons, 25; spreaders, 50.
Moline: I. W. Beal (VI 747–8).	.....	75	.....	50	100	
Muscatah: W. C. Allison (VII 127–8).	95	95	95	100—	100	
Norton: M. B. Lease (VII 434–5).	90–95	90	90	50+	100	Headers, 100—.
Nortonville: J. Mair (VII 337).	100	95	100	.....	75	
Oberlin: H. A. Griffith (VII 405–6).	.....	75+	.....	100—	75	Headers, 75.
Osborne: H. H. Wooley (VII 467–8).	90	90–95	70	70–75	100	Headers, 75; spreaders, 80–85; engines, 60–65, wagons, 20.
Oswego: O. Gossard (VI 577).	80	50	50	75	100	
Partridge: H. J. Haskard (VI 414).	90	90	90	50	95+	
Peabody: F. H. Prescott (VIII 14).	.....	75	75	40	90	
Prairie View: A. F. Walker (VII 343–4).	95	95	65+	100	100	Headers, 75.
Princeton: C. Blouch (VII 296).	.....	99	100	50	100	
Pratt: R. Hursch (VI 438)..	60	75	75	.....	100	Headers, 75.
Ramona: S. C. Eskeldson (VIII 19–20).	85–90	50+	.....	.....	85–90	
Ramona: W. Secrest (VII 549).	90	85	75	60	100	Spreaders, 50.
Rappco: F. R. Strowing (VII 502).	75–80	75–80	65–70	60	100	
Rossville: W. O. Scaggs (VII 493).	50	50	60	50	.....	
Russell: W. W. Nutting (VII 522).	90	75	75	75	100	Headers, 75.
Sabetha: J. H. Mishler (VII 77).	95	90	90	65	100	
Salina: J. A. Lockstrom (VII 483–4).	90–95	90	58	60	100	Headers, 75; spreaders, 50–60.
Sedan: J. O. Tullis (VI 787–8).	100	80+	75	90	100	
Seneca: L. L. Scoville (VII 222–3).	90–95	75	50	75	50+	
Severance: Ed. Heeney (VII 325–6).	100	100	.....	100	.....	
Simpson: G. Johnson (VII 456).	95	80	70	60	95	Headers, 95; spreaders, 75.

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

KANSAS PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
St. John: H. Gray (VI 545-6).	75	50	.....	75-80	100	Headers, 75.
Sylvia: W. A. Austin (VI 552-3).	75	75	75	50	100	Headers, 80.
Thayer: L. A. Stall (VI 686-7).	.....	.....	.....	.....	100	Spreaders, 50.
Topeka: H. Seery (VIII 34).	75	75	.....	.....	75	
Troy: O. Winzer (VII 259)..	95	95	95	60	100	
Vining: L. D. Haynes (VII 362-3).	75-80	95	.....	50	100	
Wamego: O. Stelzner (VIII 37).	75	75	80	60	75	
Wathena: G. Manville (VII 96-97).	95	90-95	90-95	50+	.....	
Webber: F. A. Browning (VII 371).	90	80	90-95	50	100	

KENTUCKY PERCENTAGES.

Allensville: J. L. Orr (XI 70).	96-97	.....	.....	100	100	Spreaders, 99; wagons, 80.
Bardstown: P. B. Grigsby (XI 66).	90-95	90	75	90	50	Spreaders, 50.
Glasgow: S. H. Franklin XI 81-82).	90	75	75	.....	.....	Wagons, 10-15.
Lebannon: T. A. Mattingly (XI 84).	100	85	85-90	75	.....	Spreaders, 98.
Springfield: J. H. McClure (XI 76).	95	90	75	80	75	Spreaders, 90; wagons, 15; harrows, 90.

MARYLAND PERCENTAGES.

Chestertown: C. M. Satterfield (XII 225).	75-80	65-75	50	40-50	.....	Tedders, 50.
Hagerstown: F. F. Foltz (XII 217).	85-90	85-90	85-90	85-90	.....	Tedders, 85-90.
Oakland: A. D. Naylor (XII 233-4).	90	85	50	90	50	
Westminster: M. A. Doyle (XII 209).	65-70	65-70	65-70	80	65-70	Spreaders, 50; tedders, 60-75.

MICHIGAN PERCENTAGES.

Adrian: G. A. Wilcox (X 466-7).	90	90	.....	50	75	
Allegan: W. Danneberg (XI 457-8).	100	95	.....	.....	.....	
Ann Arbor: V. G. Benz (X 486-7).	75	75	50	.....	.....	
Dundee: S. H. Reynolds (X 577.)	90	90	90	15-20	75	Shredders, 25.
Grass Lake: E. J. Foster (X 505-6).	75	75	75	75	75	Spreaders, 75.
Hastings: W. H. Hall (XI 453).	75-80	75-80	.....	.....	100	
Holly: W. H. Meacham (X 561).	66+	95+	90	66+	100	
Kalamazoo: O. H. Boylan (XII 480).	90	55-60	.....	.....	50	
Lowell: H. Nash (XI 450)...	95	95	.....	.....	95	S. D. rakes, 66—.
Martin: A. Patterson (XI 439-40).	95	95	.....	75	.....	Spreaders, 70-80.
Mason: J. E. Taylor (X 501-2).	85	90	50	60	70	Spreaders, 60; tedders, 100; shredders, 100; wagons, 75; harrows, 70; walking cultivators, 50.
Milford: T. H. Paddey (X 558-9).	90-95	100—	40	20	90	Shredders, 50; S. D. rakes, 40.

