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In Equity No. 59-103

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In the District Court of the United States  
for the Southern District of New York

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UNITED STATES OF AMERICA, PETITIONER

v.

THE SUGAR INSTITUTE, INC., ET AL., DEFENDANTS

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PETITION

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GEORGE Z. MEDALIE,  
*United States Attorney.*

WILLIAM D. MITCHELL,  
*Attorney General.*

JOHN LORD O'BRIAN,  
*The Assistant to the Attorney General.*

JAMES LAWRENCE FLY,  
WALTER L. RICE,  
*Special Assistants to the Attorney General.*

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FILED MARCH 30, 1931

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for the Southern District of New York

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THE SUGAR INSTITUTE, INC., ET AL., DEFENDANTS

PETITION

*To the Honorable Judges of the United States for  
the Southern District of New York, sitting in  
Equity:*

The United States of America by its attorney for  
the Southern District of New York, and by John  
Lord O'Brian, the Assistant to the Attorney Gen-  
eral, and James Lawrence Fly and Walter L. Rice,  
Special Assistants to the Attorney General, brings  
this proceeding in equity against:

I

DESCRIPTION OF DEFENDANTS

(¶ 1) The Sugar Institute, Inc., hereinafter  
called the Institute, which is a membership corpora-  
tion organized under the laws of the State of New

York, and which has its office at 129 Front Street, New York City;

(¶ 2) Against the following corporations and concerns, members of the Institute and duly organized and existing under the laws of the respective states indicated in the following table:

*Description of corporations and firms*

Name	Location of principal office	State of incorporation
The American Sugar Refining Company, Margaret A. Jamison and Martha A. Jamison, doing business under the firm name and style of Arbuckle Bros.	117 Wall St., New York, N. Y.----- 71 Water St., New York, N. Y.-----	New Jersey.
California & Hawaiian Sugar Refining Corp., Ltd., The Colonial Sugars Co.----- Cuban-American Sugar Co.----- Godchaux Sugars, Inc.-----	215 Market St., San Francisco, Calif. 136 Front St., New York, N. Y.----- 136 Front St., New York, N. Y.----- 1012 Masonic Temple Bldg., New Orleans, La.	California. New Jersey. New Jersey. New York.
William Henderson, Hunt Henderson, Christ Gamble, and Fred Gamble doing business under the firm name and style of Henderson Sugar Refinery, Imperial Sugar Co.----- W. J. McCahan Sugar Refining & Molasses Co., The National Sugar Refining Co. of New Jersey, Pennsylvania Sugar Co.-----	749 South Peters St., New Orleans, La. Sugar Land, Texas.----- 101 So. Front St., Philadelphia, Pa.----- 129 Front St., New York, N. Y.----- 1037 No. Delaware Ave., Philadelphia, Pa.	Texas. Delaware. New Jersey.
Revere Sugar Refinery----- Savannah Sugar Refining Corp.-----	333 Medford St., Charlestown, Mass. Savannah Bank & Trust Co. Bldg., Savannah, Ga.	Massachusetts. New York.
Spreckels Sugar Corp.----- Texas Sugar Refining Corp.----- J. D. & A. B. Spreckels Securities Co. (doing business under the trade name of Western Sugar Refinery).	82 Wall St., New York, N. Y.----- Texas City, Texas.----- 2 Pine St., San Francisco, Calif.-----	Delaware. Delaware. California.

(¶ 3) And against the following individuals, who are active in the management of the Institute and in the direction of the activities hereinafter described, who are citizens of the states of the

United States, resident therein as indicated below, and who occupy and/or have occupied the respective positions indicated opposite their names:

