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Criminal Enforcement of Section 2 of the Sherman Act: An Empirical Assessment

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CRIMINAL ENFORCEMENT OF SECTION 2 OF THE SHERMAN ACT: AN EMPIRICAL ASSESSMENT

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In early 2022, the new leadership of the Justice Department's ("DOJ") Antitrust Division made waves by announcing that the DOJ would consider bringing criminal cases for monopolization under Section 2 of the Sherman Act. This dramatic change in policy—Section 2 has not been criminally enforced in decades—was first announced in a speech in March by Deputy Assistant Attorney General Richard Powers,[1] asserted again a month later in another speech by Assistant Attorney General Jonathan Kanter,[2] and then confirmed in an updated Antitrust Division Manual released in April.[3]

If the point was to get the attention of the defense bar and the companies they represent, these bombshell announcements succeeded. Defense-oriented law firms rushed to release a slew of client alerts, warning of a "significant departure from modern DOJ criminal antitrust enforcement policy,"[4] and a "surprising"[5] and "significant policy shift"[6] with "far-reaching" implications.[7] And, although the Justice Department has not yet identified possible targets, it is no secret that the Biden Administration has ongoing monopolization cases against Google and Facebook, has investigations open as to other Big Tech companies as well, and generally takes

† Frederick Paul Furth, Sr. Professor of Law, University of Michigan. Many thanks to Shay Elbaum and the research team at the University of Michigan Law Library for copiously pulling together the database of cases from which this Article's findings are drawn. Wesley Ward provided excellent research assistance.

[1] *Head of DOJ Criminal Antitrust Unit Says that Criminal Monopolization Cases May be on the Horizon*, https://www.engage.hoganlovells.com/knowledgeservices/news/head-of-doj-criminal-antitrust-unit-says-that-criminal-monopolization-cases-may-be-on-the-horizon

[2] Assistant Attorney General Jonathan Kanter Delivers Opening Remarks at 2022 Spring Enforcers Summit, https://www.justice.gov/opa/speech/assistant-attorney-general-jonathan-kanter-delivers-opening-remarks-2022-spring-enforcers.

[3] Justice Department Antitrust Division Manual (April 2022), § 7-2.200 ("[The Justice Department] may also bring, and has brought, criminal charges under Section 2."); compare Antitrust Division Manual (Fifth ed. 2017) § III C .1 ("In general, current Division policy is to proceed by criminal investigation and prosecution in cases involving horizontal, per se unlawful agreements, such as price fixing, bid rigging, and customer territorial allocations.").

[4] Sydney Cooper, et al, *Monopolists Going "Directly to Jail?" DOJ Announces Intent to Criminally Prosecute Section 2 Violations*, https://www.jdsupra.com/authors/rob-manoso/.

[5] Antitrust Division Announces Newfound Intent to Pursue Monopolization Cases Criminally, *https://www.bakerlaw.com/Antitrust-Division-Announces-Newfound-Intent-to-Pursue-Monopolization-Cases-Criminally.*

[6] *Powers' Statement Represents a Significant Antitrust Division Policy Shift*, https://www.engage.hoganlovells.com/knowledgeservices/news/head-of-doj-criminal-antitrust-unit-says-that-criminal-monopolization-cases-may-be-on-the-horizon.

[7] *DOJ Signals Intent to Bring Criminal Charges for Monopolization*, https://www.mcguirewoods.com/client-resources/Alerts/2022/3/doj-signals-intent-to-bring-criminal-charges-for-monopolization

the position that Section 2 has been dramatically underenforced and that a reckoning is due.[8]

Whatever the Administration's plans, and whatever the policy considerations of bringing criminal monopolization cases, it is clear that historical precedent will play a considerable role in arguments for and against a renewed regime of criminal enforcement. In response to assertions that criminal Section 2 enforcement would constitute a dramatic break with precedent, the Administration answers that criminal monopolization enforcement was once standard practice and that the last several decades of non-enforcement are the aberration. In a June 7, 2022 speech, Deputy AAG Powers defended the possibility of bringing criminal monopolization cases as "not a novel idea or theory" but one that represents a revival of previous agency practice.[9] He added: "Historically, the antitrust division did not shy away from bringing criminal monopolization charges when companies and executives committed flagrant offenses intended to monopolize markets . . . and by our count, the Justice Department has brought over 100 criminal monopolization cases."[10]

So what exactly is the historical record on criminal Section 2 enforcement? Surprisingly, there is no source authoritatively compiling the record. In contrast to Mr. Powers's assertion of over 100 cases, a study in 2002 reported 87 criminal monopolization cases, without providing any significant detail about them.[11] Estimates of when the last criminal monopolization case was brought have varied, with one scholar asserting that "[t]he last major criminal monopolization case the federal government brought was against American Tobacco in 1940,"[12] and other scholars estimating that the last criminal monopolization case (major or not) was brought in 1967, 1969, or 1972[13] In fact, the Justice Department brought a criminal monopolization case as recently as 1977.[14] According to a study by Richard Posner, the only criminal monopolization jail sentences were between 1925 and 1929.[15] As will be shown, that also is not quite accurate or complete.

This Article aims to provide a comprehensive account of the Justice Department's historical record on criminal Section 2 enforcement. Based on a review of every Justice Department enforcement action reported in CCH's Trade Regulation Reporter, I have assembled a table of 175 criminal monopolization cases, with the first (against Federal Salt) brought in 1903 and the last (against Braniff Airlines) brought in 1977. That table appears as an appendix to this Article.

The raw numbers are not the most important headline. A far more significant question is what sort of criminal monopolization cases the Justice Department historically brought. In

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[8] *See* Executive Order on Promoting Competition in the American Economy, July 9, 2021, https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/

[9] Michael Acton, *U.S. DOJ's Exploration of Criminal Charges for Monopoly Breachs Follows Decades of Underenforcement*, mLex June 7, 2022.

[10] *Id.*

[11] Robert W. Crandall, The Failure of Structural Remedies in Sherman Act Monopolization Cases, 80 Or. L. Rev. 109 (2002) ("To construct the database of monopolization cases, I assembled all the relevant cases from the CCH Abstracts from 1890 to 1996. Of the more than 4,000 entries, I found 423 cases for which sufficient information was available and that met the initial criteria--a consent decree or a finding against the defendants in a monopolization case brought by the government. Of the 423 monopolization cases, eighty-seven were criminal cases and 336 were civil cases. All eighty-seven criminal cases resulted in monetary fines.").

[12] Harry First, *The Case for Antitrust Civil Penalties*, 76 Antitrust L. J. 127, 147 (2009).

[13] Spencer Weber Waller, *Corporate Governance and Competition* Policy, 18 George Mason L. Rev. 833, 882 n.331 (2011); Spencer Weber Waller, *The Incoherence of Punishment in Antitrust*, 78 Chi. K. L. Rev. 207. 216 n. 48 (2003).

[14] *See supra* n. xxx.

[15] Richard A. Posner, *A Statistical Study of Antitrust Enforcement*, 13 J.L. & ECON. 365, 391 (1970).

particular, were these criminal conspiracy cases of the type that today would still be charged criminally, but only under Section 1 of the Sherman Act, or were these cases involving unilateral exclusionary conduct—cases of the type that the Justice Department has rarely brought even civilly in recent decades (but of which there are hundreds of private cases)?[16] The answer to this question is significant because the Justice Department's announcement of criminal monopolization charges seems to be aimed at unilateral monopolization offenses rather than as a mere supplement to its anti-cartel Section 1 criminal enforcement. Claims that criminal monopolization enforcement is historically grounded in agency practice thus turn primarily on the Department's historical practice with respect to unilateral conduct offenses—a topic on which there is scant academic work.

My findings can be summarized briefly as follows: Out of 175 cases in which the Justice Department brought a criminal charge under Section 2, only 20 involved unilateral conduct. In 8 of these cases, the criminal charges were dismissed as to all defendants or all of the defendants were found not guilty. In the remaining 12 cases, the defendants were found guilty, usually via a nolo contendere plea, and a fine was imposed. The largest fine--$187,000—was imposed on Safeway Stores in 1955 and would be equivalent to about $3 million today. In three cases, a prison sentence was imposed. Two of those cases—United Pacific (1933) and Barrett (1939) involved crimes of violence. In one curious outlier case in 1973, an individual apparently served one month of prison time for unilateral monopolization not involving violence.

The remainder of this Article proceeds as follows. Part I establishes the parameters of the research question, in particular the distinction between hard core antitrust offenses and those analyzed under the rule of reason, as bearing historically on the question of criminal enforcement. Part II presents my empirical findings based on my review of the CCH database and supplementary sources. Part III considers the historical record's implications for the Justice Department's ambition to revive criminal Section 2 enforcement.

I. RESEARCH QUESTION

A. Distinguishing Hard Core and Rule of Reason Violations of the Sherman Act

The Sherman Act is simultaneously a civil and criminal statute. Textually, it is a felony to violate Section 1 by entering into any "contract combination or conspiracy . . . in restraint of trade" or Section to by "monopoliz[ing], conspire[ing] to monopolize, or attempt[ing] to monopolize."[17] But, historically, the vast majority of antitrust enforcement has been civil—whether suits by the Justice Department or state Attorneys General in equity, private lawsuits for treble damages, or civil enforcement of Section 5 of the Federal Trade Commission Act by the FTC (which has no criminal powers). The question is not whether the Justice Department has the legal power to bring criminal cases for any particular violations of the Sherman Act—it does—but whether it should do so in its prosecutorial discretion.

Two fundamental distinctions in antitrust doctrine are important to understanding the prosecutorial decision. The first is between concerted and unilateral action. By its terms, Section

[16] During the eight years of the Bush Administration, the Justice Department brought no monopolization cases (even civil ones) at all. During the eight years of the Obama Administration, the Justice Department brought only one such case. Jad Chamseddine, *Obama no more aggressive than Bush on mega-mergers*, 2016 CQNERAPPT 0354 ("Almost eight years into his presidency, Obama's Justice Department has brought just one minor monopolization case, suing a small Texas hospital — United Regional Health Care System of Wichita Falls — for using its dominant market position to hurt competitors.").

[17] 15 U.S.C. §§ 1, 2.

1 of the Sherman Act requires concerted action—some sort of agreement.[18] In contrast, purely unilateral conduct is covered by Section 2. However, Section 2 also prohibits conspiracy to monopolize, and so Section 2 covers much ground that Section 1 covers as well.

The second fundamental distinction is between "hard core" behavior governed by a rule of per se illegality where the mere form of the agreement makes it unlawful, and other behavior whose anticompetitive properties are more ambiguous and therefore require analysis under a searching inquiry into market definition, market power, anticompetitive effects, and procompetitive justifications.[19]

In contemporary doctrinal terms, the only "hard core" offenses meriting per se condemnation are those involving "naked" horizontal agreements among competitors such as price fixing or market division cartel agreements.[20] Any other type of agreements—for example joint ventures among competitors and vertical agreements—are governed by the rule of reason.[21] Hence, unilateral monopolization behavior actionable under Section 2 is generally governed by the rule of reason and requires proof of market power in a properly defined relevant market, anticompetitive effects, and consideration of offsetting efficiency justifications.[22]

Courts sometimes assume that all of Section 2 is governed by rule of reason analysis, but that is not quite true. A naked horizontal conspiracy to monopolize would be actionable as per se illegal under Section 1 and there would be no good reason to apply a different standard to the same behavior under Section 2. There is very little recent case law on this topic because there is no obvious reason to bring a separate Section 2 conspiracy to monopolize case if the same behavior is per se illegal under Section 1, apart from the possibility of a sentencing enhancement in a criminal case.[23]

A further important distinction concerns the overlap between collusion and exclusion. Many cartel agreements also involve agreements to exclude rivals. One of the best known criminal monopolization cases—*American Tobacco*—involved both a price fixing conspiracy and a conspiracy to exclude competitors.[24] A study by Margaret Levenstein and Valerie Suslow found that thirty-six percent of cartels engage in strategic activities designed to exclude entry.[25] Much of the *per se* illegal behavior charged under Section 1 of the Sherman Act also involves exclusionary behavior that could be charged under Section 2. Thus, for example, an agreement among competitors to engage in predatory pricing would be *per se* illegal as collusion even though unilateral predatory pricing is adjudicated under the rule of reason.[26] A 1994 study by Joseph Gallo and co-authors found that 2 percent, or a total of 33, of the 1,522 criminal antitrust cases brought by the Justice Department between 1955 and 1993 involved exclusionary

[18] *See Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).
[19] *See Ohio v. American Express Corp.*, 138 S. Ct. 2274, 2283-84 (2018).
[20] *Id.*
[21] *Id.*
[22] *See*, e.g.,, *U.S. v. Microsoft Corp.*, 253 F.3d 34, 60 (D.C. Cir. 2001) (en banc).
[23] In *American Tobacco Co. v. U.S.*, 328 U.S. 781, 788-89 (1946), the Supreme Court held that separate Section 1 and Section 2 liability may be found for the same conduct because the two claims require separate proof.
[24] *American Tobacco Co. v. U.S.*, 328 U.S. 781, 788 (1946) ("In the present cases, the court below has found that there was more than sufficient evidence to establish a conspiracy in restraint of trade by price fixing and other means, and also a conspiracy to monopolize trade with the power and intent to exclude actual and potential competitors from at least a part of the tobacco industry.").
[25] Margaret C. Levenstein & Valerie Y. Suslow, *Breaking Up Is Hard to Do: Determinants of Cartel Duration*, 54 J. L. Econ. 455, 472 (2011).
[26] *USA Petroleum Co. v. Atlantic Richfield Co.*, 972 F.3d 1070, 1074-75 (9th Cir. 1992), rev'd on other grounds, 495 U.S. 328 (1990).

practices.[27] However, my own review suggests that few cases in that set involved unilateral behavior that would be judged under the rule of reason or, to put it the other way, that most of them must have involved per se unlawful collusive agreements to engage in exclusionary behavior.

The Supreme Court has held that there is no bar to prosecuting antitrust violations criminally under the rule of reason.[28] As discussed next, the Justice Department has long shied away from doing so.

B. The Justice Department's Evolving Policy Toward Criminal Antitrust Enforcement

The Justice Department's policy on criminal enforcement of the Sherman Act has evolved over the decades since 1890. As an entry point to this history, it is useful to begin with a speech given in 1978 by Assistant Attorney General Donald Baker that presented a retrospective on the Justice Department's understanding of its own history on criminal antitrust enforcement.[29] Baker's speech came at a significant moment for purposes of this Article's analysis. Although Baker's focus was criminal Section 1 rather than Section 2 cases, it coincided with the Justice Department's abandonment of criminal monopolization cases—the last one ever having occurred the year before Baker's speech. It is also significant that Baker worked for the Carter Administration and was not particularly reflecting Chicago School influences, which were only beginning to be exerted in the courts.

