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Test by Testimonial

The recent decision of the Federal Trade Commission to drop its charges of false advertising against Pioneers, Inc., the Oakland, California, company that produces the battery additive AD-X2, has important implications for scientists and the general public.

At the request of the FTC and later of the Post Office, the National Bureau of Standards tested the additive and reported in 1952 that its composition was "essentially the same as that of a number of other additives examined during past years by the Bureau: In all cases, the results have shown that these materials are worthless."

In 1953, the Senate Small Business Committee began hearings about the additive. The chairman of the committee, Senator Edward J. Thye, asked the Post Office Department, which had issued a fraud order preventing Pioneers, Inc., from using the mails, to suspend that order. The department complied.

Secretary of Commerce Sinclair Weeks was the first to testify at the hearings and may reasonably be said to have set the keynote for subsequent sessions when, after saying that he did not want to "be accused of overruling the findings of any laboratory," he added, "But as a practical man, I think that the National Bureau of Standards has not been sufficiently objective, because they discount entirely the play of the market place." A curious view of objectivity! The Secretary said further that there were "many testimonials to the fact that the product is good and has saved the users money. As a practical man, I do not see why a product should be denied an opportunity in the market place."

In the committee report for 1954, Senator Thye's introductory remarks also help us to understand the course of the hearings. He stated that the "committee views with sympathetic attention the problems of small business men who find themselves at odds with any Government body which holds life-or-death power over them."

During the hearings, Secretary Weeks dismissed the director of the Bureau of Standards, but reinstated him in response to public outcry; he appointed one committee to consider the work of the Bureau of Standards; he asked the National Academy of Sciences to appoint another committee to appraise the work of the Bureau on the battery additive AD-X2. After consideration of conflicting and less well controlled tests, the eminent committee so appointed reported that the work of the Bureau in battery testing was excellent, and concluded that "the relevant data now available . . . are adequate to support the position of the Bureau of Standards that the material is without merit."

Nevertheless, on 16 May 1956, the FTC dismissed its false advertising charges against Pioneers, Inc. The commission upheld the hearing examiner, who on 9 November 1955 said that "The greater weight . . . [of the scientific testimony] is on the side of the complaint," but that the "overwhelming" weight of consumer testimony . . . is with the respondents and is "particularly significant and helpful in the present case, in view of the conflict in scientific evidence."

The commissioners overemphasize the conflict in scientific evidence, for the experiments done at the Bureau of Standards were the most extensive and conclusive. We also wonder whether they do not put too much reliance on the testimony of users, which has, it seems to us, doubtful validity as evidence or, in legal terms, little probative value. *Caveat emptor!*—G. DUS.