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

MICHIGAN PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
New Haven: J. Baldwin (X 570).	75	75	75	50	75	
Owasso: W. E. Payne (X 498–499).	95	95	.....	75–80	100—	Spreaders, 75.
Three Oaks: C. F. Bachman (XII 523).	100	90	85–90	.....	.....	Spreaders, 65.
Utica: A. R. Hahn (X 573–4).	80	80	80	90	80	
Woodland: J. S. Riesinger (XI 441–2).	75	85	25	75	75	Spreaders, 75–80.

MINNESOTA PERCENTAGES.

Aitkin: L. E. Turner (X 198–9).	75	100—	75	.....	.....	
Albany: N. J. Theisen (IX 70).	[1] 50	.....	.....	.....	.....	
Argyle: F. Tiedt (IX 415–6).	80–85	80	90	65.70	100	
Austin: W. H. Murray (IX 392).	66+	.....	.....	.....	.....	
Badger: I. L. Iverson (IX 418).	90	90	95	40	100	
Barnesville: J. McGrath (IX 123–4).	80+	80+	80–85	50	100	Spreaders, 75.
Blooming Prairie: E. Morton (IX 183).	90	90	60	40	90	
Brainerd: E. C. Peabody (IX 145–150).	66+	66+	100	65	90+	
Brandon: M. Olson (IX 121).	80	.....	.....	.....	100	
Breckenridge: J. Kelly (X 15).	75	75	75	.....	75–80	
Browersville: P. Hermes (IX 58–9).	75	.....	.....	.....	.....	
Cambridge: D. O. Anderson (IX 207).	90	90	90	50	.....	Spreaders, 50.
Canton: J. Dunford (IX 60).	60	.....	.....	.....	.....	
Carver: J. Hebeisen (X 64).	90	85	90–95	60–65	100	
Cleveland: C. R. Davis (IX 170).	80	100	75	75	.....	
Cold Springs: N. C. Wenner (IX 125–6).	100	95	100	25	100	Spreaders, 25.
Cyrus: H. C. Estby (X 208).	90	90	100	.....	100	
DeGraff: P. W. Bresnahan (X 108).	85	85	90	.....	95	
Detroit: C. Wackman (X 210).	90	90	80	.....	100	
Dumont: M. J. Lynch (X 216).	80	60	70	.....	100—	
Edgerton: A. Pilling (VIII 473).	80	80	80	.....	.....	Spreaders, 25.
Elk River: E. P. Babcock (IX 133).	100	100—	100—	.....	100—	Spreaders, 25.
Foreston: P. C. Lynch (IX 140).	.....	100	100	.....	.....	
Hancock: A. J. Maylott (X 196).	.....	.....	.....	.....	100	
Hastings: F. A. Engel (IX 270).	66+	66+	.....	40	66+	
Jordan: C. H. Casey (X 97–98).	90–95	90–95	80	20–25	100	
Kasson: D. W. Brewer (IX 272–3).	85–90	85–90	80	35	[1] 65	Spreaders, 40.
Kimball: C. L. Spaulding (X 139).	75	50–55	75	.....	.....	
Kingston: W. J. Palm (X 76).	90	90	90	(his) 50	100	
Lake City: J. Schmauss (IX 276–7).	75	75	50	20	50	
Lake Crystal: J. C. James (X 201–2).	90	90	90	.....	100	
Lake Elmo: G. A. Moyer (IX 203).	95	95	95	.....	25	
Lake Park: A. F. Snell (IX 111–12).	95	95	95	25	100	Spreaders, 50.

[1] Before, 100.

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

MINNESOTA PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Lanesboro: A. J. Lund (IX 245–6).	95	90–95	50	90–95	.....	
Le Sueur: C. S. Cosgrove (IX 174–175).	80–85	90	75–80	40	85	
Lewiston: E. W. Fisher (IX 239).	50+	.....	.....	.....	.....	
Little Falls: J. Eich (IX 216–217).	95+	90–95	75	75	95–100	
Long Prairie: C. J. Dempsey (IX 45–46).	75	80	.....	.....	.....	
Madelia: J. C. James (X 202).	85	85	85	.....	90	
Mankato: J. Hodson (IX 192).	50+	50+	.....	.....	75	Spreaders, 50.
Milan: T. Anderson (X 129).	90–95	90–95	90–95	.....	95	
Montevideo: G. Clagget (X 120).	75	.....	.....	.....	60	
Monticello: F. H. Hitter (X 136).	75	90	75	.....	90	
Murdock: J. Powers (X 136).	75	90	75	.....	90	
Nassau: J. C. Hewitt (VIII 290–291).	95	95	70	.....	98–99	
Nerstrand: A. B. Larson (IX 264).	65–70	.....	.....	.....	68–70	
Norwood: P. O'Brien (IX 195).	90–95	90–95	75	50	80	Spreaders, 60; tedders, 75.
Oliva: G. Melhouse (X 133).	98	98	98	.....	100	
Osakis: A. B. Anderson (IX 220–221).	95	95	100	50	100	Spreaders, 70.
Parkers Prairie: A. W. Nelson (IX 100–101).	75–80	75–80	75–80	50	75–60	
Paynesville: A. Nehring (X 187).	75	75	75	.....	85	
Pelican Rapids: C. D. Hangen (X 205).	90	90	90	.....	100	
Pierz: J. H. Grell (IX 135–6).	96–100	100	100	.....	100	
Pine River: H. S. Gilbert (IX 114–115).	.....	95	95	50	100	
Plato: T. F. Miller (X 94–95).	.....	.....	.....	.....	100	Spreaders, 95.
Porter: O. Miller (VIII 313).	66+	66+	100	.....	100	
Prior Lake: J. A. Lyons (X 142–3).	90	90	100—	75	90	Tedders, 75; spreaders, 75.
Redwood Falls: W. T. Wilcox (VIII 392).	75	75	75	.....	75+	
Rochester: H. R. Hymes (IX 235).	80–90	80–90	.....	.....	90–95	
Rush City: C. M. Johnson (X 95).	90	90	66+	33+	90	
Rushford: P. Miller (IX 248–9).	90	90	90	50	100	Spreaders, 50; tedders, 90.
Stillwater: W. H. Sheaff (IX 211–2–3).	75	.....	.....	.....	.....	
Swanville: J. J. McRae (IX 147).	80–90	80–90	100	40–50	100	Spreaders, 10.
Thief River Falls: R. Owen (IX 440).	60	60–65	.....	.....	.....	
Truman: D. B. Kelly (IX 390–1).	75	80	90	25	100	Spreaders, 20.
Waseca: J. McLoone (IX 156).	.....	.....	.....	.....	50+	
Warren: W. F. Powell (IX 403).	75	.....	.....	.....	.....	
Watson: P. F. Bonde (X 117).	90	90	100	.....	100	
Young America: H. Klobe (X 101).	75	75	75	.....	.....	