According to Baker, "[o]riginally, the Department of Justice viewed the [Sherman Act] as essentially civil and, except in a handful of labor cases involving violence, used section obtain equitable relief."[30] Thus, from 1890 to 1903, the Justice Department brought sixteen civil cases and seven criminal cases under Section 1.[31] Fifty years later, the "Sherman Act assumed a new role" under Thurman Arnold's leadership at the Antitrust Division.[32] Arnold believed that "[a]s a deterrent, criminal prosecution is the only effective instrument under existing statutes" and that the civil suit should only be a supplement, not a substitute, for criminal enforcement.[33] Thus, between 1938 and 1943, the Antitrust Division brought 340 section 1 cases, 231 of which were criminal prosecutions.[34] Some of these involved "old-fashioned price fixing conspiracies," but others "raised novel issues."[35] According to Baker, Arnold "clearly went beyond present standards of due process" and [h]is actions invited criticism that businesses were branded as criminal on the basis of uncertain conduct and unpredictable rules."[36] Hence, in 1955 the Attorney General's National Committee to Study the Antitrust Laws recommended that criminal cases only be brought "where the law is clear and the facts reveal a flagrant offense and plain

[27] Joseph C. Gallo et al., Criminal Penalties Under the Sherman Act: A Study of Law and Economics, 16 RES. IN L. & ECON. 25, 28 (Richard O. Zerbe, Jr. ed., 1994).
[28] *U.S. v. United States Gypsum Co.*, 438 U.S. 422, 440-41 (1978).
[29] Donald I. Baker, *To Indict or Not To Indict*, 63 Cornell L. Rev. 405 (1978); *see also* Remarks by John H. Shenefield, Assistant Attorney General, Antitrust Division, "Antitrust Enforcement to Preserve the Competitive Market Place," Cleveland, Ohio,
April 18, 1979.
[30] Baker, *supra* n. xxx at 410.
[31] *Id.*
[32] *Id.*
[33] *Id.* (citing Thurman Arnold, *Antitrust Law Enforcement, Past and Future*, 7 Law & Contemp. Prob. 5, 6 (1940)).
[34] Baker, *supra* n. xxx at 410.
[35] *Id.*
[36] *Id.* at 411.

intent unreasonably to restrain trade."[37] In a statement submitted to the Committee, the Justice Department "drew the line somewhere between" Arnold's view and the Committee's, stating that in general criminal prosecutions should be limited to: "(1) price fixing; (2) other violations of the Sherman Act where there is proof of a specific intent to restrain trade or to monopolize; (3) a less easily defined category of cases which might generally be described as involving proof of use of predatory practices (boycotts, for example) to accomplish the objective of the combination or conspiracy; (4) the fact that a defendant has previously been convicted of or adjudged to have been violating the antitrust laws may warrant indictment for a second offense."[38]

According to Baker, the question of criminal enforcement was less important in the decades following the Attorney General's report because the Antitrust Division brought relatively few criminal cases.[39] In 1967, the Justice Department issued new guidance on its criminal enforcement intentions in antitrust cases, stating that it would typically only bring a criminal prosecution in one of two cases: (1) where "the rules of law alleged to have been violated are clear and established—describing *per se* offenses—" typically price fixing; or (2) "if the acts of the defendants show intentional violations—if through circumstantial evidence or direct testimony it appears that the defendants knew they were violating the law or were acting with flagrant disregard for the legality of their conduct."[40] Baker described this position as "fair and useful today" and reflecting current agency practice.[41]

A year after Baker's speech, the first edition of the Antitrust Division Manual made no mention of bringing criminal monopolization cases and assumed that criminal cases would be brought under Section 1.[42] Consistently with Baker's speech, it articulated the guidelines for bringing a criminal case as follows:

> Because the Sherman Act is both a civil and a criminal statute, the Division historically has proceeded by criminal investigation and prosecution in two types of cases: (1) cases involving per se antitrust violations; for example, price fixing, bid rigging, and horizontal customer and territorial allocations; and (2) cases where there is evidence that the defendants knew that they were violating the law and acted with flagrant disregard for the legality of their conduct. There are a number of situations, however, where, although the conduct may appear to be a per se violation of law, criminal investigations or prosecution may not be considered appropriate. These situations involve areas where: (1) there is confusion in the law; (2) there are truly novel issues of law or fact presented; (3) there is confusion caused by past prosecutorial decisions; or (4) there is clear evidence that the subjects of the investigation were not aware of, or did not appreciate, the consequences of their action.[43]

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[37] *Id.* (citing Report of the Attorney General's National Committee to Study the Antitrust Laws 349 (1955)).
[38] *Id.* (citing Report of Attorney General, *supra n. xxx* at 350*, citing* statement of Stanley N. Barnes, Ass't Att'y Gen. of Charge of Antitrust Div.).
[39] *Id.* at 412.
[40] *Id.* (citing The President's Commission on Law Enforcement and Administration of Justice, Task Force Report: Crime and Its Impact—An Assessemtn I10 (1967)).
[41] *Id.*
[42] Id at IV-82 ("A significant portion of Antitrust Division cases that go to trial are cases brought as criminal violations of Section 1 of the Sherman Act.")
[43] Antitrust Division Manual (1979) at III-11.

The language from the 1979 edition was repeated in Second Edition in 1987.[44] A year later, Assistant Attorney General Rick Rule outlined his views about criminal enforcement of Section 2.[45] In his view, "because unilateral conduct alleged to be illegal monopolization is generally not clearly anticompetitive, it has rarely been a target of criminal prosecution."[46] However, "a criminal monopolization case would be warranted in some circumstances," such as conspiracies among competitors involving "some obviously and irrefutably harmful conduct to keep out interlopers,--for example, blowing up their plants," where both Section 1 and Section 2 counts might be brought, or unilateral cases involving conduct involving threatened or actual violence.[47] However, Rule did not "believe criminal prosecution would be appropriate if the alleged exclusionary conduct was nonviolent, commercial conduct such as pricing or investment."[48]

Subsequent editions of the Antitrust Division Manual made even more explicit that criminal enforcement was reserved for Section 1 cases. In 1998, the Third Edition issued by the Clinton Administration largely repeated the 1979 language, but began with the caveat: "On its face, Section 1 of the Sherman Act … makes any contract, combination or conspiracy in restraint of trade a criminal offense,"[49] thus suggesting again that criminal enforcement should be confined to Section 1 cases. In 2008, the Fourth Edition stated: "In general, current Division policy is to proceed by criminal investigation and prosecution in cases involving horizontal, per se unlawful agreements such as price fixing, bid rigging, and customer and territorial allocations."[50] The same language was repeated by the Obama Administration in the Fifth Edition (2014).[51]

In consequence, from the first edition of the Handbook until the previously noted change in the 2022 Sixth Edition, the antitrust violations criminally prosecuted were principally naked horizontal agreements charged under Section 1 of the Sherman Act. This remains a robust area of criminal enforcement, with scores of individual defendants sentenced to prison sentences averaging 15-20 months and corporate fines reaching the hundreds of millions.[52] The Justice Department also brought some criminal challenges against practices that were considered *per* se illegal at the time, but would now be governed under the rule of reason. For example, in 1978, the Justice Department indicted Cuisinarts for resale price maintenance,[53] a practice that was *per se* illegal at that time but has since become subject to the rule of reason[54] and is virtually not challenged even in private civil cases.[55]

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[44] Antitrust Division Manual (1987) at III-12.
[45] *60 Minutes with Charles F. Rule, Assistant Attorney General Antitrust Division*, 57 Antitrust L. J. 257, 265-66 (1988).
[46] *Id.* at 265.
[47] *Id.* at 265-66.
[48] *Id.* at 266.
[49] Antitrust Division Manual (1998) at III-16.
[50] Antitrust Division Manual (2008) at III-20.
[51] Antitrust Division Manual (2014) at III-12.
[52] U.S. Dep't of Justice, Criminal Enforcement Trends Charts, https://www.justice.gov/atr/criminal-enforcement-fine-and-jail-charts.
[53] *In re Grand Jury Investigation of Cuisinarts, Inc.*, 516 F. Supp. 1008, 1009-10 (D. Conn. 1981), aff'd, 665 F.2d 24 (2d Cir. 1981).
[54] *Leegin Creative Leather Prods., Inc. v. PSKS, Inc.*, 551 U.S. 877 (2007).
[55] John Asker & Heski Bar-Isaac, *Vertical Information Restraints: Pro- and Anticompetitive Impacts of Minumum-Advertised-Price Restrictions*, 63 J. L. & Econ. 113, 117 (2020) (observing that, post-*Leegin*, RPM cases have failed to gain traction).

C. How To Understand the Historical Record on Criminal Monopolization Cases

That the Justice Department has enforced only Section 1, and not Section 2, criminally since the late 1970s sets the stage for analyzing the Department's prior historical record. In particular, it raises the question of whether the scores of criminal Section 2 cases previously brought were essentially criminal conspiracy cases charging the same types of hard-core cartel behavior that today would only be charged under Section 1, or whether they included cases of purely unilateral conduct, or to put it in Rick Rule's words, of "exclusionary . . . nonviolent, commercial conduct."[56]

There is an easy answer to this question, but also a harder one. The easy answer is that, as discussed in the following Section, almost every one of the 175 cases in which monopolization was criminally charged asserted conspiracy to monopolize. From this, it would be tempting to discount the Justice Department's criminal monopolization cases as simply duplicative of Section 1 theories and not charging the sorts of unilateral conduct offenses of current interest. But that would be misguided due to a wrinkle in antitrust law—the *Copperweld* doctrine—that arose a few years after the Justice Department stopped bringing criminal monopolization cases.

In *Copperweld*,[57] the Supreme Court held that a parent corporation and its wholly owned subsidiary are a "single entity" for purposes of antitrust law and hence that intra-firm agreements are not agreements at all for the concerted action requirement of Section 1. The *Copperweld* doctrine has been applied more generally to cover Section 2 conspiracy claims agreements among agents of the firm and the firm.[58] A firm and its officers or employees are legally incapable of conspiring within one another to commit an antitrust violation. But this was not always so.

Consider, for example, one of the cases discussed below, the Justice Department's 1939 criminal monopolization charge against Barrett Company and 12 of its officers. The indictment alleged a combination and conspiracy to restrain and monopolize interstate trade and commerce in sulphate of ammonia, a nitrate fertilizer. The anticompetitive behavior charged was essentially an intra-firm scheme to corner the market on sulphate of ammonia through exclusive contracts with large producers. The "conspiracy" charged seems to have been among the officers of firm and the firm itself. Today, that would not count as a conspiracy at all, since the relevant agreements occurred within a "single entity." To code *Barrett* as a conspiracy case would miss the fact that, today, *Barrett* would be considered a unilateral conduct case and could only be charged under Section 2.

Hence, in categorizing the Justice Department's historical criminal monopolization cases as to whether or not they charged unilateral conduct, I did not rely exclusively on whether the indictment or information charged conspiracy which, as noted, almost all of them did. Instead, I reviewed the case description of the Justice Department's allegations and made a qualitative determination as to whether the conduct charged involved collusive agreement among rival firms or individuals, or whether instead involved essentially unilateral exclusionary behavior. In a

[56] Rule, *supra* n. xxx.
[57] *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752 (1984).
[58] *Las Vegas Sun, Inc. v. Adelson,* 2020 WL 7029148, at * 9 (D. Nev. Nov. 30, 2020); *Tonal Renal Care, Inc. v. Western Nephrology and Metabolic Bone Disease, P.C.*, 2009 WL 2596493, at *13-14 (D. Colo. Aug. 21, 2009); *Gucci v. Gucci Shops, Inc*., 651 F. Supp. 194 (S.D.N.Y. 1986).

number of cases, I had to read judicial decisions concerning the case to determine whether the conduct alleged was concerted or unilateral.[59]

Of necessity, these categorization decisions involved a degree of judgment. Some cases involved aspects of concerted action, but the thrust of the case was unilateral, in which case I coded it as unilateral. The table at this end of this Article contains a description of the allegations in all of the 175 criminal monopolization cases, and others may reach different conclusions as to whether a case involved what would today be considered conspiracy or concerted action, or unilateral conduct. In the following section, I describe my findings, including a detailed discussion of each of the cases that I categorized as involving unilateral monopolizing behavior.

II. FINDINGS

In order to create a set of all potentially relevant cases, I began by compiling a spreadsheet of all Justice Department antitrust actions filed in federal court from 1890-1979 reported in the CCH Trade Regulation Reporter—a total of 2,352 cases.[60] (As noted, the FTC does not bring criminal cases). I next categorized the cases as either civil or criminal. Criminal cases were initiated mostly by indictment, and in a few instances by information.[61] Of the 2,352 cases, 1,059 were criminal--987 initiated by indictment and 72 by information.[62] For the criminal cases, I next ascertained whether a violation of Section 2 of the Sherman Act was alleged. From about 1940 forward, CCH usually specified the section or sections of the Sherman Act alleged in the indictment or information, so my coding simply tracked CCH's designation. For earlier years (and occasionally in later ones), the CCH record did not spell out the statutory section. I therefore reviewed the case description to determine whether the charging instrument asserted any of the substantive offenses covered by Section 2 of the Sherman Act—monopolizing, conspiring to monopolize, or attempting to monopolize, and coded the case as asserting a Section 2 case if it did. Where CCH abstracts were ambiguous as to whether a Section 2 theory was alleged, I searched for other publicly reported information about the case, such as judicial decisions.

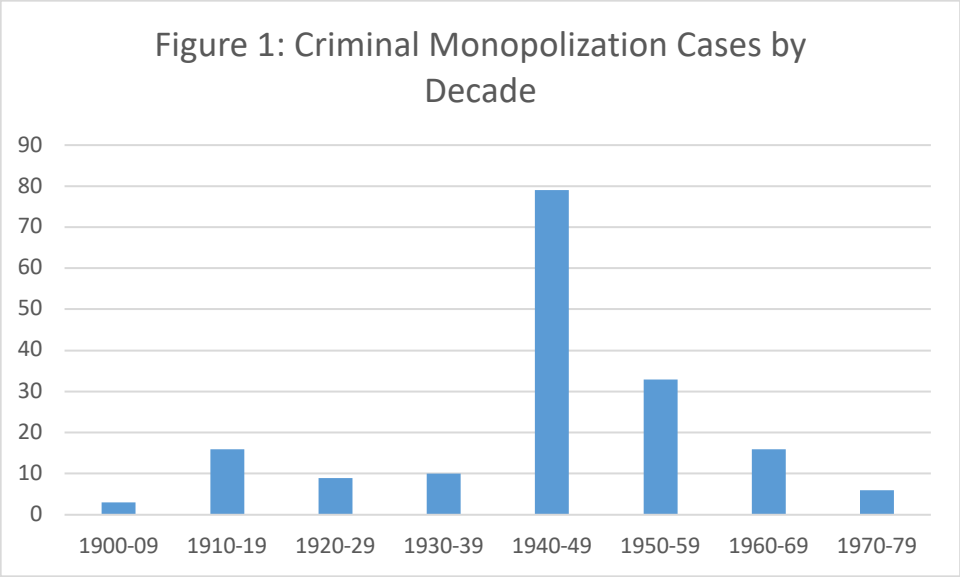
Of the 1,059 criminal cases, 175 included monopolization allegations. The earliest case (Federal Salt) was brought in 1903 and the last (Braniff) in 1977. As shown in Figure 1 below, the cases were heavily concentrated in the 1940s and 50s.

[59] For example, in January of 1943, the Justice Department brought separate criminal Section 1 and Section 2 cases against Kroger Grocery and Baking Company and Safeway Stores in the District of Kansas, charging conspiracy to restrain competition and monopolize the sale and distribution of food products. Although the two corporations were charged in separate cases, a district court opinion makes clear that the Justice Department was charging the two companies with concerted action to monopolize and fix prices. *U.S. v. Safeway Stores, Maryland*, 51 F. Supp. 448 (D. Kan. 1943).

[60] To confirm that no criminal monopolization cases were brought after 1979, I ran additional searches on the CCH database for 1980-1996, when CCH stopped printing its case updates. My search located no criminal Section 2 cases filed in this period.

[61] In contrast, civil cases were generally initiated by petition or complaint.

[62] In a number of instances, the Justice Department filed a civil action concurrently with the criminal challenge.



For each case, I next determined whether the charging instrument alleged coordinated anticompetitive behavior or unilateral exclusionary conduct. The vast majority of the cases alleged coordinated behavior among or between competitors such as price fixing, market division, customer allocation, or group boycotts and charged both Section 1 and Section 2. At least 60 complaints named associations, trade organizations, societies, or unions as defendants and typically alleged that these organizations served as facilitators of collusive schemes. In many other cases, the charging instrument alleged anticompetitive agreements or cartel conduct among competitor companies.