*Description of individual defendants*

Names	Affiliation	Residence
J. F. Abbott-----	Director of the Institute and President of American Sugar Refining Co.	New York, N. Y.
Earl D. Babst-----	Honorary President of the Institute and Chairman of the Board of Directors of American Sugar Refining Co.	New York, N. Y.
W. Edward Foster-----	Director of the Institute and Vice Chairman of the Board of Directors of the American Sugar Refining Co.	New York, N. Y.
J. P. Cody----- M. E. Goetzinger-----	Sales manager of Arbuckle Bros.----- Secretary, Member of the Executive Committee, and Director of the Institute, and General Manager of Arbuckle Bros.	New York, N. Y. New York, N. Y.
George M. Rolph-----	Director of the Institute and President of California & Hawaiian Sugar Refining Corp.	San Francisco, Calif.
William B. Tyler-----	Director of the Institute and officer of California & Hawaiian Sugar Refining Corp., Ltd.	San Francisco, Calif.
C. B. Newman----- George E. Kelser-----	Sales manager, Colonial Sugars Co.----- Director of the Institute and President Colonial Sugars Co.	New York, N. Y. New York, N. Y.
Jacob Moog-----	Director and Member of the Executive Committee of the Institute and Senior Vice President of Godchaux Sugars, Inc.	New Orleans, La.
I. H. Kempner-----	Director of the Institute and President of Imperial Sugar Co.	Sugar Land, Texas.
Harry G. Thompson-----	Director of the Institute and Salesmanager of Imperial Sugar Co.	Sugar Land, Texas.
Louis V. Place-----	Director of the Institute and Vice President of W. J. McCahan Sugar Refining & Molasses Co.	Philadelphia, Pa.
Manuel E. Rionda-----	Treasurer of the Institute and President of W. J. McCahan Sugar Refining & Molasses Co.	Philadelphia, Pa.
James H. Post-----	Chairman of the Board of Directors and President of the Institute, and President of National Sugar Refining Co. Chairman of the Board of Cuban-American Sugar Co.	New York, N. Y.
Charles D. Bruyn-----	Member of Executive Committee of the Institute and Vice President of National Sugar Refining Co.	New York, N. Y.
William H. Hoodless-----	Chairman of the Board of Directors and Member of Executive Committee of the Institute and Vice President of Pennsylvania Sugar Co.	Philadelphia, Pa.

*Description of individual defendants—Continued*

Names	Affiliation	Residence
Henry E. Worcester.....	Vice President, Member of Executive Committee, and Director of the Institute and Vice President of Revere Sugar Refinery.	Charlestown, Mass.
Benjamin O. Sprague.....	Director of the Institute and President of Savannah Sugar Refining Corp.	Savannah, Ga.
Thomas Oxnard.....	Director of the Institute and Vice President of Savannah Sugar Refining Corp.	Savannah, Ga.
Rudolph Spreckels.....	Director of the Institute and President of Spreckels Sugar Corp.	New York, N. Y.
W. W. Harper.....	Director of the Institute and Vice President of Spreckels Sugar Corp.	New York, N. Y.
Edgar H. Stone.....	Director of the Institute and Director of Spreckels Sugar Corp.	New York, N. Y.
Alexander Smith.....	Director of the Institute and President of Texas Sugar Refining Corp.	Texas City, Texas.
H. B. Moore.....	Director of the Institute and Vice President and General Manager of Texas Sugar Refining Corp.	Texas City, Texas.
Frank E. Sullivan.....	Vice President and Director of the Institute and President of Western Sugar Refinery.	San Francisco, Calif.
Fred G. Taylor.....	Executive Vice Secretary of the Institute.	New York, N. Y.

## II

## JURISDICTION

(¶ 4) This action is brought to prevent further restraints of interstate trade and commerce contrary to the Act of Congress approved July 2, 1890, entitled "An Act To protect trade and commerce against unlawful restraints and monopolies," together with Acts amendatory thereof and supplemental thereto.

(¶ 5) The Institute is a trade association in the sugar refining industry organized and conducted by defendants within the Southern District

of New York. The defendants entered into the combination and conspiracy hereinafter described within said district and other places of the United States, and many of the acts pursuant thereto were committed within said district. Some of the Members maintain offices for the regular transaction of business within said district, and the interstate trade and commerce hereinafter described has been conducted and is now being conducted in part within said district.