MISSOURI PERCENTAGES.

Alma: P. H. Kopperbrink (VII 238–9).	100—	95	50	100—	100	
Altamont: E. W. Wilder (VII 167).	75	.....	.....	.....	.....	
Appleton City: R. N. Burns (VIII 105).	90	75	75	.....	100	

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

MISSOURI PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscelianeous.
Archie: R. L. Wright (VII 496).	80	35–40	40	.....	.....	
Auxvassee: H. O. Rood (VIII 63–4).	90	75	90–95	95	100	
Avenue City: E. L. Schneider (VII 136).	90	90	60–70	75	100	
Balton: E. Jerard (VII 317–18).	100—	85	85	60	100	
Billings: C. A. Neyer (VIII 140).	98	90	90	60	100	
Bland: A. F. Aufderheid (VIII 96).	90–95	90	85–90	85	.....	
Blue Springs: D. Dillingham (VII 274).	85–90	75	60	50	50	
Bolivar: F. M. Shoffner (VIII 126–7).	85–90	85–90	60	60	75	
Braymer: H. D. Skinner (VII 235).	90+	60–70	.....	75	100	Sweep rakes, 50; sulky rakes, 66+.
California: J. S. Roth (VIII 84–85).	95	75	50	50	.....	
Clinton: A.R. Wilder (VIII 53–4).	90	90	50	90+	100	
Coffee: R. C. Barton (VII 112–3).	50	50	.....	50	.....	
Columbia: J. M. Taylor (VIII 4).	80–90	75	.....	50	.....	
Concordia: J. Vogt, jr. (VII 196).	65–70	65	.....	66+	50	
Cosby: F. E. Cline (VII 67).	90	90	90	50	.....	
Cuba: J. M. Munro (VIII 117–8).	90–95	90–95	75	95	100—	
Dearborn: W. A. Dooley (VII 187).	90–95	85	90–95	75	100	
Fairfax: E. R. McMahon (VII 160–1).	100	70–75	90	75	100	
Fair Grove: J. Buchheit (VIII 152).	100	90	100	.....	.....	Spreaders, 100.
Fair Play: J. Oldham (VIII 164).	85	75	60	50	.....	
Forest City: A. G. Cotten (VII 90).	100—	80	90	60	.....	
Gallatin: J. A. Mann (VII 145).	95	50	50	75+	100—	
Galt: E. T. Proctor (VII 151)	95	75	25	95	.....	
Hawk Point: S. Davis (VIII 67–8).	100—	100	.....	20	.....	
Higginsville: E. W. Mollenkamp (VII 226–7).	50+	50+	50+	90	.....	
Around Lexington: E. W. Mollenkamp (Ibid., VII 226–7).	100	100	100	90	.....	
Humansville: H. Mack (VIII 109–10).	100	90	90	.....	100	
Iantha: J. R. Sparling (VI 610–11).	75	90	.....	100	50	
Jamesport: H. E. Bond (VII 109).	85	75	.....	65	85	
Jasper: J. A. Cozatt (VI 628–9).	75	75	75	50+	.....	
Jefferson City: J. H. Rodeman (VIII 93).	.....	.....	75	20	.....	
King City: J. Flood (VII 72).	100	95	90	75–80	.....	
Lamar: E. R. Adams (VI 593).	60	75	50	75	40	
Lathrop: E. D. Martin (VII 278–9).	60–70	50	.....	.....	50	
Lockwood: W. E. Eaton (VIII 130–1).	75	75	75	.....	100	
Machens: J. H. Machens (VIII 49–50).	80–85	85–90	50	50	.....	
Malta Bend: W. Ballew (VII 290).	80	80	80	50	.....	
Marionville: U. L. Coleman (VIII 142).	95	75–80	75	75	60	
Marshall: E. R. Pemberton (VII 513).	90	70–75	50	.....	50	