Out of 175 cases in which the Justice Department brought a criminal charge under Section 2 of the Sherman Act, 20 involved unilateral conduct. In 8 of these cases, the criminal charges were dismissed as to all defendants or all of the defendants were found not guilty. (In one of these 8 cases, the criminal charges were dropped in favor of a consent decree in a related civil case). In the remaining 12 cases, the defendants were found guilty, usually via a nolo contendere plea, and a fine was imposed. The largest fine--$187,500—was imposed on Safeway Stores in 1955. In three cases, a prison sentence was imposed for which time was served. Two of those cases—United Pacific (1933) and Barrett (1939) involved crimes of violence. In one curious outlier case, an individual apparently served one month of prison time for unilateral monopolization not involving violence. In 1973, Missouri magazine wholesaler Allan Molasky pleaded guilty to attempting to monopolize the wholesale distribution of magazines and paperback books in the Gulf Coast area by attempting to acquire all of the local wholesale agencies located in the area between Victoria, Texas and Pensacola, Florida and threatening to put out of business anyone who refused to sell. He received a sentence of one year, with 11 months suspended (and two years of probation). Mr. Molasky's exceptional case may have done the trick, because it was the last time the Justice Department ever charged unilateral monopolization conduct criminally.

Figure 2 below presents a summary of the 20 cases and, for cases involving a fine, the amount of the fine in 2022 dollars.[63]

[63] Present value of fines calculated using U.S. Bureau of Labor Statistics CPI Inflation Calculator: https://www.bls.gov/data/inflation_calculator.htm.

Figure 2

Defendant	Year	Outcome (Guilty: G; Not Guilty: NG)	Present value of fine (May 2022)
Winslow	1912	NG	---
Rockefeller	1914	NG	---
Nash Bros.	1917	NG	---
Ludowici-Celadon	1929	G	$85,466
Union Pacific	1933	G	$22,659
Barrett	1939	G	$20,879
Chattanooga News	1940	G	---
NY Great A&P	1944	G	$2,939,759
Gamewell	1946	G	$694,605
Kansas City Star	1953	NG	---
National Linen	1955	G	$240,843
Safeway Stores	1955	G	$2,052,640
Harte-Hanks	1958	NG	---
Jas. A. Matthews	1958	G	$492,634
General Motors	1961	NG	---
H.P. Hood	1963	NG	---
United Fruit	1963	G	$38,460
Union Camp	1963	G	$1,298,025
Empire Gas	1973	NG	---
Molasky	1973	G	$686,141
Total fines			$8,572,111

The following paragraphs summarize the allegations and outcome of each of the 20 cases I coded as unilateral monopolization offenses:

- *U.S. v. Winslow* (D. Mass. 1912). Combination of several shoe machinery companies through merger into United Shoe and tying arrangements in lease agreements. The district court sustained demurrers to some counts of the indictment, which the Supreme Court affirmed in *U.S. v. Winslow*, 227 U.S. 202 (1913). The case was subsequently nolle prossed.

- *U.S. v. Rockefeller* (S.D.N.Y 1914). William Rockefeller, railroad company officers, and directors of New York, New Haven & Hartford Railroad Company named as defendants. Allegation that defendants conspired to monopolize the transportation facilities of New England. Disagreement by the jury as to five defendants and six defendants were found

not guilty; pleas of immunity were sustained as to four defendants, and a nolle prosequi was entered as to the remaining defendants.

- *U.S. v. Nash Bros.* (D.N.D. 1917). Conspiracy to monopolize trade in fruit by seeking to prevent competitors from purchasing fruit from growers and distributors and by cutting prices to cause competitors to sustain losses in the sale of any fruit purchased. Demurrer sustained; case dismissed.

- *U.S. v. Ludowici-Celadon Co*. (N.D. Ill. 1929). Conspiracy to monopolize interstate commerce in the manufacture and sale of roofing tile by the acquisition of the business, property, and assets of competing corporations, and by various unlawful acts and agreements to exclude and prevent competition in the sale and installation of roofing tile. Defendant pleaded nolo contendere and a fine of $5,000 was imposed.

- *U.S. v. Union Pacific Produce Co*. (S.D.N.Y 1933). Officers of company also named as defendants. Conspiracy to restrain and monopolize interstate commerce in artichokes by preventing, through threats, intimidation and violence, artichoke receivers, jobbers, retailers, push-cart peddlers and others, their customers and employers, from dealing in artichokes in the metropolitan area of New York except through the company. Guilty pleas by all defendants, fine of $1000 was imposed on the company and a sentence of six months' imprisonment was imposed on each of two individual defendants. The sentences of two other defendants were suspended and those defendants were placed on probation for a period of five years.

- *U.S. v. Barrett Company* (S.D.N.Y. 1939). 12 officers of the company also named as defendants. Conspiracy to restrain and monopolize interstate commerce in artichokes by preventing, through threats, intimidation and violence, artichoke receivers, jobbers, retailers, push-cart peddlers and others, their customers and employers, from dealing in artichokes in the metropolitan area of New York except through the company. Guilty pleas by all defendants, fine of $1000 was imposed on the company and a sentence of six months' imprisonment was imposed on each of two individual defendants. The sentences of two other defendants were suspended and those defendants were placed on probation for a period of five years.

- *U.S. v. Chattanooga News-Free Press Co.* (E.D. Tenn. 1940). Two individuals also named as defendants. Conspiracy to restrain and an attempt to monopolize interstate commerce by preventing the operation of competing afternoon newspapers in Chattanooga, Tennessee. The information further charges that contracts for advertising space in issues of the Chattanooga News-Free Press required advertisers to use that paper exclusively for afternoon advertising in Chattanooga. The jury found the defendants guilty on count one and not guilty on count two of the indictment. A fine of one cent was imposed on each defendant in lieu of costs.

- *U.S. v. New York Great Atlantic & Pacific Tea Co.* (E.D. Ill. 1944). Defendant corporation, 11 of its subsidiaries, 16 officers and directors, Business Organization, Inc., and public relations counsel also named as defendants. Government alleged that the A &

P group by virtue of its dominant position in the industry was able to control policies and practices in the production, processing, manufacturing and distribution, both wholesale and retail, of food products throughout the United States. Trial of the case before the court without a jury. The Court found three defendants not guilty and all remaining defendants guilty on both counts of the information and fines totaling $175,000 were imposed. The Court of Appeals, Seventh Circuit, affirmed the District Court judgment of conviction against the defendants, holding that the A & P group had abused their mass buying and selling power, and that their business practices restrained trade and tended toward monopoly. The court upheld the liability of the manufacturing subsidiaries because of their interlocking directorates, and affirmed the conviction of Carl Byoir and Business Organization, Inc. because of their advisory capacity. Fines assessed by the District Court totaling $175,000 were paid by 10 corporate and 13 individual defendants.

- *U.S. v. Gamewell Company*. (D. Mass. 1946). Five company officers also named as defendants. Conspiracy in restraint of interstate commerce and monopoly of municipal fire alarm equipment. The American District Telegraph Co. and its President were also named defendants in the first two counts of the indictment, alleging a conspiracy to monopolize trade in the leasing of equipment to public and private institutions and the sale of equipment to municipalities. Government alleged that defendants attempted to monopolize the industry by buying out competitors, acquiring patents and trademarks, cutting prices, rigging specifications so as to make it impossible for competitors to bid, and threatening litigation. All of the defendants pleaded nolo contendere and were fined a total of $43,250.

- *U.S. v. The Kansas City Star Co.* (W.D. Mo. 1953). The Kansas City Star Co., Kansas City, Mo.; Roy A. Roberts, chairman of the board and president of the Star Co.; Emil A. Sees, treasurer and director of the Star Co., and advertising director of its newspapers were also named as defendants. The two-count indictment alleged that the defendants attempted to, and were then, monopolizing the dissemination of news and advertising in metropolitan Kansas City and that they excluded all others from publishing daily newspapers in Kansas City. According to the indictment, the defendants, among other things, refused and threatened to refuse to accept advertising, or discriminated as to space, location or arrangements of advertising if the advertiser used competing media, or a larger ad in competing media, and these threats and refusals were implemented by an elaborate system of surveillance of competing publications. It further alleged that the Star Company's rate structure for local display advertising provided for tie-in sales which excluded advertisers from using other media. The grand jury also charged that national and classified advertisers were required to purchase advertisements in both the Star and Times, even though they desired to advertise in only one of these newspapers; and that subscribers to these papers, numbering in excess of 300,000, were required to pay for delivery of the Times, the Star and the Sunday Star in forced combination, even though they desired to purchase only one or two of these three newspapers. The indictment also alleged that news carriers, operating as independent businessmen, were required to refrain from delivering competing advertising media. The grand jury further charged that special discounts for advertising in defendants' newspapers were offered to those who

advertised on defendants' radio station and that advertisers not using defendants' newspapers were denied access to the Star's; television station. The criminal case was tried and defendants found guilty. The defendants appealed to the Court of Appeals for the Eighth Circuit. On January 23, 1957, the United States Court of Appeals for the Eighth Circuit affirmed the judgment convicting. The case was ultimately resolved by a consent decree in an accompanying civil case.

- *U.S. v. National Linen Service Corp.* (N.D. Ga. 1955). Four company officers were also charged with attempting to monopolize and monopolizing the linen service industry in various southern states. The grand jury charged in the indictment that National had excluded competitors in the linen service business in the South by buying out hundreds of competing linen service concerns, and had threatened to force out of business existing competitors and concerns desiring to engage in the linen service business. According to the indictment, National had prevented and suppressed competition by conducting price wars; lowering prices in areas where National had competitors until competition was eliminated; offering customers service at below cost or free; and giving customers rebates and other inducements not to deal with competing linen service concerns. The indictment also charged that National had circulated defamatory or misleading reports among customers to induce them to refrain from patronizing competing linen service concerns. It was further charged that, in selected areas, National had induced or compelled linen service concerns to enter into agreements with it eliminating competition. After a consent judgment was entered against the defendants in a related civil case, defendants pled nolo contendere and the court imposed fines of $10,000 on the corporation and $4,000 on each of the three individual defendants.

- *U.S. v. Safeway Stores, Inc*. (N.D. Tex. 1955). Two company officers also charged. Violations of the Sherman and Robinson-Patman Acts alleged. The indictment was in three counts. The first charged that the defendants engaged in a conspiracy to monopolize the retail grocery business in various cities in Texas and New Mexico. The second count charged that the defendants were attempting to monopolize this business. The third count brought under Section 3 of the Robinson-Patman Act named only Safeway and Warren as defendants. It charged that Safeway sold goods in its stores in Texas at prices lower than those it charged in other parts of the United States and below cost for the purpose of destroying competition. According to the indictment, Safeway established sales quotas for each of its stores in Texas and New Mexico, amounting to from 25 to 50 per cent of the total retail grocery business and insisted that the store managers meet these quotas. It was further charged that Safeway engaged in price wars in these areas for the purpose of destroying competition and that for that purpose during the course of these wars it sold groceries below its invoice cost for these commodities. According to the indictment, one of the effects of the defendants' activities had been to drive some independent grocers in Texas out of business. The original indictment was voluntarily dismissed by the government in favor of filing a parallel criminal case (by information) and civil injunctive case. All defendants pled nolo contendere. The court imposed a fine totaling $187,500 and one-year prison sentences on the individual defendants, which were probabted.

- *U.S. v. Harte-Hanks Newspapers, Inc.* (N.D. Tex. 1958). Three companies and three individuals engaged in the operation and publication of the Herald-Banner newspaper in Greenville, Texas were also charged. The indictment alleged that, prior to October 1956, there had been published and distributed in the Greenville area two newspapers, The Morning Herald and The Greenville Banner. These two newspapers were the only significant sources of local news, advertising, and other information disseminated regularly for the residents of the Greenville area through the publication and circulation of newspapers, according to the indictment. The indictment charged that the defendants, who had controlled and operated the Banner since 1954, conspired to eliminate the competition of the Herald, and in fact did do so. The indictment charged that the defendants conspired to, and did eliminate the competition of the Herald by: intentionally operating the Banner at a loss, utilizing revenues from other Harte-Hanks newspapers to finance such losses; lowering subscription rates for home and mail delivery of the Banner; distributing copies of the Banner free of charge; reducing the display and classified advertising rates of the Banner; increasing the Banner's advertising staff and the number of pages published; endeavoring to purchase and purchasing the Herald; and seeking to curtail credit resources available to the Herald. On January 21, 1959, the United States District Court for the Northern District of Texas, Dallas Division, ruled that the defendants did not violate the antitrust laws.

- *U.S. v. Jas. H. Matthews & Co*. (W.D. Pa. 1958). Vice-President of company also charged. The company was the nation's largest manufacturer of bronze grave markers allegedly controlling at least 75 percent of industry sales. The indictment charged the defendants with achieving and maintaining a monopolistic position in the industry by conspiring with its cemetery customers to restrain trade in the sale and distribution of bronze grave markers. According to the indictment, the company had suggested, and the cemeteries had adopted, certain restrictive devices designed to prevent the installation of any bronze grave marker not purchased from the particular cemetery where the marker was to be installed. In return for this assistance in eliminating their bronze marker sales competition, the cemeteries were said to have agreed to purchase their own marker supplies predominantly from the company. The United States District Court for the Western District of Pennsylvania accepted the defendants' pleas of nolo contendere. The Court imposed a fine of $10,000 on each of the four counts in the indictment against Jas. H. Matthews & Co., and a fine of $2,500 on each of two counts was imposed on N. Neilan Williams, with sentence suspended on the other two counts.

- *U.S. v. General Motors Corp.* (S.D.N.Y. 1961). Indictment by a federal grand jury on charges of using its vast economic power illegally to monopolize the manufacture and sale of railroad locomotives. Attorney General Robert F. Kennedy announced the return of the indictment, which charged that General Motors violated section 2 of the Sherman Antitrust Act. Two. substantial competitors were driven from the market and General Motors captured 84.l% of the locomotive business. As a result, the indictment asserted that “the purchasers of locomotives and the public in general have been. deprived of the benefits of competition.” The indictment listed at least 14 ways in which General Motors assertedly misused its economic power to force most of the nation's 40 railroads to buy locomotives. The indictment pointed out that General Motors is the largest manufacturing

corporation in the United States in terms of total sales and assets and is probably the nation's largest shipper of freight. As a result, the complaint asserted, General Motors was able to vary its price and rate of return in locomotive sales, make investments in manufacturing facilities for railroad locomotives, and establish production capacity in a manner which no competitor could meet. This power, the indictment asserted, was "unlawfully acquired and maintained." Among the ways in which General Motors did so, the indictment said, included: Routing rail shipments to favor purchasers of General Motors locomotives and withholding or reducing shipments from lines which purchased locomotives from General Motors' competitors. Building plants, warehouses and storage areas near lines of railroads for the purpose of persuading the railroads to purchase General Motors locomotives. Obtaining steel from General Motors suppliers on terms which were substantially more advantageous than those available to its competitors. Financing the sale or lease of locomotives on terms its competitors could not match. Participating in preparation of locomotive specifications for use in obtaining competitor bids which prevented other manufacturers from competing. Selling locomotives at a loss in segments of the market where it had competition. On December 28, 1964, the court granted the government's motion to nolle prosequi the case

- *U.S. v. H.P. Hood & Sons, Inc.* (D. Mass 1963). The Great Atlantic & Pacific Tea Company, Inc. and H. P. Hood & Sons of Boston, the largest milk wholesaler in New England, were indicted on charges of trying to drive out of business milk dealers who sell MILK at cheaper prices in glass jugs. The indictment charged Hood with illegally cutting prices in selected areas, often below cost, in order to destroy competition from "jug handlers." Attorney General Kennedy said the indictment further charged that Hood conspired with the Great Atlantic & Pacific Tea Company, Inc. to restrain competition and to monopolize the Greater Boston milk market. Approximately 350,000,000 quarts of milk, worth about $70,000,000 are sold there annually. The indictment said Hood paid secret rebates to A&P for milk sold in its Boston area stores. Jug handlers process, sell and distribute milk in gallon and half-gallon jugs, a cheaper form of packaging than the milk cartons used by Hood and other dairies. The jury found defendants H. P. Hood and The Great Atlantic & Pacific Tea Co. not guilty of the charges.