## III

## THE INTERSTATE COMMERCE

(¶ 6) The Members comprise all of the cane sugar refiners of the United States who are engaged in importing raw cane sugar and converting it into refined cane sugar. Said Members refine more than 98% of the cane sugar and more than 85% of all granulated sugars consumed in the United States. They have produced approximately five million tons of sugar yearly, having a value of more than one-half billion dollars.

(¶ 7) The Members for many years last past to and including the date of the filing of the petition herein have maintained refineries in various states of the United States and there have been engaged on a large scale in importing, and/or purchasing directly after importation, raw cane sugar from Cuba, Porto Rico, Hawaii, the Philippine Islands, and other localities and foreign countries,

and in manufacturing, that is to say, refining therefrom, cane sugar for sale and ready for consumption, and in contracting for the sale, shipment, and delivery of, such refined sugar in large quantities to thousands of purchasers thereof in states and foreign nations other than where said refineries are located and where said sugar has been refined. Pursuant to said contracts, and otherwise, the Members have sold said sugar, and have caused the shipment thereof by rail and/or water, and otherwise, across state and national boundaries, and the delivery thereof to such purchasers in said other states and foreign nations, and have thus carried on interstate and foreign trade and commerce within the meaning of the Act of Congress approved July 2, 1890, entitled "An Act To protect trade and commerce against unlawful restraints and monopolies." Hereinafter refined cane sugar will be referred to as sugar. Prior to the formation of the conspiracy herein described, defendant manufacturers were in competition and, but for said combination, would still be in competition with each other in said trade and commerce.

#### IV

##### THE CONSPIRACY

(¶ 8) Since January 1, 1928, and for several months prior thereto, continuously to and including the time of the filing of the petition herein, defendants, each well knowing all of the matters hereinbefore alleged, have engaged in an unlawful com-

bination and conspiracy to restrain, and pursuant thereto have actually restrained and are now restraining, the aforesaid interstate and foreign trade and commerce in sugar by various means and devices, among them being the following:

A. (¶ 9) Defendants have created, maintained and utilized the Institute as an instrumentality for promoting and maintaining the conspiracy herein described; a major part of the activities herein described have been carried on through the Institute, and have constituted its chief activities; many of such activities have been entirely outside the scope of the announced purposes of its organization; and other activities described in this petition have been carried on independently of the Institute;

B. (¶ 10) Defendants have agreed to establish and maintain and pursuant thereto have concertedly established and maintained, enhanced, uniform, and non-competitive prices; uniform, non-competitive, onerous, and oppressive terms, discounts, conditions, concessions, and extra charges; and uniform, artificial, and non-competitive transportation charges;

C. (¶ 11) Defendants have agreed upon and concertedly adopted a Code of Ethics, and at various times have agreed upon and concertedly adopted amendments thereof and Code Interpretations embodying restrictive rules and provisions supplemental thereto. The Code of Ethics,

amendments thereof, and the Code Interpretations will hereinafter be designated as the Code;

D. (§ 12) Defendants have concertedly adopted and maintained a comprehensive system for the exchange of detailed and complete information relating to the prices, terms, and conditions of current and future sales; they have agreed that the prices, terms, and conditions of sale shall be reported to the Institute by the Members as a condition precedent to any sale of sugar; and they have agreed that no Member shall deviate from, or change, such prices, terms, or conditions until such Member shall have given at least 18 hours notice of such deviation or change. The Institute has immediately relayed all such reports by wire to all Members. Defendants have sold and are now selling all sugar under a binding mutual agreement to adhere strictly and without deviation, to the prices, terms, and conditions reported to the Institute, and to maintain such prices, terms, and conditions until they shall have given at least 18 hours notice of proposed changes and deviations as aforesaid;

E. (§ 13) Defendants have agreed to abolish, and have concertedly abolished, all discounts and concessions in prices based upon quantity purchases; and all special terms, conditions, freight charges, advantages, and privileges, which, prior to the formation of the conspiracy, were given to various customers as an inducement to purchase, and which, in a market free from artificial restraints would still be given;