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

MISSOURI PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Maryville: J. Sewell (VII 202–3).	100	50	50	.....	100	
Mayview: G. H. Robins (VII 271).	50+	.....	35	75	.....	
Mercer: J. H. Alley (VII 122).	90	90	90	100	100	
Mexico: G. W. Robertson (VIII 41).	70	80	50–60	60	40	
Moberly: P. H. Nise (VII 332–3).	75–80	85–90	50—	100—	90	
Monroe City: J. G. Wade (VII 309).	75–80	60	.....	.....	50+	
Mosho: F. S. Briggs (VIII 148).	75	50—	25	.....	100	
Mound City: B. M. Terhune (VII 248).	100—	80	80	50	100	Engines, 50.
New Hampton: R. W. Magee (VII 154–5).	100	50	75–80	50	100	
Nevada: J. B. Robinson (VI 617).	75	75	75	75	100	
Norborne: H. Beckmeir (VII 242–3).	90	70	70	80	100	
Odessa: W. J. Wilkening (VIII 168–9).	90–95	90–95	75	.....	.....	
Oregon: T. L. Price (VII 182–3).	80	50+	100—	100—	100	
Ozark: D. W. Bingham (VIII 122).	85–90	75–80	95	60	50–65	
Parnell: A. J. Roof (VII 101–2).	90–95	85	65	.....	100	
Pierce City: E. F. Buchner (VIII 171).	90	75	75	50–60	.....	
Platte City: G. Coleman (VII 200–1).	100	75	85	20	100	
Princeton: E. R. Casteel (VII 133).	100	.....	.....	.....	.....	
Republic: J. M. Nelson (VIII 185).	100	90	90	100	100	
Richmond: J. Powell (VII 80).	90+	90—	.....	.....	.....	
Rolla: J. A. Spillman (VIII 80).	90–95	85–90	85–90	80	.....	
St. Charles: L. Ringe (VIII 75).	100	85	50+	25	.....	
St. Joseph: W. P. Graham (VII 83).	.....	85	85	60	.....	
St. Peters: G. Schneider (VIII 29).	90	90	100	100	.....	
Sileston: C. D. Mathews, jr. (VIII 71).	85	80	80	75	.....	
Skidmore: A. C. Doods (VII 86–7).	75	75	80–90	60	.....	
Spickard: W. M. Ashbrook (VII 116–7).	85	75	.....	50	100	
Tarkio: W. M. Rankin (VII 172).	90+	70	60	75	100	
Tipton: P. G. Class (VIII 89)	90	75	90	60	.....	
Trenton: W. D. Phillips (VII 148).	90–95	75	50	50	100—	
Trufton: J. P. Lansche (VIII 60–1).	90+	90	50	50–60	90	Shockers, 100.
Union: L. Max (VIII 114)...	90	75	50–60	75	.....	
Union Star: H. Stanton (VII 313–4).	100	85	100	75	100	
Walnut Grove: J. A. Brim (VIII 137).	95	65	90	50	100	
Washington: E. G. Busch (VIII 46).	75	65	65–70	60	.....	
Weston: W. J. Rumpel (VII 282).	90	75	75	75	.....	
West Plains: C. F. Funkhouser (VIII 176).	85–90	85–90	85–90	.....	.....	Wagons, 10.

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

MONTANA PERCENTAGES.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Billings: J. R. Yates (X 389).	80	.....	.....	.....	.....	
Miles City: G. H. Ulmer (IX 520).	.....	66+	66+	.....	.....	

NEBRASKA PERCENTAGES.

Alliance: C. A. Newburg (V 91).	.....	100	90–100	.....	.....	
Arlington: E. Echtenkamp (V 338).	100	50+	50+	.....	.....	
Atkinson: C. E. Havens (V 148).	90	90	100	.....	.....	Engines, 50; wagons, 50; spreaders, 50.
N. D. Seger (VI 221)	75–80	80	80	50	.....	Manure spreaders, 80–90; engines, 80–90; disk harrows, 75.
Beatrice: J. N. Nispel (VI 77).	90–95	80	80	60	.....	
Beaver City: J. F. Modlin (VII 396).	85	75	75	75	100	Headers, 85.
Beamington: G. Bunz (V 270).	100	.....	.....	.....	.....	
Carroll: F. E. Francis (V 420–1).	100	85–90	100	70–75	.....	Spreaders, 75–80; engines, 90; wagons, 30; disk harrows, 25–30.
Clarks: M. M. Kakjer (V 302–3).	100	95	50+	.....	.....	
Clay Center: W. P. Hertel (V 544–5).	98	95	100	75	.....	
Crete: H. McCarger (V 123)	90	75	100—	.....	.....	
Dawson: J. O'Grady (VII 266).	98	75	75	60–75	98	
Daykin: J. O. Greenwalt (V 485).	75–85	75–85	75–85	75–80	.....	
Dorchester: W. Stewart (V 510–511).	100	.....	.....	75	.....	Spreaders, 50.
Duncan: B. F. Ridge (VI 249).	80	70	75	100	.....	
Dunbar: E. E. West (V 647).	75	75	75	.....	.....	
Elwood: J. A. Shoestall (VI 119).	.....	.....	.....	.....	100	
Exeter: A. W. Dyer (V 143–4).	90	90	100	90	.....	Spreaders, 50.
Fairburg: E. A. Ayers (V 536).	95	75	75	75	.....	
Falls City:						
Ed. S. Jones (VII 192–3).	90	80	90	75	100	
J. Mosiman (VII 283–4)	90	80	75	75	100—	Side-delivery rakes, 50.
Geneva: M. C. Peterson (VI 68–69).	90	80–85	80–85	45	.....	
Gibbons: W. H. Buck (V 305).	100	90	100	.....	.....	
Great Islands: G. A. Leiser (V 300).	50+	.....	.....	.....	.....	
Hartington: M. Nelson (V 407).	95	60	50	.....	100	
Hastings: E. Schultz (VI64–65).	70–80–85	85	85	85–90	100	
Havelock: C. O. Johnson (VI 94).	90	90	.....	.....	.....	
Hickman: A. E. Van Berg (V 532).	80	70	.....	75	.....	Wagons, 20; spreaders, 25.
Hindley: F. A. Austin (VII 463–4).	90–95	85–90	85–90	50	95	Headers, 90; spreaders 70.
Humboldt:						
W. Skalak (VII 262)	90	90	75	25	75	
F. F. Butterfield (VII 60–61).	90+	60–75	100	50	75	
Laurel: D. D. Coburn (V 411).	75–80	50	50	.....	.....	
Lexington: H. J. Gunn (V 433–5).	75	75	.....	65–70	.....	
McCook: H. P. Waite (V 541)	100	75–85	75–85	70	.....	
Minden: H. Hanson (VI 68–69).	90	85–90	85–90	.....	60+	
Mullen: H. J. Lowe (V 187).	100	.....	.....	.....	.....	