- *U.S. v. The United Fruit Company* (S.D. Cal. 1963). Allegations unlawfully monopolizing the banana market in seven western states. Attorney General Kennedy said the antitrust indictment also charged United with trying unlawfully to drive out budding competition by flooding the market and by predatory pricing. The defendants maintained substantially higher prices in the western states than in markets where they faced competition, the indictment said. They also were charged with strictly limiting banana imports in order to shelter the western market from oversupplies which might have brought down prices. This count said the defendants refused to sell to a number of wholesalers and allocated bananas in such a way that customers had to buy excessive amounts during periods of oversupply in order to increase their allotments during periods of short supply. Starting in July, 1960, two other banana companies-the Standard Fruit and Steamship Company and Ecuadorian Fruit Import Corporation-joined to import bananas into Los Angeles by ship. The other two counts charged the defendants with conspiring and attempting to eliminate this competition. They did so, the grand jury

charged, by: -Increasing their imports, in order to flood the area with an oversupply of bananas; -Maintaining maximum inventories with customers to forestall purchases from Standard-EFIC; -Deliberately reducing wholesale prices, starting July 9, 1960 in order to keep Standard-EFIC from making any profit; and -Causing the Port of Los Angeles to deny Standard-EFIC a pier assignment for its banana cargoes. On October 23, 1963, the following fines were imposed on nolo contendere pleas: United Fruit, $2,000; United Fruit Sales Corp., $1,000; Joseph H. Roddy, $500; and Marion E. Wynne, $500.

- *U.S. v. Union Camp Corp.* (E.D. Va. 1963). Two manufacturers of paper bags, and two officials of one of the firms were charged with conspiring to exclude competitors through use of an allegedly invalid patent. The charges related to patents for a paper bag with a mesh-covered "window" to permit contents such as potatoes and onions to be seen and ventilated. According to the indictment, Union was issued a product patent in 1947, and in 1950 initiated a licensing arrangement with selected competitors through which it collected $50,000 in royalties annually and exerted major control of the industry. Bemis acquired a patent in 1953 covering the apparatus which produced such bags, and later transferred all licensing rights under the patent to Union. The government charged that both firms were aware the Bemis patent was invalid. Through use of the invalid Bemis patent, Union, according to the indictment, then extended its power to collect royalties and to block additional competition another six years after its own patent expired in 1964. The government said Union and Bemis used the invalid patent to force a manufacturer of window-front bag attachment machinery to restrict sales to Union licensees. Following nolo contendere pleas, fines totaling $135,000 were imposed as follows: Union Camp, on the conspiracy count, $50,000 and on the monopoly count, $25,000; Bemis, $50,000; Mr. Calder and Mr. Bauer, $5,000 each.

- *U.S. v. Empire Gas Corp.* (W.D. Mo. 1973). Two individuals were also charged. A federal grand jury indicted Empire Gas Corp. of Lebanon, Missouri-one of the largest liquified petroleum gas distributors in the United States and two individuals on charges of violating the antitrust laws and conspiring to violate federal firearms law in connection with an unsuccessful attempt to dynamite a tank truck belonging to a competitor. Jury acquitted defendants.

- *U.S. v. Molasky* (E.D. La. 1973). A missouri magazine wholesaler and its two principal offers were charged with attempting to monopolize the wholesale distribution of magazines and paperback books in the Gulf Coast area. Defendants attempted to monopolize by trying to acquire almost all of the local wholesale agencies located in the area between Victoria, Texas and Pensacola, Florida. In addition, the indictment charged the defendants induced wholesalers to sell their businesses, by threatening to put them out of business or otherwise to injure them economically. Defendants entered pleas of nolo contendere over the objections of the government. On February 12, 1975, the court accepted Allan Molasky's plea of nolo contendere. On March 11, 1975, each of the defendants was fined $50,000. A sentence of 1 year, with 11 months suspended, plus 2 years' probation was imposed on Mark Molasky.

Three concluding observations about these cases: First, the fines meted out for unilateral

monopolization were concentrated in five cases: NY A&P, Gamewell, Safeway, Jas. H. Matthews, and Union Camp. The fines imposed in other cases were largely nominal. The total amount of all fines imposed for unilateral monopolization offenses in 2022 dollars is $8,572,111. This seems like a pittance compared to the hundreds of millions in fines levied against cartelists today. All of these decisions were rendered before the Antitrust Procedures and Penalties Act of 1974, which dramatically increased the maximum penalties under the Sherman Act,[64] and long before the Antitrust Criminal Penalty Enhancement and Reform Act of 2004, which raised the penalties even further.[65] In any event, criminal monopolization enforcement operated in a much more modest penalty environment than criminal antitrust enforcement operates today.

Second, the government failed to achieve a criminal conviction in a comparatively large share of these cases—8 out of 20. In his empirical study of antitrust enforcement, Richard Posner estimated the Antitrust Division enjoyed an 81 percent success rate in the antitrust cases it brought in roughly the same time period as the one studied here—1890 to 1967—and that the FTC also had an 81 percent success rate in antitrust cases brought from 1915 to 1969.[66] Our sample of 20 unilateral monopolization cases is small, but gives some reason to believe that, even during periods in which the government was routinely winning civil monopolization cases, criminal cases were a tougher sell with the courts.

Third, the success rate and fine levels in the unilateral conduct cases were lower than in coordinated conduct cases. Looking at the 155 coordinated conduct cases, in 99 of the 155 cases (64%), a party was either convicted, plead guilty, or pled nolo contendere (compared with in 60% of the unilateral cases). In 2022 dollars, $88,171,770 in fines were imposed in 98 successful cases, averaging $899,712 for successful cases or $568,850 on average for all coordinated conduct cases.[67] The comparable figures for the unilateral conduct cases are an average of $714,343 in the successful cases and $428,606 in all cases. Thus, the historical data show that the government's criminal enforcement in unilateral conduct cases tended to result in lower conviction rates and lower fines than its conspiracy to monopolize enforcement involving cartel behavior.

III. IMPLICATIONS

What are the implications of these findings for the recently renewed prospect of criminal Section 2 enforcement? On the one hand, the Antitrust Division's leadership is not wrong to say that, historically, Section 2 was criminally enforced on a significant scale. Indeed, the raw number of cases previously brought—175—seems a generous cushion to the agency's own estimate of "over 100" cases.[68] Further, some of these cases did involve the sorts of unilateral conduct offenses that the Justice Department may be considering again today. Predatory pricing, tying, exclusive dealing, price discrimination, and leveraging patents were all theories that the Justice Department brought criminally.

On the other hand, the vast majority of these monopolization cases were horizontal conspiracy cases involving price fixing or similar *per se* offenses and the Section 2 claim added

[64] Antitrust Procedures and Penalties Act, Pub. L. No. 93-528, Section 3, 88 Stat. 1708 (1974) (raising maximum penalty from one year imprisonment and $50,000 fine to three years imprisonment and $1 million fine).

[65] Pub. L. No. 108-237, §§ 201-221, 118 Stat. 661 (2004) (raising maximum penalty to ten years in prison and $100 million fine).

[66] Posner, *supra* n. xxx. Table 11 at 381.

[67] Some fines were suspended or remitted, decreasing these values immaterially to $86,978,309; $887,534; and $561,150 respectively.

[68] Powers, *supra* n. xxx.

little of substance. Given the substantial fines and jail sentences available for Section 1 offenses today, there seems to be little need to begin bringing criminal monopolization cases for price fixing again today. And that does not seem to be the Justice Department's intention in announcing a renewed policy of Section 2 criminal enforcement.

As to the 20 unilateral offense cases, peeling away the layers of the onion skin leaves relatively little as a robust historical precedent. Only 12 of the cases resulted in a finding of criminal liability, and in most of those cases the penalty was insignificant. Even in the five cases with comparatively large fines, the fines were trivial compared to the fines imposed in cartel cases today. As to the possibility of prison time—which seems to be driving much of the political theater behind the Justice Department's recent announcements[69]—the historical record is de minimis: one executive served one month in prison for a unilateral monopolization offense not involving violence or threats of violence.

This Article has sought only to establish the historical record, not to engage directly with the normative questions raised by the Justice Department's plan to begin bringing criminal monopolization cases again. As to the normative question, there are a variety of strategic and moral considerations, including: the advisability of taking on a heightened standard of proof given the difficulties plaintiffs have in winning monopolization cases even under the civil standard; potential political backlash if the Justice Department were perceived to overreach; the fairness of bringing criminal challenges under indeterminate liability standards where outcomes are difficult to predict; the intentions and purposes of Congress in criminalizing monopolization; and whether criminal defendants might mount a successful desuetude challenge to the renewal of a criminal enforcement program abandoned a half decade ago.

The Justice Department's evocation of the historical record in announcing its new intentions suggests that past precedent will play a considerable role in the determination of these questions. The Biden Administration has already played a historical card in aligning its antitrust enforcement policy with the philosophy of Justice Louis Brandeis.[70] As previously noted, criminal antitrust enforcement reached its peak under the leadership of AAG Thurman Arnold who, while not quite a full-blown Brandeisian,[71] and is held up as a model of antitrust enforcement by the neo-Brandeisians.[72] However, only two unilateral criminal monopolization cases—*Barnett* and *Chattanooga News-Free Press*—were initiated during Arnold's tenure at the Justice Department. Of the almost 80 criminal monopolization cases brought during the 1940s under Arnold and his successors at the Antitrust Division, only three involved unilateral exclusion theories. For better or for worse, criminal Section 2 enforcement for non-violent

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[69] *See* David Reichenberg, *Biden's DOJ Antitrust Division Teases Potential Jail Time for Monopolization*, Forbes, March 14, 2022, https://www.forbes.com/sites/davidreichenberg/2022/03/14/bidens-doj-antitrust-division-teases-potential-jail-time-for-monopolization/?sh=47ef0cec2ed8

[70] *See* Daniel A. Crane, *How Much Brandeis do the Neo-Brandeisians Want?*, 64 Antitrust Bulletin (2019).

[71] Jerry Fowler, *"That Man from Laramie:" Thurman Arnold and the Future of Antitrust*, 21 Wy. L. Rev. 267, 285 (2021).

[72] *See*, e.g., TIM WU, THE CURSE OF BIGNESS: ANTITRUST IN THE NEW GILDED AGE 163-64 (2018) (describing Arnold's actions against monopolies and cartels that had overtaken what "was once a nation of small businesses and farms"); Zephyr Teachout, *Antitrust Law, Freedom, and Human Development*, 41 Cardozo L. Rev. 1081, 1095-96 (2020) (describing "impact of Brandeisian worldview, in combination with Thurman Arnold's enforcement strategy" has leading to "a default suspicion of mergers and of concentration in business"); Zephyr Teachout & Lina Khan, *Market Structure and Political Law: A Taxonomy of Power*, 9 Duke J. Const. L. & Pub. Pol'y 37, 63 (2014) (describing Arnold's role in bringing "antitrust and competition policy to the center of the Roosevelt Administration's economic policy").

unilateral exclusionary conduct has never been a significant part of the Justice Department's enforcement practice.

CONCLUSION

The Justice Department has historically brought a fairly significant number of criminal cases for violation of Section 2 of the Sherman Act—175 of them to be precise. However, only 20 of those involved charges of what today would be considered unilateral monopolization offenses, of those at least three involved violence or threats of violence, only 12 of the 20 resulted in a conviction, and the penalties in the successful cases were comparatively small. Hence, if the Justice Department carries through on its recent threats to begin bringing criminal monopolization cases again and it does so for non-violent unilateral conduct offenses and seeks significant penalties, it will be breaking new ground.

APPENDIX

Defendants (Primary and additional)	Year	Nature of allegations	Unilateral Conduct (UC), Concerted Conduct (CC)	Disposition
Federal Salt	1903	Monopoly in the manufacture and sale of salt in western states by means of agreements which eliminated competition and permitted the fixing and enhancing of prices	CC	Defendant pleaded guilty; $1,000 fine
Armour & Co. Other corporate and individual defendants	1905	Conspiracy to restrain and monopolize interstate trade and commerce in meats	CC	Individual defendants dismissed; nolle prosequi as to corporate defendants
American Naval Stores Other corporate defendants and their officers	1908	Conspiracy to restrain and monopolize the manufacture and sale of turpentine and naval stores by eliminating competition through certain unfair and illegal practices	CC	Following Supreme Court appeal, second trial resulted in acquittal
John Reardon & Sons Other corporate and individual defendants	1910	Conspiracy to eliminate competition in the purchase of raw materials used in the business of manufacturing, rendering and producing tallow, oleo, oil, oleosterin, and fertilizer	CC	Nolle prosequi as to individual defendants; corporations pleaded nolo contendere and paid $8,000 fine
Isaac Whiting Other milk purchaser defendants	1911	Conspiracy to fix and depress prices paid to milk producers	CC	Defendant Whiting paid fine of $500 and charges as to other defendants dismissed
Sidney Winslow Others	1911	Combination and conspiracy to restrain and monopolize the shoe machinery industry by the consolidation of independent manufacturers and by a system of leases containing tying clauses	UC	After Supreme Court decision, nolle prosequi
New Departure Mfg. Co. Five other corporate and 18 individual defendants	1912	Conspiracy to restrain and monopolize interstate commerce in coaster brakes by fixing uniform prices and terms and conditions of sale, under cover of a pretended patent-licensing arrangement	CC	certain of the defendants pleaded guilty and others nolo contendere and fines aggregating $81,500 were imposed
Pacific & Arctic Ry. Co	1912	Conspiracy to monopolize the transportation facilities between Skagway, Alaska, and the headwaters of the Yukon River by the	CC	Statute of limitations plea sustained

		purchase and abandonment of competing carriers		
Pacific & Arctic Ry. Co	1912	Conspiracy to monopolize transportation between the United States and Yukon River points by refusing to grant through rates to other lines and by exacting exorbitant local transportation and wharfage charges to shippers using the transportation facilities of competitors	CC	After Supreme Court decision, indictment was dismissed as to the individual defendants, and after the corporate defendants pleaded guilty fines aggregating $19,500 were imposed
William Hippen Three corporate defendants	1913	Conspiracy to restrain and monopolize interstate trade and commerce in fruits and vegetables	CC	demurrer to the indictment was sustained and the indictment was dismissed
Western Cantaloupe Exchange Growers and distributors named as defendants	1914	Combination to restrain and monopolize trade in cantaloupe	CC	Indictment dismissed; relief desired pursued through bill in equity
William McCoach 32 other master plumbers	1914	Combination to monopolize the business of selling and installing plumbing supplies	CC	Nolle prosequi was entered as to one defendant and the remaining defendants pleaded nolo contendere and fines aggregating $5,265 were imposed
William Rockefeller Railroad company officers and directors of New York, New Haven & Hartford Railroad Company	1914	Conspiracy to monopolize the transportation facilities of New England	UC	Disagreement by the jury as to five defendants and six defendants were found not guilty; pleas of immunity were sustained as to four defendants, and a nolle prosequi was entered as to the remaining defendants.
Chris Irving 13 master plumbers and retail dealers	1914	Combination to monopolize the business of selling and installing plumbing supplies	CC	nolle prosequi was entered as to two of the defendants, and the remaining

				defendants were found guilty and fines aggregating $7,250 were imposed
Isaac E. Chapman Others	1915	Combination and conspiracy to monopolize interstate trade and commerce in the derrick lighterage and wrecking business in New York Harbor and vicinity	CC	Demurrer of indictment sustained
Jensen Creamery Co. Others	1917	Combination and conspiracy to restrain and monopolize interstate trade and commerce in creamery and dairy products in the Northwestern State	CC	the Jensen Company pleaded guilty and a fine of $7,500 was imposed. The remaining defendants were found not guilty.
Nash Bros. Others	1917	Conspiracy to monopolize trade in fruit by seeking to prevent competitors from purchasing fruit from growers and distributors and by cutting prices to cause competitors to sustain losses in the sale of any fruit purchased	UC	Demurrer sustained; case dismissed
William M. Webster Other members of the National Association of Automobile Accessory Jobbers	1917	Combination to restrain and monopolize trade in automobile accessories	CC	Not guilty verdict; nolle prosequi as to two corporate defendants
Ironite Co. Others	1918	Conspiracy to restrain and monopolize interstate trade in pulverized, powdered, and finely divided iron and other like metal or metal-contained material used in, or in connection with, concrete construction work	CC	Indictment dismissed after defendant agreed to consent decree in parallel equitable case
Walter Moore Members of the Steamship Freight Brokers' Association and the Trans-Atlantic Associated Freight Conferences	1920	Conspiracy to restrain and monopolize commerce by an agreement providing for the allowance of a special brokerage fee by steamship companies to members of the Association.	CC	demurrer to the indictment was sustained and a nolle prosequi was entered
Alpha Portland Cement Co. 73 corporate and 40 individual defendants	1921	Conspiracy to restrain and monopolize interstate commerce in Portland cement	CC	nolle prosequi