F. (§ 14) The Members have agreed to report, and have concertedly reported, the location, amount, exact description, and reason for selling damaged sugars and frozen stocks of sugar, as a condition precedent to selling such sugars at a price lower than the respective Member's reported price. The Members have further agreed to report, and have concertedly reported, each instance of sale of such sugars, the date of sale, the amount sold, the name and location of the buyer, the selling price, and the character of the damage. The Institute disseminates to all Members such information relating to the proposed and to the completed sales of such sugars. Pursuant to agreements, understandings, and concert of action among the defendants, the Institute is empowered to restrict, limit, and control the sale of such sugars; and in many instances the Institute has restricted, limited, and controlled such sales;

G. (§ 15) Defendants have agreed to restrict and limit, and have concertedly restricted and limited the use of certain varieties of bags and other containers used in the packing, delivery, and sale of sugar;

H. (§ 16) Defendants have agreed to restrict, limit, and prevent, and have concertedly restricted, limited, and prevented the shipment of sugar in pool cargoes by vessels privately chartered by buyers at special rates;

I. (§ 17) Defendants have exacted assurances from brokers, jobbers, wholesale grocers, and

other corporations engaged in selling sugar throughout the United States, that they will adhere to and maintain the various prices, terms, conditions, and freight charges agreed upon by defendants; and to this end in many instances the Institute has threatened to blacklist, has blacklisted, and has employed other coercive devices against, brokers, jobbers, and wholesale grocers;

J. (§ 18) Defendants have, during a major portion of the period covered by this petition, operated under agreements that they will not pay any part of the freight charges where the effect of doing so would be to interfere with the uniform freight application (i. e., the arbitrary freight charge agreed upon and concertedly adopted by defendants) actually paid on the preponderating volume of sugar flowing into a particular community; and that wherever any Member does pay a portion of the freight charges, said Member will promptly notify the Institute and explain fully the reason therefor;

K. (§ 19) Defendants have agreed that they will not sponsor, encourage, or allow any commercial practice, on the part of purchasers, brokers, jobbers, warehouse companies, or wholesale grocers, which tends to lower or vary the prices at which sugar is sold by refiners and by wholesale jobbers;

L. (§ 20) The Members' refineries are located in the states of New York, Massachusetts, New Jersey, Pennsylvania, Maryland, Georgia, Louisiana, Texas, and California. Shipments from said

refineries to points in other states are made by rail and/or water. Prior to the formation of the conspiracy freight charges constituted a substantial part of the cost to the customers and were therefore the subject of active competition among the Members; a substantial portion of such freight charges was absorbed by the Members to the material benefit of their customers; purchasers exercised an unrestrained choice of points at which they would take delivery, and in many instances they purchased f. o. b. refinery or f. o. b. intermediate points, from which they transited or retransited to points of ultimate destination; and purchasers exercised an unrestrained choice of available transportation rates, means, and routes. Defendants have agreed upon and concertedly adopted a comprehensive plan for maintaining arbitrary and uniform freight charges, pursuant to which they have restricted and prevented the choice by purchasers of points of delivery and of rates, means, and routes of transportation set forth herein, and in many instances have prevented sales and shipments as aforesaid; accordingly they have agreed upon and concertedly advocated, adopted, and required the following:

(§ 21) Purchasers must specify at the time of entering their orders the precise destination of the sugar so ordered, and must not deviate from such specifications;

(§ 22) Purchasers must sign uniform contracts containing a provision, *inter alia*, that



carriers may furnish the Member with complete information as to any diversion or re-shipment of shipments;

(¶ 23) Members must retain such control over sugar shipped from their refineries as is necessary to prevent the retransiting thereof;

(¶ 24) Members must trace all shipments to ultimate destination;

(¶ 25) Defendants attempt to eliminate the official freight tariffs lending themselves to diversions of shipments;

(¶ 26) Defendants restrict and prevent deliveries to points from which diversions are apt to be made;

(¶ 27) Defendants compel all brokers to search diligently for evidence of diversions and to report to the Institute all such evidence obtained;

