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Thar's Gold in Them Bills

When a citizen has been wronged or thinks that he has been wronged by the Government, he may not, in certain cases, resort to the courts for redress; he must instead appeal to Congress, which may pass a bill authorizing the Treasury to pay a specified amount or which may refer the matter to the Court of Claims for determination of the facts and a recommendation about what damages, if any, should be allowed to the plaintiff.

A case in point—and it is one in which we have had a continuing interest because of the way it pits scientific evidence against commercial interests—is that of the battery additive AD-X2. This case originated when the Federal Trade Commission and the Post Office Department asked the National Bureau of Standards to test the additive in 1952. The Bureau reported that AD-X2 had “no beneficial effect on the properties or performances of batteries,” and the Post Office promptly barred the use of the mails for the promotion of the product. This order was suspended a few days later at the request of Senator Thyne, chairman of the Senate Small Business Committee; on 24 March 1953, the Assistant Secretary of Commerce asked for the resignation of Allen V. Astin, director of the Bureau of Standards; Astin's resignation was accepted on 31 March. Thanks to vigorous reaction by scientists and the press, Secretary of Commerce Weeks reversed the decision and on 17 April asked Astin to serve till late summer or early fall; on 21 August he announced that Astin would be kept on as permanent director of the Bureau.

Despite the fact that the Bureau's findings were approved by a committee of the National Academy of Sciences that was especially appointed to appraise them, the Federal Trade Commission, acting on the basis of the testimony of users, dismissed the charges of false advertising against the manufacturer of AD-X2, Pioneers, Inc., of Oakland, California.

This put the company back in business but left it with a grievance. Accordingly, Representative John J. Allen, Jr., of California, introduced a bill (H.R. 3875) “for the relief of Pioneers, Incorporated, and Jess M. Ritchie, individually.” The bill left the amount of damages unspecified, but by virtue of a resolution introduced by Allen (H. Res. 167) it was referred to the Court of Claims with the request that the court should make “such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand . . . and the amount, if any, legally or equitably due from the United States to the claimant.”

The petition of Pioneers, Inc., to the Court of Claims is directed against the Department of Commerce and the Bureau of Standards and asks compensation for losses sustained in the amount of \$2,369,064.52. The Government will respond to the petition on or before 24 January 1958. It is probable that the court will hold hearings and that a good deal of familiar ground will be reworked.

Meanwhile, any observer of the political scene may ponder the following facts, which are not in dispute: Representative Allen, who introduced the bill and the resolution, was defeated when he ran for reelection last month; this month President Eisenhower announced his intention of appointing Allen to the post of Undersecretary of Commerce early next year. If the appointment is confirmed, Allen will doubtless follow the progress of the AD-X2 case with especial interest, for he will be in a sense in the unusual position of being simultaneously plaintiff and defendant.—G.DuS.