Chicago Master Steam Fitters' Ass'n Others, including association's business manager	1921	Monopoly in restraint of interstate trade in furnishing and installing heating apparatus in Chicago	CC	nolle prosequi
Louis Biegler Company 10 corporate and 18 individual defendants including representatives of Amalgamated Sheet Metal Workers' Union	1921	Monopoly in restraint of interstate trade in furnishing and installing heating apparatus in Chicago	CC	nolle prosequi
Poster Advertisers Ass'n Members of Ass'n	1921	Defendants had monopolized interstate commerce in bill posters by requiring billboard owners who were members of the Association to receive for exhibition only those posters furnished by Poster Advertising Company, and by causing the Poster Advertising Company to refuse to supply posters to others not members of the Association or to serve any advertisers dealing with its competitors	CC	nolle prosequi
A.J. Peters Four others	1922	Conspiracy to restrain and monopolize interstate commerce in hay	CC	Indictment dismissed on motion of government
American Terra Cotta & Ceramic Co 6 corporations and 7 individuals	1922	Combination and conspiracy to restrain and monopolize interstate trade and commerce in terra cotta through the instrumentality of the National Terra Cotta Society	CC	Indictment dismissed as to all but one of the individual defendants, and all but two of the corporate defendants pleaded guilty and fines aggregating $13,500 were imposed. Thereafter, the remaining corporate de- fendant pleaded nolo contendere, a fine of $1,500 was imposed, and a nolle prosequi was entered as to the remaining individual

				defendant on motion of the Government
United Gas Improvement Co. 2 corporations and 8 individuals	1922	Conspiracy to restrain and monopolize interstate trade in incandescent lamps, fixtures and appliances, by securing control of a number of valuable patents and excluding others from the use of those patents, by acquiring and combining competing companies, and by intimidating competitors.	CC	Nolle prosequi
Ludowici-Celadon Co.	1929	Conspiracy to monopolize interstate commerce in the manufacture and sale of roofing tile by the acquisition of the business, property, and assets of competing corporations, and by various unlawful acts and agreements to exclude and prevent competition in the sale and installation of roofing tile.	UC	Defendant pleaded nolo contendere and a fine of $5,000 was imposed
Fish Credit Association, Inc. 24 corporations and 54 officers, directors, and employees	1933	Conspiracy to restrain and monopolize interstate commerce in fresh-water fish by fixing uniform prices, terms and conditions of sale, by eliminating competition, and by boycotts, threats, intimidation, and other acts of violence	CC	Some defendants dismissed, others pled guilty or were convicted; fines aggregating $48,387 were imposed against 61 defendants and 12 defendants were sentenced to imprisonment for terms of six months to two years, the sentence of eight of them being suspended.
Fur Dressers Factor Corp. Three unions and their officers and directors	1933	Conspiracy to restrain and monopolize interstate trade and commerce in the shipping, dressing, and dyeing of fur skins, by dictating prices, terms and conditions of sale and transportation, and by enforcing such terms and conditions through violence and intimidation.	CC	Guilty pleas and convictions before a jury resulted in prison sentences of 2 to 15 months and fines
Protective Fur Dressers Corp. Officers, members, stockholders	1933	Conspiracy to restrain and monopolize interstate commerce in rabbit skins by fixing uniform terms, conditions, and prices, and by enforcing those terms, conditions, and prices through violence and intimidation	CC	23 defendants pleaded guilty; two individuals found guilty and sentenced to two years imprisonment and $10,000 fines; one

				defendant's conviction reversed on appeal, subsequently plead guilty and was sentenced to one year in prison; further fines imposed on other defendants
Union Pacific Produce Co. Officers of company	1933	Conspiracy to restrain and monopolize interstate commerce in artichokes by preventing, through threats, intimidation and violence, artichoke receivers, jobbers, retailers, push-cart peddlers and others, their customers and employers, from dealing in artichokes in the metropolitan area of New York except through the company	UC	Guilty pleas by all defendants, fine of $1000 was imposed on the company and a sentence of six months' imprisonment was imposed on each of two individual defendants. The sentences of two other defendants were suspended and those defendants were placed on probation for a period of five years
American Potash & Chemical Corp. Dutch corporation, 4 American corporations, and 57 individuals	1939	Combination and conspiracy in restraint of, and an attempt to monopolize interstate and foreign trade and commerce in potash. The indictment charges that defendants conspired to maintain uniform prices, terms, and discounts, refrained from competing, and refused to sell potash to individual farmers, farm cooperatives, and fertilizer mixers not recognized or approved by all of the defendants	CC	A nolle prose- qui was entered as to all defendants on May 21, 1940, in view of the entry of a consent decree in a civil action involving the same practices.
Barrett Company 12 Officers of the company	1939	Combination and conspiracy to restrain and monopolize interstate trade and commerce in sulphate of ammonia, a nitrate fertilizer. The indictment charges that defendants entered into exclusive sales·contracts with numerous large producers of sulphate of ammonia and purchased for resale substantial quantities from other producers, as a result of which defendants were enabled to establish uniform, noncompetitive prices.	UC	nolle prosequi was entered as to all defendants in view of the consent decree entered in related civil case

Chilean Nitrate Sales Corp. Seven corporations and 17 of their officers	1939	Conspiracy to restrain, a conspiracy to monopolize, and monopolization of, interstate and foreign commerce in nitrate of soda, a fertilizer. defendants entered into agreements by which uniform prices and terms were fixed for the sale of all bulk and bag nitrate of soda produced in the United States or imported from Chile	CC	one defendant corporation pleaded nolo contendere as to all counts; five other defendants pleaded nolo contendere as to count 1 and were nolle prossed on counts 2 and 3; and two other defendants were nolle prossed on all three counts. Fines totaling $35,000 were imposed
Wheeling Tile Co. Eight tile corporations, three incorporated tile contractors' associations, two labor unions, and 35 individuals	1939	Conspiring to prevent the shipment of tile in interstate commerce to any contractor in the Detroit area not a member of the defendant associations. It was charged that the purpose was to give members of the associations a monopoly of the purchase of tile in the Detroit area and to force independent tile contractors in that area out of business by preventing them from purchasing tile and procuring union labor	CC	all but one of the defendants entered pleas of nolo contendere and fines totaling $62,017 were imposed. The indictment was nolle prossed as to the remaining defendant.
Underwood Elliott Fisher Co. 13 motion picture corporations and 54 officers	1939	Criminal contempt of the consent decree entered on August 21, 1930, in United States v. West Coast Theatres, Inc., which declared illegal under the Sherman Act a combination and conspiracy to restrain and monopolize interstate trade and commerce in motion, and granted a permanent injunction	CC	Voluntary dismissal by Government
Arthur Morgan Trucking Co. Arthur L. Morgan, its president, Local No. 600 of the International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers, and three members of the union	1940	Combining and conspiring to restrain and monopolize interstate trade and commerce in hauling materials and supplies, including construction materials, by attempts to eliminate haulers competing with defendant company in hauling construction materials and other commodities. It was further charged that competitors were deprived of union labor and subjected to threats and intimidation, that individual haulers were deprived of union membership, and that fleet owners were black-listed, subjected to sabotage, and deprived of experienced labor	CC	All defendants pleaded nolo contendere. Fines totaling $12,006 were imposed.

Contracting Plasterers' Ass'n of Long Beach, Inc Three associations of contractors, two associations of dealers in plastering materials (one of which succeeded the other), three labor unions, nine corporations holding membership in the deal- ers' association, and 74 individuals	1940	Combination and conspiracy in restraint of interstate trade and commerce by preventing or restraining the sale, in the Long Beach area, of plastering materials by non-members of defendant dealers' association. The indictment further charges defendants with preventing or restraining the purchase, in that area, of plastering materials by non-members of defendant plasterers' associations, and by preventing or restraining the application of plastering materials by non-members of one of defendant unions. Defendants were charged, among other things, with the use of strikes, boycotts, threats, and the destruction of property to effectuate their purposes	CC	count two of the indictment was nolle prossed as to all defendants and count one was nolle prossed as to certain defend- ants. The remaining defendants pleaded nolo contendere. Fines total- ling $7,512 were imposed on 17, sentence being suspended as to the remainder.
Heating, Piping and Air Conditioning Con- tractors Ass'n of Southern California One labor union, 11 corporations, and 62 individuals	1940	Combination and conspiracy in restraint of interstate trade and commerce in heating, piping, ventilating, and air conditioning equipment shipped into California. The indictment charges that defendants used a bid depository to control contract prices for equipment and installation work, prevented contractors not belonging to defendant association from obtaining union labor, supplies and equipment, and in other ways attempted to restrain trade and create a monopoly	CC	Nolle prosequi as to 10 defendants; nolo contendere pleas by remaining defendant and fines totaling $10,044
Hiram W. Evans Purchasing Agent of the State Highway Board of Georgia, and three corporations which manufacture emulsified asphalt	1940	Conspiracy in restraint of commerce in emulsified aphalt shipped into Georgia from outside the state. The indictment charges a conspiracy to eliminate competition by selecting bidders and controlling their proposals to supply emulsified asphalt for state projects	CC	Nolle contendere pleas and fines totaling $30,000
Levine Waste Paper Co. Four corporations and seven individuals	1940	Combination and conspiracy to monopolize interstate and foreign commerce in waste paper. The indictment charges that defendants attempted to eliminate all competitors of defendant wholesalers, and that the means used included refusal to buy from retailers selling to competing wholesalers, denial of union labor to competitors, refusal by the union to deliver merchandise to railroads serving competitors, picketing and	CC	The defendants pleaded nolo contendere and were fined $1.00 each, or a total amount of $11.00

		threatening to picket, and threatening to cause strikes against paper mills which purchase form competitors		
Lumber Institute of Allegheny County; Carpenters District Council of Pittsburgh, Pennsylvania and Vicinity, 14 corporations and 34 other defendants	1940	Combination and conspiracy in restraint of interstate trade and commerce and an attempt to monopolize the sale of millwork in Allegheny County, Pennsylvania. The indictment charges that defendants, by various means, including strikes, threats of strikes, and denial of the use of the union label, attempted to prevent out-of-state manufacturers from shipping millwork into Allegheny County, for the purpose of maintaining high non-competitive prices	CC	Nolle prossed as to all defendants
Lumber Products Ass'n, Inc. A number of concerns manufacturing millwork and patterned lumber in the San Francisco Bay area, certain individuals connected with such manufacturers, three trade associations performing various services on their behalf, an international labor union, four local labor unions affiliated with the international union, three trades councils, and certain of their members and representatives	1940	Conspiracy to monopolize a part of the interstate commerce	CC	Following Supreme Court decision holding that a conspiracy to restrain trade between labor unions and business groups violated the Sherman Act, union and manufacturing defendants a total of $68,000, bringing the total fines in the case to $103,000
Southern Pine Ass'n Southern Pine Lumber Exchange, an association dealing in lumber statistics, and the National Association	1940	Combination and conspiracy in restraint of interstate trade and commerce and an attempt to monopolize the market for southern pine lumber by fixing prices, restricting production and distribution, and by preventing manufacturers not associated with defendants from engaging in the lumber business. It was	CC	Defendants entered pleas of nolo contendere. The Southern Pine Association was fined $10,000 and the

of Commission Lumber Salesmen		further charged that by various means, including the use of its trade-mark grade-mark on lumber and misleading promotional campaigns, the Southern Pine Association secured as high as 90% of the southern pine lumber market in certain trade territories		other two defendants $1,000 each
St. Louis Tile Contractors' Ass'n Two tile contractors' associations, one labor union, three corporations engaged in selling and installing tile, and nine individuals	1940	Combination and conspiracy in restraint of interstate trade and commerce in tiles, and attempt to monopolize the purchase, sale and installation in the St. Louis area of tile in interstate commerce. The indictment charges that defendants fixed prices· through the use of a bid depository, forced national manufacturers to sell only to members of the associations, and attempted to eliminate "one-man" and other tile contractors not associated with defendants. It was charged that fines, boycotts, and unwarranted denial of union labor were used in perpetrating the con-spiracy	CC	All defendants entered pleas of nolo contendere, and fines totaling $20,011 were imposed. Two associations and two individuals were fined $5,000 each and the remaining eleven defendants were fined $1.00 each. Execution of the fines was suspended for a period of three years conditioned upon defendants' compliance with the terms of a consent decree entered against said defendants in a civil suit
Chattanooga News-Free Press Co. Two individuals	1940	Conspiracy to restrain and an attempt to monopolize interstate commerce by pre-venting the operation of competing afternoon newspapers in Chattanooga, Tennessee. The information further charges that contracts for advertising space in issues of the Chattanooga News-Free Press required advertisers to use that paper exclusively for afternoon advertising in Chattanooga	UC	The jury found the defendants guilty on count one and not guilty on count two of the indictment. A fine of one cent was imposed on each defendant in lieu of costs
American Tobacco Co. Eight corporations and certain of their subsidiaries and officers	1940	Conspiracy to monopolize, an attempt to monopolize, and a monopolization of interstate trade in leaf and tobacco products. Each of the counts charged that the defendants combined to acquire control of the leaf marketing system and exercised control to destroy the bargaining power of the farmers; that within the framework of this	CC	The Supreme Court granted writs of certiorari limited to the question whether actual exclusion of competitors is necessary to the crime of

		controlled system they fixed prices to be paid for leaf tobacco; that they secured control of the distributing system and utilized this control to fix and control wholesale and retail prices of tobacco products.		monopolization under Section 2 of the Sherman Act. The Supreme Court affirmed the convictions, thus rejecting defendants' contention that a definition of monopolization which did not require exclusion of competitors wou1d constitute double jeopardy. The court held the various offenses defined by Sections 1 and 2 of the Sherman Act are reciprocally distinguishable from and independent of each other, so that there was no issue as to multiple punishment. On June 10, 1946, a motion for leave to file a petition for enlargement of the scope of review was denied. On September 21, 1946, fines aggregating $57,000 were assessed against the remaining corporate defendants, of which $12,000 was suspended. Total fines in the case amounted to $312,000. The information was dismissed as to 13 individual defend-

				ants and the third count of the information was dismissed as to certain corporate defendants.
Wayne Pump Co. Four corporations and four individuals	1941	Monopolizing and conspiring to monopolize interstate commerce in gasoline computer pumps	CC	District Court held indictment insufficient; Supreme Court dismissed government's appeal
Aluminum Company of America Dow Chemical Co., the only producer of magnesium in the United States; the Amerkan Magnesium Corp., the largest fabricator of magnesium products in the United States; two other American corporations; I. G. Farben, a German·corporation; and eight individuals	1941	Conspiracy to restrain and monopolize interstate commerce in magnesium and magnesium products. The indictment charges that defendants combined to prevent others than Dow Chemical from producing magnesium; to limit the production and sale of magnesium products to defendants and their licensees; to pool competing patents, and to establish uniform prices	CC	Pleas of nolo contendere were entered by all but three defendants and total fines in the amount of $104,993 were imposed. One defendant was nolle prossed. The case was dismissed as to the remaining defendants
American Surgical Trade Ass'n 24 member corporations engaged in the manu- facture and sale of surgical supplies, and 12 individuals	1941	Conspiracy to monopolize a part of the interstate commerce in surgical supplies. The indictment charges that defendants established a registration plan whereby any member of the Association could register any article of surgical supplies first produced by the member, the other members agreeing not to produce or sell an imitation of the article for five years, and to boycott any imitation or copy	CC	In September 1942 the case was postponed indefinitely at the request of the War and Navy Departments. On March 18, 1946, all corporate defendants and the trade association pleaded nolo contendere, and total fines were imposed of $17,000. The 12 officers were dismissed from the case.