(¶ 28) Members are permitted to refund to purchasers, only under certain defined restrictions, the difference between the actual cost of transportation and the recognized freight application, which application is the arbitrary freight charge agreed upon and concertedly adopted by defendants; said restrictions include (a) a requirement that purchasers shall supply affirmative proof, in the form of an unmarked bill of lading and/or otherwise, that they have not diverted or retransited the shipment; and (b) a requirement that no Member shall refund any portion of

the transportation charge to any purchaser who has failed to supply such affirmative proof;

(¶ 29) In each instance where an unauthorized diversion of a shipment is discovered Members are required to: (a) set up an appropriate charge on their books against the purchaser for the collection of the freight application to the ultimate destination, (b) promptly bill the purchaser for the same, (c) thereafter use the same effort to collect such charge as they would to collect other amounts owed them by customers, and (d) report promptly to the Institute all such charges not collected within 30 days from the date of billing, stating all essential details;

(¶ 30) Defendants have blacklisted brokers, warehouses, jobbers, wholesale grocers, and purchasers for participating in any scheme to defeat the freight application concertedly agreed upon by defendants and for refusing or failing to cooperate with the Institute in its program of enforcement herein set forth;

M. (¶ 31) The Institute maintains and distributes to all Members loose-leaf books containing the uniform terms and the freight applications and changes thereof concertedly agreed upon and adopted for the various markets in the United States;

N. (¶ 32) Prior to the formation of the conspiracy herein described the Members shipped to many cities of the United States, and there stored



large quantities of sugar for local delivery in less than carload lots. Said cities will be designated hereinafter as consignment points. Defendants have agreed to abandon, and have concertedly abandoned, a large majority of said consignment points, thereby preventing the shipment of large quantities of sugar into said points, withdrawing from the local markets at said points the stocks of sugar formerly held there, reducing the volume of all sugar there available, depriving many local distributors of their source of supply, shifting to such distributors the cost of storage, insurance, interest, and other substantial charges, and in many instances actually driving such distributors out of business;

(¶ 33) In like manner defendants have agreed upon and concertedly restricted the number and location of (a) ports of entry, which are points where members may sell at the same prices as in sales to purchasers located at refinery points, (b) reconsignment points, which are points where sugar is stored only for forwarding or local deliveries in carload lots, and (c) reconsignment warehouses;

(¶ 34) The Institute maintains and distributes to all Members loose-leaf books containing complete lists of the ports of entry, consignment points, reconsignment points, and reconsignment warehouses, and changes thereof, to which lists the Members are restricted;

(¶ 35) In the process of eliminating consignment points defendants have concertedly and rigidly restricted and regulated the stocks which Members were permitted to maintain at such points, and in various instances have specifically authorized the Members to maintain there definitely limited stocks allocated equally among them;

O. (¶ 36) Defendants have agreed to eliminate and have concertedly eliminated shipments of sugar in freight cars with other commodities, and in like manner have fixed the minimum amount of sugar which may be shipped in any such car;

P. (¶ 37) Defendants have agreed not to ship, and have concertedly refused to ship sugar by carriers which have taken any action or permitted any condition tending to defeat any of the objects of the conspiracy;

Q. (¶ 38) The Institute maintains and distributes to the Members loose-leaf books, and insertions representing changes in said books, containing a complete list of warehouses to which the Members are restricted in the storage of sugar; as conditions precedent to qualifying for said list all warehouse companies are required (a) to execute written agreements to adhere to stipulated rentals and to concede no portion thereof to the customers of the Members, and (b) to establish to the satisfaction of the Institute that they are not affiliated with any brokers, jobbers, or purchasers;

(¶ 39) Defendants concertedly require warehouse companies, brokers, and others in the sugar trade to open their books and records for the inspection of the detectives and accountants of the Institute;

(¶ 40) Defendants concertedly blacklist, boycott, and agree not to permit dealings with warehouse companies which violate any provisions of the Code, or interfere with any agreements or activities herein alleged, or participate in any activity tending to defeat the purposes of the conspiracy herein described;