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

NEBRASKA PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Nehawka: H. F. Kropp (V 662).	85	75	75	.....	.....	
Newport: A. A. Gaines (V 198).	.....	100—	100	.....	.....	Stackers, 5–10; wagons, 25.
North Bend: J. Cherry (VI 33).	90–95	95	50+	80–85	.....	
Odell: T. R. Callan (VI 121).	85–90	100	.....	25	.....	
Ohiowa: J. C. Pflug (VI 114–5).	100	100	.....	100	.....	
Papilion: H. Beerline(V 274).	.....	.....	.....	50	.....	
Pauline: C. F. Glazier(V 47).	80	.....	.....	.....	.....	
Pawnee City: D. E. Wherry (VII 141).	85–90	80	50+	50	.....	
Pender: G. A. Wachter (V 425).	50+	50+	.....	.....	.....	
Plattsmouth: A. Gorder (V 266).	90–95	90	90	.....	.....	
Rushville: W. N. Ford (V 70).	90–95	90–95	90–95	.....	.....	Cream separators, 50; spreaders, 50.
Ruskin: J. R. Parsons (V 521).	90	90	90	40	.....	
Scatia: G. W. Fitzsimmons (V 137–8).	100	75	90	.....	.....	Spreaders, 75.
Shickley: C. Smith (VI 39)..	50	60	.....	.....	.....	
Staplehurst: J. P. Dahl (V 555–6).	75	75	65	65	.....	
Stuart: W. H. Coates (V 192).	100	85–90	75	.....	100	
Stromsburg: A. Scott (V 465–6).	80	80	60	60	.....	
Sutton: J. Bender (V 471)...	50	.....	.....	.....	.....	
Tecumseh: J. A. McPherrin (V 21–26).	90–95	80–90	.....	60–70	.....	
Thedford: W. A. Howell (V 176–7).	90	90	100—	.....	.....	
Upland: A. Hansen (V 499–500).	95	90–95	50+	.....	.....	Corn planters, 75.
Wakefield: U. N. Sackson (V 549).	100	70	70–75	70	.....	
Wilbur: J. Hauser (V 506–7).	100	95	100	100	.....	Spreaders, 50.
Wisner: F. Schrieber (V 114).	90–95	80	66+	.....	.....	
York: M. Belcher (V 527)...	50	50	.....	.....	.....	
Yutan: H. C. Peters (V 277).	90	70	50	.....	.....	

NEW YORK PERCENTAGES.

Caledonia: R. Pullyblank (XII 15).	70–80	70–80	.....	.....	.....	
Kings Ferry: T. C. McCormick (XII 98).	90–95	60–70	.....	50	.....	Spreaders, 50.
Olean: E. C. Banfield (XI 520).	60–65	.....	.....	.....	.....	
Prattsburg: I. C. Pratt (XII 252).	75	75	75	90	.....	
Waterloo: W. H. Morehouse (XII 38–9).	75	75	75	60	90	Spreaders, 60; tedders, 65–70; wagons, 75; separators, 50; harrows, 75; horse cultivators, 10.

NORTH DAKOTA PERCENTAGES.

Abercrombie: O. Bjorke (X 67–8).	90	90	90	50	100	
Bismarck: J. P. French (IX 511).	90	90	.....	75	100	
Bordulac: A. Ferguson (X 61–2).	90	90	90	40	.....	
Cando: A. Currie (IX 496)...	66+	66+	100	75	100	Spreaders, 20.
Crary: M. Miller (IX 412)...	75	90	90	40	100	
Church's Ferry: A. E. Sylvester (IX 507–8).	66+	100	100—	75–80	85–90	
Davenport: P. B. Frederickson (X 74).	80	80	80	40	80	

[1] In 1912.

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

NORTH DAKOTA PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Foxholm: F. S. Simmons (IX 549).	75	[1] 100	.....	.....	.....	
Hankinson: G. L. Ireland (X 8).	75	80	80	30	100	
Hannah: H. McLane (IX 475).	100	100	.....	.....	.....	
Hillsboro: J. E. Paulson (X 70–71).	100	100—	100—	50—	100	
Inkster: R. L. Bennett (IX 409–410).	90	90	95	40	90	Spreaders, 40.
Jamestown: P. Allen (X 39–40).	75	75	75–80	40	90–95	
Lisbon: C. E. Jones (X 17–18)	70	85	85	85–90	75	
Noonan: W. Nordman (IX 559).	90	90	90	60	.....	
Northwood: E. K. Spoonheim (IX 499).	65	80	80	25	90	
Rugby: W. McCutcheon (IX 561).	85	85	85	70	100	
St. Thomas: D. G. McIntosh (IX 421).	90–100	90–100	100	40–50	100	Spreaders, 75.
Starkweather: A. O. Sather (IX 503).	95+	100	100	.....	100	
Valley City: F. Flora (X 55).	95	95	95	.....	100	
Walhalla: H. Porter (IX 434).	98	90	80	30–40	100	
Williston: W. C. Rawson (IX 567–8).	80	80	80	75	.....	

OHIO PERCENTAGES.