Atlantic Commission Co., Inc. (Subsidiary of The Great Atlantic & Pacific Tea Co. of America) Trade association of chain retail store organizations, 12 corporations engaged in selling potatoes and supplies necessary in the production of potatoes, and 17 individuals	1941	Defendants conspired to restrain and to monopolize interstate commerce by fixing prices at which potatoes are sold for distribution throughout the United States by depressing the price paid to growers, by establishing exclusive territories of operation and re- fusing to handle potatoes produced outside of such territory, and by agreeing to give preference to each other in purchases and sales of potatoes	CC	Directed verdict for defendants
Cranberry Canners, Inc. Cooperative exchange in the marketing of cranberries, five companies and 13 individuals	1941	Conspiracy to restrain and monopolize interstate commerce in fresh cranberries and cranberry products produced in Massachusetts, New Jersey, Oregon, Washington and Wisconsin and shipped through- out the United States. The indictment charges that defendants sup- pressed competition between cranberry products and fresh cranberries by allotting quotas as between those marketed as fresh berries and those marketed as cranberry products, by fixing prices for members and non-members, and by discriminating against independent dealers.	CC	Two individual defendants were dismissed because of death. Seven defendants were nolle prossed; nolo contendere pleas were entered by 11 defendants, and fines totaling $32,000 were imposed.
Dried Fruit Ass'n of California 18 corporations members thereof, and 29 individuals	1941	Conspiracy to restrain and a conspiracy to monopolize interstate and foreign commerce in dried fruit products. The indictment charges that defendants combined to fix prices so as to depress the prices paid by packers to growers and to raise the prices of the products sold by the packers, and that defendants effectuated the conspiracy by uniform buying and selling practices, by requiring that dried fruit products be inspected and certified by defendant trade association, and by deny- ing membership in said association to packers who sold at competitive prices	CC	Four defendants were nolle prossed before trial and 11 during the course of trial. Count two charging a conspiracy to monopolize was dismissed as to all remaining defendants. The court granted a motion for a directed verdict of not guilty as to two defendants

				and the jury returned a verdict of not guilty as to the remaining-defendants.
General Electric Co. Three American corporations, three of their officers, and a German corporation	1941	Defendants conspired to restrain and to monopolize interstate and foreign commerce in patented and unpatented hard metal alloys and tool dies made therefrom (principally tungsten carbide). The indictment charges that the conspiracy was effectuated by acquiring and pooling competing patents, price fixing, excluding others, limiting production, eliminating imports and exports from the United States, and allotting marketing territories	CC	All defendants except the German corporation pleaded not guilty. On June 16, 1942, notice was filed postponing the case for the duration of the war at the request of the War and Navy Departments. Trial of the case was concluded on March 27, 1947, and on October 8, 1948, an opinion was rendered finding each of the American defendants guilty on all counts. The court imposed fines on defendants totaling $56,000. The indictment was dismissed as to the German corporation.
Harbison-Walker Refractories Co Three American corporations, four European companies, and seven individuals	1941	Conspiracy to restrain and monopolize interstate and foreign commerce in magnesite and magnesite brick. The indictment charges that defendants combined to control production and importation of magnesite and to divide the world market, the exclusive territory of the American corporations to be the United States and the exclusive territory of the European companies to be Europe, Asia, and Africa.	CC	Four corporate defendants and seven individuals pleaded nolo contendere and were fined in the total amount of $76,500. Case dismissed as to remaining defendants.
National Retail Lumber Dealers Ass'n Two trade associations of retail lumber dealers, 37	1941	Conspiracy to restrain and a conspiracy to monopolize interstate commerce in the sale and distribution of lumber, lumber products, cement and other building materials used and consumed in Colorado, Wyoming and New Mexico. The indictment charges that	CC	74 defendants filed nolo contendere pleas and the total fines imposed amounted to $60,970. The remaining 18

corporations and 51 individuals (all retail lumber dealers), and two cement manufacturers		defendants combined to eliminate competition from manufacturers and wholesalers for the trade of ultimate consumers, to force consumers to buy only from recognized retail lumber dealers, to eliminate competition and allot territories among themselves, and to prevent competitors from obtaining supplies direct from manufacturers and wholesalers		defendants were dismissed on motion of the Government.
Schmidt Lithograph Co. 20 corporations and 31 of their officers or agents	1941	Conspiracy to restrain and an attempt to monopolize interstate commerce and commerce between the Territory of Hawaii and the United States in lithographic products. The indictment charges that defendants fixed prices through the instrumentality of an association by publishing and exchanging price lists, eliminated competition among association members by means of a reporting system whereby each member was compelled to quote prices agreed upon, and discriminated against non-members by predatory price-cutting.	CC	Indictment was dismissed as to two defend- ants and all remaining defendants entered pleas of nolo contendere and fines totaling $128,300 were imposed, sentence being suspended as to certain defendants
Western Washington Wholesale Grocers Ass'n 11 corporate members of the association, and 13 individuals	1941	Conspiracy in restraint of commerce in grocery products shipped from other states into the State of Washington and into the Territory of Alaska. The indictment charges that defendants combined to fix prices and to circulate false rumors concerning available supplies of grocery products and concerning the credit and integrity of other jobbers, and that they coerced national manufacturers to refuse to sell to other jobbers	CC	Twenty-three defendants pleaded nolo con- tendere and the two remaining defendants were con- victed after a trial during the course of which the court granted a motion to strike count two of the indictment. One of the convicted defendants was granted a new trial and fines totaling $8,250 were imposed on the other 24 defendants. The indictment was dismissed as to the defendant who had been granted a new trial

American Waxed Paper Ass'n 44 corporations engaged in the manufac- ture of waxed paper products, and 93 individuals	1942	Conspiracy to restrain and monopolize interstate commerce in waxed products. The indictment charges, that the defendants combined to fix prices, that they established certain methods of manufacture and distribution and induced others to employ and utilize them, that they designated the kinds and quantities of waxed paper to be sold, published so-called price structures and circulated "codes of fair competition," and divided the country into zones	CC	Thirty-two defendants were nolle prossed, and the remaining defendants pleaded nolo contendere and were fined in the total amount of $121,125.
Aqua Systems, Inc. Two corporations and seven individuals	1942	Restraining and monopolizing interstate commerce in the sale and installation of hydraulic gasoline storage and fueling systems and dry gasoline storage system for fueling aircraft. It is further charged that unreasonable prices were secured and competition eliminated through (1) the acquisition and misuse of patents, (2) exclusive licensing agreements between defendants and refusal to license others unless certain unpatented parts were purchased from defendants, or installation was supervised by the defendants at extortionate prices, (3) submitting artificial bids and inducing others to submit artificial bids, and (4) misrepresenting that they owned or were licensees under patents covering hydraulic storage systems and special parts thereof	CC	
Dairy Cooperative Ass'n Farmers' cooperative and 10 individuals	1942	Conspiracy to monopolize the production and distribution of milk in the Portland area, including milk produced in Washington for sale to Oregon purchasers and milk produced in Oregon for sale to Washington purchasers. The indictment charges that defendants forced producers to dispose of their milk through the defendant association, discouraged members from transferring production quotas to non-members, required distributors to purchase from the defendant association, attempted to obtain control of all distribution outlets in Vancouver, and granted rebates in order to force certain distributors out of business	CC	Trial by the court without a jury; the court found the defendants not guilty, holding that under Section 6 of the Clayton Act a farmers' cooperative association, even though it becomes monopolistic, is, if it acts alone and not in concert with others, exempt from prosecution under the antitrust laws

E. I. du Pont de Nemours & Co. Rohm & Haas Co., Inc., and 8 individuals	1942	Worldwide conspiracy to suppress competition and monopolize the manufac- ture and sale of acrylic plastic (plastics). The indictment charges fixing of identical prices, restriction of production, and division of world markets	CC	Jury returned verdicts of not guilty as to all defendants.
E. I. du Pont de Nemours & Company Two corporations (the sole commercial producers of formic acid in the United States), three distributor corporations and 13 individuals	1942	Conspiracy to restrain and monopolize interstate com- merce in formic acid. The indictment charges that defendants fixed prices and controlled production and the channels and methods of distribution	CC	On October 5,·1942, the trial was postponed at the request of the War and Navy Departments for the duration of the war. On July 16, 1945, the two producing corporations entered pleas of nolo contendere on Counts 1 and 2 and were fined a total of $15,000; on the same date the other three corporate defendants were nolle prossed on Count 2, pleaded nolo contendere on Count 1, and were fined in the total amount of $7,500, and a nolle prosequi was entered as to all individual defendants on both counts.
Halibut Liver Oil Producers Two trade associations, a labor union, and 17 individuals	1942	Conspiracy to restrain and to monopolize interstate commerce by artificially restricting and channelizing the sale, processing and distribution of fish livers, fish viscera and vitamin oil	CC	Indictment dismissed after superseding indictment returned
New York Great Atlantic & Pacific Tea Co., Inc. 12 of its subsidiaries, and 17	1942	Conspiracy to restrain and monopolize interstate commerce in the sale and distribution of food and food products. The indict- ment charges that the defendants, by virtue of their dominant position, are able to	CC	Case dismissed after charges filed in another district

officers and directors of these companies		control policies and practices in the production, processing, manufacture and distribution, both wholesale and retail, of food products throughout the United States; that competition was destroyed in local areas by price wars, price-fixing conspiracies, coercing dealers to give secret rebates, and fostering false comparisons of defendants' prices with those of competitors		
Rohm & Haas Co., Inc. du Pont, three dental supply houses, and 12 individuals	1942	Conspiracy to suppress competition and to monopolize the sale and distribution of methyl methacrylate (a plastic material used in approximately 90% of all denture plates) by maintaining fixed and arbitrary prices on methyl methacry- late molding powders and by introducing elements into methyl metha- crylate commercial molding powders which rendered them useless for dental purposes	CC	At the request of the War Department the trial of the case was postponed indefinitely for the duration of the war and on May 23, 1945, the indictment was quashed as to Rohm & Haas, du Pont and certain individuals. On October 1, 1946, the case was dismissed as to all remaining defendants
South-Eastern Underwriters Ass'n 27 of its officers, and 198 member capital stock fire insurance companies	1942	Conspiring to fix arbitrary and noncompetitive premium rates on fire insurance sold by them in the southeastern states and with conspiring to monopolize interstate com- merce incident to the fire insurance business in that area.	CC	Following act of Congress giving insurance qualified exemption from Sherman Act, case nolle prossed
Swift and Co. Three meat packers, a stockyards company, three associations of buyers on the Denver stockyards market, five commission firms, and 21 officers, directors or partners of the foregoing defendants	1942	Conspiracy to restrain and a conspiracy to monopolize interstate commerce in fat lambs. The indictment charges that defendants conspired to eliminate within the Denver marketing area all direct purchases of lambs for eastbound shipment and to confine the marketing of such lambs to the Denver Stockyards	CC	Indictment dismissed as insufficient
Tannin Corporation	1942	Participation in an international cartel to fix prices and restrain the importation of	CC	On January 12, 1943, three defendants

Five American corporations, one Canadian and one English company, and several officers of defendant corporations		quebracho. The indictment charges that certain quebracho distributors combined to fix excessive prices for the product throughout the world, to restrain the shipment of quebracho by dividing world markets among themselves through use of a quota system, and to monopolize the importation of quebracho into the United States.		pleaded nolo contendere and were fined in the amount of $22,002. On February 25, 1943, at the request of the War and Navy Departments, the case was postponed for the duration of the war. On April 19, 1943, four defendants pleaded nolo contendere and were fined in the amount of $37,001, and the English and Canadian companies were nolle prossed because of inability to procure service on them. An order of nolle prosequi was entered as to the remaining defendants August 24, 1943
Victor Chemical Works Four corporations and 14 individuals	1942	Conspiracy to restrain and monopolize interstate commerce in the production and sale of oxaclic acid. The indictment charges that defendants controlled the quantity produced and the channels of distribution, established identical prices, refrained from soliciting orders from customers of other defendant corporations, and induced other corporations not to produce and sell oxalic acid but rather to purchase oxalic acid for resale from defendants	CC	On October 5, 1942, an order was entered postponing the trial for the duration of the war, at the request of the War and Navy Departments. On July 16, 1945, all the individual defendants were nolle prossed and a nolle prosequi was entered on Count 2 as to the corporate defendants. On the same date the four corporate defendants pleaded nolo contendere to Count 1 and were fined in

				the total amount of $15,000.
Virginia-Carolina Clays, Inc. Three corporate selling agencies, 25 corporations and 23 individuals or partnerships (members of the selling agencies) engaged in manufac- turing structural clay products, and 29 officers of defendant companies	1942	Conspiracy to restrain and an attempt to monopolize interstate commerce in structural clay products. The indictment charges that defendants fixed and maintained uniform prices and dictated terms and conditions of sale which they enforced through a system of policing and fines, eliminated potential competition through "recognized dealer lists", and prevented member and non-member manufacturers from supplying structural clay products to manufac- turers or dealers who were not in good standing	CC	Nolle prosequi was entered as to three defendants and 63 defendants entered pleas of nolo contendere. The remaining 14 defendants stood trial but waived a jury. After five days of trial the court rendered a verdict of guilty as to one defendant, the corporate trade association. Immediately, the remaining 13 defendants withdrew their pleas of not guilty and entered pleas of nolo contendere. An appeal taken by the defendant found guilty was dismissed by stipulation. Fines totaling $50,650 were imposed on 77 of the defendants.
American Air Filter Co. Two corporations and 11 individuals	1942	Conspiracy in restraint of interstate commerce and an attempt to monopolize the manufacture and sale of air filters and air filtering media. The information charges that defendants obtained a virtual monopoly by acquiring control of competing firms or by forcing them out of business, by harassing them with patent litigation, by agreement with competitors not to compete with defendants, and by acquisition and assignment of patents, and that defendants fixed arbitrary and non-competitive prices.	CC	All the defendants pleaded nolo con- tendere and fines aggregating $88,000 were imposed

Halibut Liver Oil Producers Two trade associations, a labor union, and 16 individuals	1943	Conspiracy to establish and maintain arbitrary and restrictive methods and channels of distribution in interstate and foreign commerce of fish liver, fish viscera, and vitamin oil. The indictment charges that, by threatening to deprive vessel owners of crews and by threatening fishermen with loss of union benefits, defendants coerced vessel owners and fishermen to contract to deliver exclusively to a tradership all fish livers and fish viscera obtained by them, and that defendants had conspired to establish arbitrary and non-competitive sales prices for their vitamin oil.	CC	Jury returned a verdict of guilty as to the two trade associations. the labor union, and six individuals, and a verdict of not guilty as to the remaining nine individuals. Fines totaling $6,750 were imposed.
Allied Chemical & Dye Corp. Eight American corporations (two of which were former affiliates of I. G. Farbenindustrie and three of which were controlled by members of a Swiss Consortium) and 20 individuals	1943	Defendants and certain co-conspirator chemical companies conspired to restrain and monopolize interstate and foreign commerce in dystuffs; established limits on the amounts of dyestuffs sold by American manufacturers in foreign markets; fixed prices at exorbitant levels in the United States; and prevented small chemical companies in this country from engaging in the manufacture of dyestuffs	CC	On June 3, 1942, the trial of the case was postponed indefinitely at the request of the War Department, but on July 21, 1943, the case was restored to the active docket. On March 21, 1946, defendant General Aniline and Film Corp., which company had been taken over by the Alien Property Custodian, entered a plea of nolo contendere and was fined $15,000. On April 18, 1946, pleas of nolo contendere were entered by 14 defendants, who were fined $96,000, making total fines in the case $111,000. Ten defendants were dismissed and the action has abated against the remaining three defendants.