(¶ 41) Defendants have arbitrarily and concertedly blacklisted, boycotted, and restricted the use and number of warehouses;

R. (¶ 42) Defendants have agreed to blacklist and boycott and have from time to time concertedly blacklisted and boycotted various sugar brokers, and, in pursuance thereof, the Institute has maintained and distributed to all Members a list of brokers to whom Members are restricted. Members have agreed not to deal with any brokers other than those specified on such authorized list. As a condition precedent to qualifying for said list each broker must solemnly swear that he will rigidly and strictly adhere in every way, in spirit and in fact, to all provisions of the Code; that he will carefully peruse all letters, circulars, and bulletins containing interpretations of the Code; that he will conscientiously uphold the spirit and letter thereof; that he will not participate in giving anything of

value to induce the placing of orders wherever such gift is considered unethical by defendants; that he will not participate in any diversion or retransiting of shipments; that he will diligently inspect and check all shipments consigned to warehouses, for the purpose of detecting and reporting any attempt to deviate from the plan described in this petition; that he will not engage in the business of warehousing, merchandising, or transporting sugar or other products of the refiners; that he will not deal with any associate brokers, sub-brokers, or agents who are not recognized by defendants as legitimate brokers or who have failed to execute an oath similar to that herein described;

S. (¶ 43) Defendants have agreed upon and concertedly adopted uniform contracts of sale containing numerous oppressive and onerous terms, and have concertedly forced all purchasers to execute such contracts and abide by the terms thereof;

T. (¶ 44) Defendants at various times during the existence of the conspiracy herein described have agreed upon and concertedly adopted, as a part of the comprehensive program for enforcement of the Code: the maintenance and operation of an enforcement committee of the Institute; blacklisting of customers; suspension and expulsion of Members; provisions for fines up to \$1,000 plus 10% of the amount involved in any sale held by the Institute to be in violation of the Code; disciplining and discharging

employees of the Members; and disqualifying brokers, jobbers, and warehouse companies. The Institute employs a staff of detectives and accountants to uncover and investigate unauthorized diversions and other violations of the Code. Members are required to open to any person duly qualified by the Institute to investigate, all of their files and records which may be pertinent to any transaction under investigation;

U. (§ 45) Each Member systematically reports to the Institute each week its production, stocks on hand, stocks in transit, stocks in warehouses, stocks at consignment points, total deliveries, amounts shipped over particular named routes and by particular named carriers, amounts shipped to particular named destinations, amount of each shipment, aggregate volume of shipments, route and destination where delivery is made at other than regular published rates, and statements as to whether the Member or the purchaser requested the particular routes;

(§ 46) The Institute each week systematically tabulates and distributes to all Members in summary form, the information thus reported together with comparative information as to prior periods and other data;

(§ 47) The Institute each week systematically reports to the Members the production and deliveries of each and every Member, identifying each of said Members by a letter of the alphabet, and stating the total production and deliveries of each

Member for the week, for the year to date, for the preceding year, each Member's percentage of the grand total for each such period, and its percentage of increase or decrease compared to the preceding year;

V. (§ 48) Beet sugar refiners, who purchase sugar beets in the United States and manufacture therefrom refined beet sugar, are, in like manner to that of the Members, carrying on interstate and foreign trade and commerce in said refined beet sugar. Prior to the formation of the conspiracy herein described they were, and, but for the conspiracy, still would be actively competing with the Members in said commerce;

(§ 49) Defendants have induced and/or compelled refiners of beet sugar, to adopt and adhere to many of the restrictive activities herein described. Defendants have induced and/or compelled the refiners of beet sugar to report the prices, terms, conditions of sale, production, shipment, storage, and location of sugar, and other information, all for the purpose of restricting the competitive activities of the beet sugar refiners and compelling adherence to the conspiracy herein described;

(§ 50) Defendants have concertedly maintained a uniform differential of 20¢ per hundredweight between the price of cane sugar and that of beet sugar;

W. (§ 51) Defendants have induced and/or compelled their brokers and others in the sugar trade to abide by the agreements herein described.