Alta: A. J. Edwards (V 234).	60+	80	90	.....	.....	Spreaders, 20–25.
Ashtabula: H. M. Brown (XII 153).	75	75	75–80	.....	.....	Tedders, 75–80.
Berea: L. H. Chevalier (XII 237–8).	80	80–90	70	30–40	.....	
Findlay: H. Probst (XI 505)	80–85	80–85	.....	50	75	Spreaders, 50; tedders, 50.
Genoa: T. Skilliter (XI 498–9).	70–80	80	.....	.....	.....	
Lakeville: J. W. Horn (XII 212).	100	100	.....	.....	.....	
Lancaster: C. D. Martens (XII 76–7).	75	75	.....	50	.....	
Lewis Center: J. O. Gooding (XII 101–2).	85–90	75	75	50	.....	Spreaders, 50; tedders, 65–75.
London: T. L. Dwyer (XII 80–81).	90	75	.....	75	.....	Spreaders, 75.
Maitland: G. L. McNaul (VII 207–8).	80–85	80–85	.....	(his) 80	100	
Mansfield: J. O. Rorke (XII 66).	75	75	.....	50–60	50+	Tedders, 60–65.
Maupville: J. Turner (XII 62).	95	75–80	50	50	95	Spreaders, 60–70; tedders, 50–70.
Mechanicsburg: W. H. Hunter (XII 94).	80	.....	.....	.....	.....	
Mount Vernon: C. S. Sapp (XII 84–5).	85–90	85	75	50	.....	Spreaders, 50; tedders, 75.
Newark: B. A. Phelan (XII 57).	75	75	65	35	75	Spreaders, 40; tedders, 55.
Paton: O. B. Stribling (VIII 349–350).	90	50	50	.....	100	
Payne: J. Miller (X 456)....	100	.....	.....	.....	.....	
Pemberville: H. W. Hobart (XI 487–8).	90	90	60	.....	90	Spreaders, 70; tedders, 60.
Perrysburg: W. Schlect (XI 494).	70	70	80	.....	80	
Shreve: W. H. Carl (XII 240).	90	90	90	70–80	.....	Spreaders, 60; tedders, 80–90.
Xenia: C. L. Pabb (XII 45).	90+	75–80	50	50–60	90	Spreaders, 50; tedders, 60–65; engines, 50.

[1] Before 60—.

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

OKLAHOMA PERCENTAGES.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Ardmore: J. B. Spraging (VI 355).	100—	50+	.....	50+	100	
Chickasha: R. L. Wallace (VI 493–4).	85	50–60	65–75	80–85	100	
Comanche: R. H. Hillery (VI 482–3–4).	100	90	60	60	100	Engines, 85–90; cream separators, 25.
Cordell: Wm. Aacht (VI 476–7).	90	70	70	70	100	Headers, 90.
Edmond: J. Brown (VI 360).	100	.....	.....	.....	66+	
Enid: G. Gensman (VI 799–800).	75	70	70	60	100	
Frederick:						
E. J. Cowen (VI 433)	.....	.....	.....	.....	100	
A. H. Prichard (VI 377).	.....	.....	.....	50+	100	
Guthrie: W. D. Packer (VI 371).	80–90	75+	.....	50+	95	
Kingfisher: Ed. Hockaday (VI 337).	.....	.....	.....	.....	50–66	
Lamont:						
H. J. Tucker (VI 714)	80	50	50	60	100	
W. K. Miller (VI 488–9).	20	60–70	90	60–65	100	Engines, 75.
Madill: J. E. McMillan (VI 390–1).	100	100	.....	50+	.....	
Memgam: C. P. Hamilton (VI 345).	90	75	75	100	.....	
Marlow: T. T. Eason (VI 471–2).	100	90	90	85	100	Engines, 100.
Medford: F. W. Stewart (VI 769–770).	85	65	50–60	40–45	85–90	
Oklahoma City: H. N. Knight (VI 385–6).	50–60	.....	.....	.....	100	
Perry: A. C. Hinde (VI 755–6).	75	.....	.....	50+	50+	
Pocasset: C. A. Minter (VI 366–7).	75	.....	.....	50	100	
Temple: W. S. Weir (VI 496–7).	100	60	75	100	100	Engines, 75; cream separators, 25.
Union City: W. W. Jackman VI 447).	.....	90	50—	65–70	75	
Vinita: S. T. Motley (VI 695–6).	60	60	80	90	100	
Watonga: E. R. Talbot (VI 451).	90	90	90—	95—	100—	
Weatherford: G. Goodner (VI 331).	75–80	75	75—	75	100—	
Yukon: M. V. Mulvey (VI 443–4).	90	75	75	25	100	Twine, 100 in Piedmont, 9½ miles away.

PENNSYLVANIA PERCENTAGES.

Bakerstown: M. H. Herckert (XII 296–7).	70–75	70–75	70–75	50–60	.....	Spreaders, 75; tedders, 65+.
Butler: C. C. Johnson (XII 289).	90	90	75	50	.....	Spreaders, 50; tedders, 75.
Chambersburg: C. D. Gillan (XII 139–140).	90–95	90–95	90–95	75	80	Tedders, 90–95.
Clayville: G. B. Sprowls (XII 280–1).	80–85	80–85	60	75	.....	Spreaders, 50; tedders, 50.
Evans City: W. C. Lederer (XII 291).	90	90	75–80	50+	.....	
Everett: F. Baker (XII 121).	75–80	75+	.....	.....		Tedders, 66+.
Gap: G. T. Sellers (XII 117).	80	80	.....	.....		Spreaders 5–10; tedders, 50.
Irwin: F. W. Andrews (XII 293–4).	70	70	70	50	.....	
Lancaster (Bird in Hand): J. M. Newhauser (XII 110–111).	90–95	95	80	.....		Tedders, 85.
Lebanon: H. B. Riegel (XII 177–8).	60	40	.....	.....		Tedders, 30–40.
Milton: H. L. Linder (XII 132).	75	75	60	.....		Tedders, 50.