Consolidated Laundries Corp. 30 corporations and 12 individuals	1943	Price-fixing, allocation of customers, and attempting to obtain a monopoly in the linen supply business. The indictment alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry.	CC	Case nolle prossed as to all defendants
Flatwork Ass'n of Greater New York, Inc. Trade association, 12 corporations and eight individuals	1943	Price-fixing, allocation of customers and attempting to obtain a monopoly in the linen supply business. The indictment alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry	CC	Case nolle prossed as to all defendants
Fruit and Produce Trade Ass'n of New York Trucking association, a receiving association, 27 corporations and 16 individuals	1943	Conspiracy to restrain and an attempt to monopolize the business of trucking fresh fruit and vegetables in the New York market area. The indictment charges that defendants fixed uniform and noncompetitive carte charges and conspired to monopolize by preventing delivery of fresh fruits and vegetables except upon terms and conditions dictated and fixed by defendants	CC	An order of nolle prosequi was entered as to six defendants. The remaining defendants pleaded nolo contendere, and fines totaling $63,000 were imposed
Kroger Grocery and Baking Co. Defendant corporation, three of its subsidiaries and five officers and directors	1943	Conspiracy to restrain and monopolize interstate commerce in food and food products. The indictment charges that defendants, by virtue of their dominant position, are able to control policies and practices in the production, processing, manufacture and distribution, both at wholesale and retail, of food and food products throughout a large part of the United States	CC	Indictment dismissed as to two subsidiaries; Kroger, Wesco and two officials entered pleas of nolo contendere and were fined a total of $20,000. The remaining defendants were dismissed on the same date.
Linen Supply Board of Trade of New Jersey, Inc. 24 corporations and 12 individuals	1943	Price-fixing, allocation of customers, and attempting to obtain a monopoly in the linen supply business. The indictment alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry.	CC	The court sustained defendants' demurrers to the indictment, holding that the indictment does not state facts sufficient to charge an offense under the Sherman Act. The case was then nolle prossed.

Linen Supply Ass'n of Greater New York; Inc. Trade association, 39 corporations and 27 individuals	1943	Price-fixing, allocation of customers and attempting to obtain a monopoly in the Linen Supply Business. The indictment alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry	CC	Case nolle prossed as to all defendants
National Unit Distributors, Inc. Four corporations and four individuals	1943	Channellizing of distribution and monopolizing of interstate commerce in dinnerware and dinnerware sets sold on a newspaper promotional sales plan	CC	The defendants entered pleas of nolo contendere on November 5, 1943, and fines totaling $11,000 were imposed. $5,000 of this amount was sus-pended and defendants placed on probation for one year
Safeway Stores, Inc. Eight of its subsidiaries, and 13 officers and directors	1943	Conspiracy to restrain and monopolize interstate commerce in the sale and distribution of food and food products. The indictment charges that defendants, by virtue of their dominant position, are able to control prices and policies in the production, processing, manufacture and distribution, both at wholesale and retail, of food and food products in a large portion of the United States	CC	Safeway Stores, Inc., two of its subsidiaries and three of its officers entered pleas of nolo contendere and were fined a total of $40,000. The indictment was dismissed as to the remaining defendants on the same day
Tarpon Springs Sponge Exchange Nine corporations and 26 individuals	1943	Conspiracy to restrain and an attempt to monopolize the production, transportation and sale of natural sponges. The indictment charges that defendants channelized the sale of all natural sponges produced off the Florida Coast through defendant Exchange and obtained a virtual monopoly of such sponges by various restrictive and discriminatory practices	CC	Court directed a verdict of acquittal for 20 defendants and the jury returned a verdict of guilty on both counts of the indictment against the 11 other defendants on trial. Fines totaling $3800 were assessed
Towel Supply Association of Greater New York, Inc.	1943	Price-fixing, allocation of customers and attempting to obtain a monopoly in the linen supply business. The indictment alleges that certain trade associations were used as a	CC	Case nolle prossed as to all defendants

21 corporations and 22 individuals		means of fixing prices and had elaborate rules and regulations for the policing of the industry		
National Lead Co. Three corporations and four of their officers	1943	Defendants and co-conspirator foreign companies created a world-wide cartel in titanium compounds; that they divided world markets into exclusive, noncompetitive areas; suppressed competition and obtained monopolistic control of the industry in the United States through the pooling of patents; and imposed a system of restrictive production on other American manufacturers	CC	Defendants pleaded nolo contendere and fines totaling $43,000 were imposed. A $10,000 fine against Titan Co. was suspended.
Morgan Laundries Service, Inc. Two corporations	1943	Price-fixing, allocation of customers and attempting to obtain a monopoly in the linen and towel supply industry. The information alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry	CC	Case nolle prossed
R. G. Buser Silk Corp. 14 corporations and one individual	1943	Conspiring to monopolize and restrain interstate trade in ribbons and ribbon products, and with agreeing to attempt to maintain uniform prices and not to sell below cost	CC	All defendants pleaded nolo contendere and fines aggregating $41,000 were imposed
Standard Coat, Apron and Linen Service, Inc.	1943	Price-fixing, allocation of customers and attempting to obtain a monopoly in the linen and towel supply industry. The information alleges that certain trade associations were used as a means of fixing prices and had elaborate rules and regulations for the policing of the industry	CC	Case nolle prossed
Wayne Pump Co. Three manufacturers of gasoline pumps, a manufacturer of gasoline computing mechanisms, a trade association and five individuals	1943	Conspiracy to restrain and to monopolize interstate commerce in gasoline computer pumps	CC	Defendants pleaded nolo contendere and fines in the total amount of $27,500 were imposed
Borax Consolidated, Ltd. 7 corporations and 11 individuals	1944	Defendants engaged in the business of mining, processing, manufacturing, selling and distributing crude borates, borax and boric acid, charging defendants with acquiring control of virtually the entire world supply by acquisitions and trade practices which have prevented competition by	CC	All except two defendants pleaded nolo contendere. One defendant was dismissed and subsequently the remaining defendant

		American firms; allocating foreign and domestic markets and customers; and agreeing upon restrictive selling and distributing methods, terms and conditions, including the prices at which those products are sold		pleaded nolo contendere. Fines in the total amount of $153,500 were imposed
L. S. Eldridge & Son, Inc. Five corporations and seven individuals	1944	Restraint of trade and conspiracy to monopolize in the importation, sale and distribution of fish at New Bedford, Mass. It is charged that defendants secured control of all facilities for landing fish at New Bedford; refused access to such facilities to all buyers except themselves; allocated among themselves the total supply of fish arriving at New Bedford; boycotted persons purchasing fish from other than defendants; and agreed upon the price to be paid for fresh fish, upon differentials for resale of fish, and upon arbitrary unloading rates	CC	Defendants pleaded nolo contendere, and fines totaling $10,000 were imposed
William S. Gray & Co. 21 corporations, a trade association and 32 individuals	1944	Conspiracy to fix the price and to monopolize the supply of wood alcohol methanol sold in interstate commerce; and that production was limited according to production quotas allocated among the producers	CC	Two defendants were dismissed from the case and all others pleaded nolo contendere. Fines totaling $162,524 were imposed, of which $9,523 was remitted
Affiliated Ladies Apparel Carriers Ass'n of the Eastern Area, Inc. Four other associations and four individuals	1944	Conspiracy to control delivery services within the New York garment industry. The information charges conspiracies to control and restrict and to monopolize the channels through, and the terms on which, deliveries of dresses, cloaks and suits are made for the metropolitan garment industry	CC	All defendants pleaded nolo contendere on, and fines aggregating $48,000 were imposed
Cloak and Suit Trucking Ass'n, Inc. Association's President	1944	Conspiracies to restrict and control and to monopolize the channels through and the terms on which deliveries of dresses, cloaks and suits are made for the metropolitan garment industry	CC	Both defendants pleaded nolo contendere and fines totaling $10,000 were imposed
New York Great Atlantic & Pacific Tea Co. Defendant corporation, 11 of its	1944	Charging that the A & P group by virtue of its dominant position in the industry is able to control policies and practices in the production, processing, manufacturing and	UC	Trial of the case before the court without a jury. The Court found three defendants not guilty

subsidiaries, 16 officers and directors, Business Organization, Inc., and public relations counsel		distribution, both wholesale and retail, of food products throughout the United States		and all remaining defendants guilty on both counts of the information and fines totaling $175,000 were imposed. The Court of Appeals, Seventh Circuit, affirmed the District Court judgment of conviction against the defendants, holding that the A & P group had abused their mass buying and selling power, and that their business practices restrained trade and tended toward monopoly. The court upheld the liability of the manufacturing subsidiaries because of their interlocking directorates, and affirmed the conviction of Carl Byoir and Business Organization, Inc. because of their advisory capacity. Fines assessed by the District Court totaling $175,000 were paid by 10 corporate and 13 individual defendants.
Washington Culvert and Pipe Co. Six corporations and seven of their officers	1945	Conspiring to restrain and to monopolize interstate commerce in metal culverts in certain northwestern states. The indictment charges that defendants periodically divided among themselves, for particular periods of time, the total probable future sales of culverts and thereafter allocated accordingly among themselves the actual sales, by	CC	All defendants pleaded nolo contendere and fines aggre- gating $40,450 were imposed

		selecting one among them to submit the low price on each offered bid, by agreeing on the price to be charged by the selected low bidder, and by limiting the number of culverts to_ be fabricated to the volume capable of disposal at the agreed price.		
General Instrument Corporation 4 corporations and 6 of their officers	1946	Conspiracy in restraint of interstate commerce, monopoly and attempt to monopolize the production and distribution of variable condensors (tuning devices used on radios to select broadcasting stations).Agreements to fix prices and the terms and conditions of sale; that they have allocated among themselves customers and types of condensers sold; that they have prevented others from producing condensers through refusing to fabricate tools for their use by acquiring and pooling patents; by refusing to grant licenses under pooled patents except at unreasonable royalties; and by the maintenance of infringement actions	CC	Indictment dismissed as to two individual defendants; other defendants entered nolo contendere pleas; fines totaling $48,000 imposed
A. B. Dick Company 5 corporations and 6 of their officers	1946	Defendants engaged in the manufacture and distribution of duplicating machines, machine parts, stencils and other duplicating supplies, charging defendants with a conspiracy in restraint of interstate and foreign commerce. Two British corporations are named as co-conspirators. The indictment alleges that defendants acquired monopoly control over the stencil duplicating industry through limiting the business activities of competitors by threats, coercion and boycotts; acquiring patents and patent rights, pooling and cross-licensing patents; suppressing evidence as to the validity of patents; price fixing; illegal tying practices preventing machine owners from using supplies of competitors; preventing competitors from obtaining essential raw materials; and entering into a world-wide cartel allocating geographical areas and fields of business activity	CC	All of the defendants pleaded nolo con-tendere and were fined a total of $99,000
Gamewell Company 5 of its officers	1946	Conspiracy in restraint of interstate commerce and monopoly of municipal fire alarm equipment. The American District Telegraph Co. and its President were also named defendants in the first two counts of the	UC	All of the defendants pleaded nolo contendere and were fined a total of $43,250.

		indictment, alleging a conspiracy to monopolize trade in the leasing of equipment to public and private institutions and the sale of equipment to municipalities. It is alleged that defendants attempted to monopolize the industry by buying out competitors, acquiring patents and trademarks, cutting prices, rigging specifications so as to make it impossible for competitors to bid, and threatening litigation.		
MacLeod Bureau Association, 13 corporations and 4 individuals	1946	Conspiracy to fix prices and to monopolize the distribution and sale of soft coal. The indictment charges that prices were fixed and market control achieved by acquiring control of all coal docking facilities at Boston Harbor, denying these facilities to competitors, acquiring control of non-cooperating distributors, allocating among themselves types and classes of customers and tonnage, refusing to supply large users whose specifications were unsatisfactory to defendants, refusing to sell to retailers who would not maintain prices fixed by defendants, agreeing on arbitrary discounts to various classes of consumers, refusing to sell coal at prices below those set by the OPA, and by collusive bidding	CC	The corporate defendants entered pleas of nolo contendere and were fined the total of $24,500, and on the same day the individual defendants were dismissed
Union Carbide and Earbon Corp Six corporations and five individuals	1946	Conspiracy to monopolize interstate and foreign commerce in vanadium. The indictment alleges that defendants refrained from competing with each other in purchasing deposits, deprived competitive mills of sufficient ore to operate profitably, forced independent processors out of business, caused independent ore miners to sell below cost or sell their deposits to defendants, apportioned all business among themselves, and sold to the public at arbitrary prices.	CC	One individual defendant was dismissed. An order was made granting a motion to dismiss the indictment as to each and all defendants and, upon permission, a criminal information was filed against Union Carbide and Carbon Corporation and 4 other defendants.
Wallace & Tieman Co., Inc. 9 corporations and 9 individuals	1946	Conspiracy in restraint of interstate commerce and monopoly in the production and distribution of gas chlorinating equipment (used in the treatment of water and of	CC	On December 21, 1946, defendants moved to dismiss the indictment on the

		sewage; in the ageing and bleaching of flour; paper and textiles; and in the prevention of raw food spoilage) and in the manufacture and sale of chlorine compounds. It is alleged that defendants acquired and misused patents, threatened infringement suits, acquired the business of competitors, refused to furnish supplies· and services in connection with chlorinating equipment unless the equipment was obtained from defendants; divided the field by entering into agreements not to compete, to fix prices, terms and conditions of sale, cutting prices, rigging specifications so as to make it impossible for competitors to bid, and preempting the major outlets and preventing competitors from obtaining essential parts and appliances.		ground women were not in the panel from which the grand jurors were selected. On March 21, 1947, the Court granted the defendants' motions to dismiss the indictment, and on May 1, 1947, an information was filed alleging the same unlawful acts. On February 6, 1948, the Court granted the defendants' motion for the return of impounded documents on the ground that the subpoenas under which the documents were obtained were issued by an illegally constituted grand jury and therefore constituted illegal search and seizure
National City Lines, Inc. 9 corporations and 7 individuals	1947	Conspiracy to acquire control of a substantial part of the local transportation companies in the United States, and to restrain and monopolize domestic trade in the sale of busses, tires, tubes, and petroleum products to a nation-wide combine of city bus lines controlled by National City Lines, Inc. The indictment alleged that supplier defendants furnished capital to National and its subsidiaries on condition that the transportation companies purchase all their tires, tubes, petroleum products and busses from supplier defendants and also use capital so furnished by supplier defendants to purchase or secure control of or financial interest in local transit systems in various states. In return, the defendant transportation companies agreed not to renew any of their	CC	The jury returned a verdict of guilty under Count 2 of the indictment, and fines totaling $36,007 were imposed.

		contracts to purchase tires, tubes, petroleum products and busses with companies other than supplier defendants without their consent or dispose of any interest in any operating company without requiring the party acquiring the operating company to assume obligation of continuing to purchase from supplier defendants. It was further agreed that the defendant transportation companies would not change or alter their present equipment or purchase new equipment so as not to be able to use supplier defendants' products. The motor bus, petroleum, tire and tube business would be allocated and divided among the supplier defendants.		
The American-LaFrance-Foamite Corporation 2 corporations and 4 individuals	1947	Conspiracy to restrain interstate trade by monopolizing and attempting to monopolize the production and distribution of motor driven fire apparatus. It was alleged that the defendants agreed on terms of sale and prices, trade-in allowances, to submit complementary or dummy bids in order to provide color of compliance with laws, and included arbitrary freight charges in prices. It was also alleged that the defendants agreed to use their influence and position to discourage others from bidding and offered to influence awards to themselves by improper inducements	CC	All the defendants entered pleas of nolo contendere and were fined a total of $50,000
Wallace & Tieman Co., Inc. 9 corporations and 9 individuals	1947	Conspiracy to restrain and monopolize the production and distribution of chlorinating equipment, and the manufacture and sale of chlorine compounds. It is alleged that the defendants acquired and misused patents, threatened infringement suits, acquired the business of competitors, refused to furnish supplies and services in connection with chlorinating equipment unless the equipment was obtained from the defendants, divided the field by entering into agreements not to compete, to fix prices, terms and conditions of sale, cutting prices, rigging specifications so as to make it impossible for competitors to bid, and preempting the major outlets and preventing competitors from obtaining essential parts and appliances	CC	Two groups of defendants entered pleas of nolo contendere and were fined a total of $63,000