## PURPOSE AND EFFECT

(¶ 52) Defendants have adopted each of the means and devices and engaged in each of the activities aforesaid, with the purpose, intent, and actual effect of unreasonably and unlawfully maintaining enhanced, uniform, and oppressive prices and all elements thereof, and otherwise restraining the aforesaid trade and commerce.

(¶ 53) Defendants through the Institute have actively and effectively restricted their own activities, and likewise dominated and restricted the activities of all others engaged in manufacturing, distributing, transporting, and selling sugar, in their business policies, particularly those policies bearing directly or indirectly on the price structure; and the Institute has accomplished, and is accomplishing, all of the purposes for which it has been created and maintained as hereinbefore described.

(¶ 54) Chiefly as the result of the conspiracy herein described the Members have increased their gross margin of profit (representing the difference between the cost of the delivered raw product, and the refiners' price for the delivered finished product) during the operation of the conspiracy by more than 30%; the consuming public has been required by defendants to pay large sums in excess of what it would have been required to pay for sugar in a market free from the artificial restraints

herein described; and the growers and producers of raw sugar have received no benefit from the increased prices exacted by defendants.

(¶ 55) The American Sugar Refining Company and The National Sugar Refining Company of New Jersey, during the first year of the Institute's existence, refined a total of approximately 46% of the sugar produced in the United States. The former increased its refining profits during said period from \$3,070,851.57 to \$8,016,436.72, and the latter enhanced its net earnings from \$292,486 to \$3,372,986. These increases were in large part the results of the participation of these defendants in the activities herein described.

(¶ 56) Defendants intend to carry on said conspiracy in the manner heretofore described.

## VI

## PRAYER

WHEREFORE PETITIONER PRAYS:

(¶ 57) That writs of subpoena issue, directed to each defendant commanding said defendant to appear herein and answer under oath the allegations contained in this petition and to abide by and perform such acts and decrees as the court may make in the premises;

(¶ 58) That the combination, conspiracy, agreements and activities described in this petition be declared to constitute a conspiracy in restraint of interstate and foreign trade and commerce on the part of the defendants, and to be illegal and in

violation of the Act of Congress approved July 2, 1890, known as the Sherman Antitrust Act;

(¶ 59) That defendants be ordered and directed forthwith to dissolve and forever discontinue the Institute;

(¶ 60) That defendants and each of them, and each and all of their respective officers, managers, agents, employees, and all persons acting or claiming to act on behalf of them, or any of them, be perpetually enjoined individually and collectively, from further engaging in, agreeing to perform, or in fact performing, said conspiracy or any part thereof, or any other conspiracy of like character or effect, or any of the acts, agreements, understandings, or concert of action described in this petition;

(¶ 61) That the petitioner have such other, further, general, and different relief as the nature of the case may require and the court may deem proper in the premises;

(¶ 62) That the petitioner recover its costs.

GEORGE Z. MEDALIE,

*United States Attorney for the  
Southern District of New York.*

WILLIAM D. MITCHELL,

*Attorney General.*

JOHN LORD O'BRIAN,

*The Assistant to the Attorney General.*

JAMES LAWRENCE FLY,

WALTER L. RICE,

*Special Assistants to the Attorney General.*

DISTRICT OF COLUMBIA, ss:

James Lawrence Fly, being duly sworn, says: I am a Special Assistant to the Attorney General and have been actively engaged in the conduct of the investigation and all other work on behalf of the petitioner in connection with this proceeding. I have read the petition herein and know the contents thereof and am informed and verily believe the allegations thereof to be true. The sources of my information and the grounds of my belief are the statements and correspondence of various distributors, officials of the Institute, and others, the statements and official reports of Government investigators, and the correspondence, memoranda, agreements, and minutes of meetings of the defendants and others, the originals or copies of which are in my possession.

JAMES LAWRENCE FLY.

Subscribed and sworn to before me this 28th day of March, 1931.

[SEAL.]

HAROLD L. SCHILZ,

*Notary Public, District of Columbia.*

(23)