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

PENNSYLVANIA PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
New Alexandria: H. M. Shearer (XII 284–5).	70–75	70–75	70–75	50	.....	Spreaders, 70; tedders, 60.
Parnassus: J. D. Nixon (XII 287).	75–80	75–80	50–60	75	.....	Spreaders, 65; tedders, 70.
Quarryville: S. Book (XII 129).	75	65	50	.....	.....	Tedders, 50.
Reedsville: J. W. Taylor (XII 144).	60–70	60–70	.....	.....	.....	
Warren: E. D. Everts (XI 533).	75	.....	.....	.....	.....	
York: E. Bupp (XII 125–6)..	90	80	75	.....	70	Tedders, 60.

SOUTH CAROLINA PERCENTAGES.

Sumter: G. F. Epperson (XII 375).	75–80	75–80	75–80	.....	.....	

SOUTH DAKOTA PERCENTAGES.

Arlington: A. D. Maxwell (VIII 256).	100	90	75	.....	100	
Armour: B.T. Boylan (VIII 476).	80	50	50	.....	100	
Camistota: J. Buscher (VIII 527–8).	90	90	90	60	90	
Centerville: C. J. Johnson (VIII 366).	75+	60	60	.....	.....	
Clark: De .Cochrane (VIII 250).	90–95	90–95	90–95	.....	100	
Croton: H. W. Cassels (VIII 343–4).	95–96	95–96	80	.....	100	
Delmont: P. C. Nusterek (VIII 468).	90	75	90	60	100	
Elkton: J. E. Hodge (VIII 295–6).	80–90	80–90	.....	.....	90–95	
Emery: H. M. Bleeker (VIII 432–3).	85	65	65	60	100	Headers, 50.
Freeman: F. Haar (VIII 487).	90	90	85	70–75	100	
Gary: G. T. Brainard (VIII 321–322).	80–95	75–80	90–95	.....	100	
Harrisburg: J. S. Stoneback (VIII 843–4).	75	75	75	60	100	
Iroquois: C. W. Stoner (VIII 311–312).	75	90	90	.....	100	
Lennox: W. H. Wumkes (VIII 464).	90	90	90–95	35	100	
Northville: J. F. Jenkins (VIII 355).	100	50+	100	.....	100	
Raymond: W. M. Danforth (VIII 281).	75–80	50	.....	.....	100	
Revillo: H. E. Jones (VIII 304–5).	95	95	90	.....	95	
Spencer: C. W. Lindekugel (VIII 478–9).	100	100	100	60	100	
Sturgis: H. O. Anderson (V 213).	100—	50+	.....	.....	.....	
Vermillion: M. D. Thompson (VIII 511).	80+	80+	80+	80	100	
Volga: J. C. Lee (VIII 319)..	100	99	100	.....	100	
Wakonda: H. P. Rasmussen (VIII 371).	75–80	50	50–60	.....	100	
Whitewood: P. M. Bonniwell (V 169).	90	90	90	.....	.....	
Woonsocket: K. O. Stakke (VIII 504).	100	100	100	.....	.....	

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

TENNESSEE PERCENTAGES.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
Elizabeth: J. M. Barnes (XI 144).	75	65	.....	50	.....	
Newman: L. G. Norvell (XI 183–4).	100–	95	95	100	.....	Spreaders, 75; hay presses, 75; tedders, 100; sweep rakes, 100.

UTAH PERCENTAGES.

Salt Lake City: G. T. O'Dell (V 643).	65–70	65–70	65–70	.....	.....	

VIRGINIA PERCENTAGES.

Purcellville: G. W. Case (XII 203–5).	90	90	.....	50–	.....	Tedders, 100.

WISCONSIN PERCENTAGES.

Albany: A. Smith (XI 317).	90	90	.....	.....	100	
Arcadia: J. C. Muir (IX 259–60).	90	60	25	50	90	Spreaders, 50; tedders, 25.
Avoca: D. Bohan (XI 319–320).	95	90	75–80	66+	95	Spreaders, 25; tedders, 100.
Baldwin: H. Bliesner (IX 33–34).	95	90	90	50	95	Tedders, 75; spreaders, 75.
Barneveld: T. Jones, jr. (XI 374).	85	85	85	.....	90	
Beaver Dam: C. Knaup (XII 370).	66+	66+	.....	50	95	Spreaders, 66+.
Blanchardville: J. A. Blanchard (XI 212).	50+	80+	95+	50+	95	
Bloomer: W. Larson (IX 377–8).	90+	90+	80	.....	90	
Barandon: A. F. Bornshein (XII 407–8).	80	50	60–70	50	60–75	
Cadott: F. J. Lavelle (IX 36)	95	95	100	75	95	Tedders, 75.
Cambridge: C. Legreed (XI 330–1).	95	95	80	80	95	Spreaders, 90; tedders, 90.
Darien: E C. Woodford (XII 441).	100	50	50	66+	100	Hay loaders, 100; spreaders, 80–90.
De Pere: G. T. McGeehan (XII 490–1).	85	65	65	85	75	
Dorchester: L. M. Peterson (IX 30–31).	100	90	100	.....	100	Tedders, 100.
Eau Claire: E. W. Robbins (IX 8–9).	90	85–90	75	50	80–85	
Galesville: C. McKeeth (IX 256).	90	90	70	50	90	Spreaders, 40; tedders, 25.
Hartford: A. F. Schauer (XII 428).	90	75	90	40	100	
Humbird: E. Washburn (IX 43–43).	66	66	100	95	100	Tedders, 100; spreaders, 50.
Jefferson: J. W. Heid (XII 387–8).	90	90–95	95	60	90	
Manston: D. N. Allaly (XI 325–6).	75–80	75–80	75–80	75	75–80	Spreaders, 35–50.
Markesan: C. F. Schrader (XII 403).	70	.....	.....	.....	.....	
Marshall: J. F. Deppe (XI 322).	66	85–90	90	50	100	Spreaders, 50.
Marshfield: F. Noll (IX 12)..	66	85–90	85–90	60–70	95–99	
Mondovi: J. C. Ede (IX 39–40).	95	90	95	50	99	Tedders, 50; spreaders, 95.
Monroe: A. Lewis (XI 306)..	85–90	85–90	85–90	50	85–90	
Neenah: J. F. Strobel (XII 475).	80–85	.....	.....	.....	75–80	

TABLE 3.—*Table giving percentages in detail for the different machines, showing State, town, name of witness, reference to record, and percentages testified to*—Continued.

WISCONSIN PERCENTAGES—Continued.

	Binders.	Mowers.	Rakes.	Twine.	Corn binders.	Miscellaneous.
New Richmond:						
M. Lynch (IX 22)	100	.....	.....	.....	.....	
J. Padden (IX 19–20)	90	90	90	60	.....	
North Freedom: S. A. McCoy (XI 389–390).	100	75	100–	50	.....	
Osseo: J. McIntyre (IX 45–46).	95–98	95–98	95	80	95	Spreaders, 60.
Plainfield: C. H. Weed (XI 358–9).	95	95	90	25–33	100	Spreaders, 40.
Portage: H. A. Schultz (XI 328).	66+	50	.....	.....	66+	
Prairie de Sac: J. Doll (XI 333).	80–85	90	90	80	80–85	Tedders, 50.
Reedsburg: A. Siefert (XI 362).	85–90	75–85	50	.....	85–90	
Schleisingerville: Theo. Keonings (XII 452).	80–95	80–85	50	60–65	90–95	
Shullsburg: W. H. Look (XI 245–6).	100	100	50+	100	100	Spreaders, 80.
Sparta: T. E. Jones (XI 378).	95	95	80	75	90	
Spring Valley: O. Sieberns (IX 388).	75	75	.....	.....	75	
Stoughton: T. Oscar (XI 386)	.....	.....	.....	.....	50	
Wampaca: S. P. Godfrey (XII 483).	70–75	60–65	.....	50	70–75	
Waupun: G. Landaal (XII 391).	90–95	90–95	75	50+	90–95	Spreaders, 50.

Analysis of recapitulations, by States.

State.	Number of dealers in general agency.	Handling International Harvester binders.	Handling International Harvester mowers.	Handling International Harvester new lines.	Number having International Harvester accounts.	Number not doing business with International Harvester Co.	Number handling International Harvester new lines and not handling International Harvester harvesting lines.
Illinois (7 general agencies)	2,435	1,685	1,676	1,678	1,781	661	90
Indiana (7 general agencies)	2,409	1,614	1,623	1,629	1,770	638	148
Iowa (7 general agencies)	2,191	1,765	1,746	1,841	1,879	322	60
Kansas (6 general agencies)	1,606	1,207	1,180	1,187	1,258	348	50
Michigan (2 general agencies)	909	525	527	538	573	248	52
Minnesota (4 general agencies)	1,118	783	782	803	829	289	44
Missouri (4 general agencies)	1,688	1,265	1,286	1,224	1,348	340	52
Nebraska (2 general agencies)	699	600	585	594	612	87	8
New York (1 general agency)	562	378	381	410	415	147	32
North Dakota (4 general agencies)	789	577	578	563	526	203	6
Ohio (4 general agencies)	1,589	1,209	1,207	1,216	1,283	296	77
Oklahoma (1 general agency)	588	413	431	439	457	131	18
Pennsylvania (1 general agency)	173	128	128	121	133	40	5
South Dakota (3 general agencies)	674	516	510	498	527	146	12
West Virginia (1 general agency)	164	125	135	152	152	12	17
Wisconsin (4 general agencies)	1,187	931	932	935	969	218	31
Total for all States	18,781	13,721	13,707	13,828	14,512	4,126	702

The above table is an analysis of the so-called recapitulation sheets introduced by defendants and printed in volumes 15, 16, 17, and 18. These sheets purport to give the name of every dealer located in 54 of the general agencies, or in portions of such general agencies, the location of each dealer, the lines of binders and mowers he handles, and also the name of one or more manufacturers supplying him with lines of agricultural implements other than harvesting machines.

According to the above analysis the total number of dealers named on the recapitulation sheets is 18,781. Of these, 13,721 dealers, or 73 per cent, handle binders of the International Harvester Co.; 13,707, or 73 per cent, handle International mowers; 13,828, or 73 per cent, handle the International Harvester Co.'s new lines, that is, lines other than the harvesting lines; and 14,512 dealers, or 77 per cent, have International accounts.

Of the 13,828 dealers handling International new lines only 702 dealers, or 5 erp cent, do not carry the harvesting lines of the International. That is to say, 95 per cent of the dealers named on the recapitulation sheets who do business with the International Co. handle its new lines with the old lines. This fact tends to establish that the International forces its new lines through its old lines.

The recapitulation sheets cover the principal grain-growing sections between the Alleghenies and the Rocky Mountains. Approximately 75 per cent of the domestic trade on binders of the International Harvester Co. is in the territory covered by the recapitulation sheets. (Legge, XIV, 23, fol. 1.)

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