Consumers Ice Company 3 corporations and 1 individual	1948	Monopolizing the manufacture and distribution of ice in Louisiana, Texas, and other states. The indictment charges that defendants engaged in an unlawful conspiracy and concert of action by acquiring competitors' businesses in the area, limited areas in which competitors operate and their sources of supply of ice by threats of destructive trade practices; and destroyed competition by selling at destructively low prices or giving ice away, then raising prices in such local areas higher than defendants' prices else- where. The indictment further charges defendants forced competitors in certain areas to sell at prices fixed by them above the prevailing market price	CC	The jury found all defendants guilty under Count 1 of the indictment. No verdict was returned on Counts 2 and 3. Fine of $500 was imposed on the individual defendant, and sentence was suspended as to the def endant companies
General Electric Co. 6 corporations and 7 individuals	1948	Price fixing and illegal conspiracy among defendants in restraint of interstate trade and commerce in street lighting equipment. The indictment alleges that the defendants monopolized the industry by buying up competitors, entering into exclusive contracts, refusing to sell parts to remaining competitors, inducing part suppliers not to sell direct, price fixing and allocating sales territory	CC	Defendants entered pleas of nolo contendere and were fined total of $78,000
The Metropolitan Leather and Findings Association 1 incorporated trade association, 12 corporations, and 35 individuals	1948	Conspiracy to fix prices, and in restraint of interstate trade and commerce in leather and shoe findings. The indictment charges that defendants conspired to fix prices at which leather was sold to finders; that defendant producers refused to sell leather and shoe findings directly to shoe repairmen or to finders or wholesalers not approved by. the association; that defendant wholesalers refused to sell to finders not approved by the association; that defendant finders refused to sell to other than approved shoe repairmen and boycotted producers and wholesalers who would supply unapproved finders; and that the association limited the number of finders to be accepted as members.	CC	On January 10, 1949, the defendant association and 20 of its members, who are engaged in the business of purchasing leather and shoe findings for resale mainly to shoe repairmen, entered pleas of nolo contendere and were fined a total of $36,250. On the same date, the indictment was dismissed as to one individual and two corporate de-fendants. On April 20, 1949, seven

				corporate and 13 individual defend-ants pleaded nolo contendere, and fines were assessed totaling $44,250. In accepting the pleas, the court warned that jail sentences would be imposed if the defendants were brought into court again on similar charges. Three corporate defendants were dismissed on the same date. The remaining defendant pleaded nolo contendere on May 9, 1949, and was fined $1,250. Total fines in the case amounted to $81,750.
Universal Carloading and Distributing Co. 2 national freight forwarding companies	1948	Conspiracy in restraint of interstate trade and commerce in the shipment of household goods in the Washington, Oregon and California area. The indictment charges that the defendants by agreement and concert of action have eliminated competition between themselves and excluded the competition of other forwarders and have fixed and manipulated rates and commissions in the shipment of household goods and personal effects in the area named	CC	Defendants pleaded nolo contendere, and $10,000 fine was imposed on each.
Union Carbide and Carbon Corporation 4 other corporations	1948	Combined and conspired to restrain and monopolize interstate trade and commerce in ferrovanadium and vanadium ore. The information charges that defendants by continuing agreement and concert of action purchased or acquired control over substantially all vanadium oxide produced by others in the United States, and that by refusing to sell vanadium oxide to producers of ferrovanadium, the defendants agreed upon	CC	Jury returned verdict of not guilty

		and fixed prices for the sale of ferrovanadium and vanadium oxide.		
L. Longoria and John E. Foster (2 individual defendants)	1949	Defendants were alleged to have fixed prices, intimidated and excluded competitors in the ice and icing service industry	CC	Defendants pleaded nolo contendere and fines were imposed totaling $1,200
The Great Western Food Distributors, Inc., Two corporations and three individuals	1949	Conspiracy in unreasonable restraint of trade and commerce in eggs deliverable on October, 1949, futures contracts on the Chicago Mercantile Exchange	CC	One corporate defendant was dismissed; all remaining defendants pleaded nolo contendere and were fined a total of $3,700.00.
Association of American Battery Manufacturers 23 corporations and 24 individual defendants	1950	The defendants entered into agreements channeling the distribution of used batteries fixed prices back to the defendant smelter company, which in turn agreed to sell the lead to the original manufacturer. An association was formed to supervise the channeling of used batteries and salvaged lead; divide the United States into operating territories and prevent sales to rebuilders	CC	Defendants entered plea of nolo contendere and were fined a total of $10,250.
Atlantic Company Seven corporate and two individual defendants	1950	Defendants were alleged to have fixed prices, allocated manufacturing demand, limited production and distribution, exerted undue influence on competitors, sold below cost to drive out competition, and acquired monopoly control through interlocking directorates, acquisition of stock and physical assets in the ice and ice servcing business in the southern states.	CC	Defendants acquitted by jury verdict
Joseph A. Krasnov One corporation and three individuals	1950	Defendants obtained monopoly control of the ready-made slip covers business in the Philadelphia area through patent licensing agreements and threats of infringement suits. Defendants also allegedly engaged in exclusive dealing, intimidation, and discrediting of competitors' products.	CC	Nolo contendere pleas, fines totaling $11,000
L. A. Young Spring and Wire Corporation Three corporations and three individuals	1950	Defendants, manufacturers of wire garment hangers, were alleged to have obtained monopoly control of the industry east of Denver, Colorado. According to the indictment, defendants fixed prices, made use of a basing point system, exchanged price information and customer data, granted	CC	All defendants entered pleas of nolo contendere, and fines totaling $42,000 were imposed. $2,500 of this amount was suspended

		uniform discounts, and policed the industry to compel adherence to the system imposed.		
Local 33 of the International Fishermen and Allied Workers of America 2 unions, 7 individuals	1950	Defendants stabilized prices per ton at which sardines and mackarel (fresh) would be sold; limited the amount of the catch in order to sustain the price structure; and designated the time at which and the canner for whom the boats might fish. Policies were enforced by confiscation of the catch and fines imposed on those found violating the rules.	CC	Defendants pleaded nolo contendere and fines totaling $1,075 were imposed under Count 1 of the indictment. Sentence under Count 2 was suspended and defendants placed on one year probation
Atlantic Fishermen's Union Trade association, two unions and five officials of the trade association	1951	Conspiring to restrain and monopolize the marketing and catch of fresh and scallops. The defendants are charged with limiting the amount of the catch, fixing prices, excluding non-members of the association from fishing and marketing, and preventing fish dealers from purchasing except upon terms and conditions imposed by the defendants. The government seeks to destroy the conspiracy and to open the market to non-members of the defendant association	CC	Nolo contendere pleas; fines totally $12,000 imposed
Pittsburgh Crushed Steel Company One association, 12 corporations and four individuals	1951	The defendants are charged with initiating price wars, purchasing competitors, acquiring managerial control over independent companies, and inducing officers of prior competitors to stay out of the metal abrasives business. Allegedly, defendants also threatened competitors with unwarranted patent infringement suits and divided fields with machinery manufacturers which kept the latter out of metal abrasive production. The Kann organization and other defendants are alleged to have engaged in a price-fixing conspiracy through the Metal Abrasives Council.	CC	Corporate defendants pleaded nolo contendere and were fined $50,500. Individual defendants were dismissed.
William D. Eldridge Three corporations and three officials thereof	1951	Defendants conspired to restrain trade and to monopolize the sale of scallops. The defendants are further charged with conspiring and combining to limit the amount of the catch, to persuade boat owners from fishing at certain times, and to refrain from buying at specified periods.	CC	Defendants pleaded nolo contendere and fines totaling $7,250 were imposed.
Golden Gate Chapter, National	1952	Conspiracy to restrain and to monopolize interstate trade and commerce in the	CC	Pleas of nolo contendere as to

Electronic Distributors Assn. Trade association, five corporations, and six individuals		wholesale distribution of radio and electronic parts. The indictment charged that through the medium of their association the defendants conspired to prevent wholesale distributors who were not members of the association, or not recognized by the defendants as "legitimate" wholesalers, from engaging in the wholesale distribution of radio and electronic parts in northern California. The indictment alleged that wholesale distributors in the northern California area purchased radio and electronic equipment through manufacturers' representatives, who were named in the indictment as co-conspirators. As part of the conspiracy, the indictment charged that the defendants agreed to boycott manufacturers' representatives who sold radio and electronic parts to wholesale distributors not members of the defendant association or not recognized by the defendants as "legitimate" wholesale distributors. It was also charged that the defendants induced and caused these manufacturers' representatives to refrain from selling such equipment to said wholesalers, and, in return for the agreement by these manufacturers' representatives not to sell to such wholesalers, the defendants give preference in their sales to the types and brands of equipment sold by these manufacturers' representatives. The indictment alleged that the effect of this conspiracy was to exclude wholesale distributors not members of the association or not recognized as "legitimate" wholesalers, and to prevent new distributors from entering into the wholesale distribution of radio and electronic parts in northern California		count 1 and 2 were entered, and fines of $40,000 were entered as to count 1. No fines were entered as to count 2
The Union Ice Co. Nine corporations, a trade association, and seven individuals	1952	Conspiracy to restrain and to monopolize interstate and foreign trade and commerce in California in the sale and distribution of ice, and the furnishing of icing services. It was charged that the defendants and co-conspirators controlled, manufactured and distributed over 80% of such ice. The indictment was in two counts and charged that the defendants conspired to restrain and	CC	Pleas of nolo contendere were entered and fines amounting to $16,806.00 were imposed

		monopolize this business by fixing uniform and noncompetitive prices at which ice and icing services would be sold in California; eliminating competition among the defendants and co-conspirators; controlling and limiting the amount of ice produced and sold in particular territories; and dividing and allocating the market for ice and the furnishing of icing services. It was alleged that in carrying out the conspiracy, the defendants entered into written contracts which determined the amount of ice to be produced, that common or joint delivery companies were formed through which all sales of ice in particular areas were funneled, and that competitive manufacturing plants were purchased or leased and subsequently closed or production thereof curtailed.		
Employing Lathers Assn. of Chicago and Vicinity	1952	Lathing contractors' association, a local lathing union, and two individuals with a conspiracy to suppress competition among lathing contractors and to restrict and exclude persons from engaging in the lathing contracting business, and to monopolize the installation in the Chicago area of lathing materials. The indictment charged that the defendants agreed to restrict and reduce the number of lathing contractors permitted to engage in business in Chicago by excluding any person from becoming a lathing contractor who had not been approved by Local 74. It was charged that Local 74 refused to approve any prospective lathing contractor who had not been a member of Local 74 for five years. Since previous membership in Local 74 was required of any prospective lathing contrator, the restrictive membership standards used by Local 74 have had the effect of reducing the number of persons eligible to become lathing contractors in Chicago. Thus the indictment alleged that Local 74 excluded from membership persons who were not related, by blood or marriage, to members of Local 74, and has also excluded certain racial and religious groups from membership in that union.	CC	Defendants nolle prossed.

Employing Plasterers Assn. of Chicago Plastering contractors' association, a local plastering union, and the president of the union	1952	Conspiracy to suppress competition among plastering contractors and to restrict and exclude persons from engaging in the plastering contracting business, and to monopolize the sale, distribution and installation of plastering supplies by plastering contractors, in the Chicago area. he indictment charged that the defendants conspired to prevent any person from engaging in the plastering contracting business in Chicago who had not first secured the approval of Local 5 and Byron Dalton, and that no one was permitted to engage in business as a plastering contractor who had not been a member of Local 5 for a period of five years. It was charged that the defendants excluded out-of-state plastering contractors from performing plastering in Chicago and that any out-of-state plastering contractor undertaking such work in Chicago was harassed by means of work slow-downs and other practices directed to making such plastering prohibitive in cost.	CC	The Federal District Court in Chicago ordered the dismissal of the case upon the Government's motion of nolle prosequi.
Baugh & Sons Co. Seven corporations and nine individuals	1952	Conspiring to restrain and to monopolize, attempting to monopolize and monopolizing interstate commerce in the rendering industry in the Philadelphia area. The defendants, who purchased approximately 90 per cent of the rendering material collected in the Philadelphia area, were alleged to have agreed upon the prices to be paid for the purchase of rendering material from suppliers in the Philadelphia area, and to have agreed not to solicit business from those suppliers from whom any other defendant purchases rendering material. It was further alleged in the indictment that the defendants agreed to prevent any person from entering the rendering business and to force other renderers out of business in the Philadelphia area.	CC	All defendants entered pleas of nolo contendere, and fines in the amount of $85,850 were imposed, $42,925 of which were suspended.
The Great Western Food Distributors, Inc. The Great Western Food Distributors,	1952	Charging price manipulations, cornering and monopolization of egg futures on the Chicago Mercantile Exchange. This information charged the defendants with attempting to manipulate and manipulating the prices of and	CC	Corporate defendants pleaded nolo contendere and were fined $12,500

Inc., New York City, and Chicago. Industrial Raw Materials Corp., New York City. Nathaniel E. Hess, Long Island, president of The Great Western Food Distributors, Inc. Charles S. Borden, residing at La Grange, Ill., a vice-president of The Great Western Food Distributors, Inc., and manager of its Chicago office. Edward B. Gotthelf and Jack Rauch, partners, New York City, also known as Eastern States Advertising Agency		attempting to corner eggs for future delivery in October, 1949, on the Chicago Mercantile Exchange, in violation of the Commodity Exchange Act. The other information charged The Great Western Food Distributors, Inc. and Nathaniel E. Hess with attempting to manipulate and manipulating prices of and attempting to comer and cornering eggs deliverable on November, 1949, futures contracts, in violation of the Commodity Exchange Act, and with monopolizing such eggs.		
Michigan Tool Co. Three corporations	1953	Conspiracy to restrain and to monopolize interstate and foreign trade and commerce in gear cutting and finishing machines and tools. The indictment charged that since 1937 the defendants, through patentlicensing and cross-licensing agreements, had (a) allocated among themselves various fields in the manufacture and sale of gear cutting and finishing machines and tools; (b) refrained from competing in certain fields of manufacture and sale in which the other defendants were engaged; (c) adhered to published prices, discounts, terms and conditions of sale in the manufacture and sale of gear cutting and finishing machines and tools; (d) exchanged among themselves on an exclusive basis their respective patents and technology relating to the manufacture of these machines; (e) allocated customers among themselves; and (f) agreed not to license others without the consent of the other defendants.	CC	The court accepted the defendants' pleas of nolo contendere, and on June 27, 1956, each of the three defendants was fined $3,750 on each of the two counts in the indictment, making a total fine of $22,500.

Walton Hauling & Warehouse Corp Four corporations, a labor union, and five of their officers	1953	Conspiring to restrain and to monopolize, attempting to monopolize and monopolizing interstate trade and commerce with respect to the hauling of theatrical scenery and equipment. The indictment charged that the defendants conspired to fix high, unreasonable and non-competitive prices; allocated customers among themselves; excluded independents from transporting theatrical scenery and equipment; and used the coercive power of Local 817 to compel theater owners, producers and television stations, by threat of picketing and other means, to abide by the conspiratorial agreements of the defendants.	CC	Defendants with the exception of Local Union No. 817 and Edward O'Donnell changed their pleas of not guilty and entered pleas of nolo contendere and were fined a total of $10,000. On July 15, 1955, the union entered a plea of nolo contendere and a fine of $2,500.00 was imposed and the defendant Edward O'Donnell was dismissed. Total fines imposed amounted to $12,500.00.
The Kansas City Star Co. The Kansas City Star Co., Kansas City, Mo.; Roy A. Roberts, chairman of the board and president of the Star Co.; Emil A. Sees, treasurer and director of the Star Co., and advertising director of its newspapers	1953	The two-count indictment alleged that the defendants attempted to, and were then, monopolizing the dissemination of news and advertising in metropolitan Kansas City and that they excluded all others from publishing daily newspapers in Kansas City. According to the indictment, the defendants, among other things, refused and threatened to refuse to accept advertising, or discriminated as to space, location or arrangements of advertising if the advertiser used competing media, or a larger ad in competing media, and these threats and refusals were implemented by an elaborate system of surveillance of competing publications. It further alleged that the Star Company's rate structure for local display advertising provided for tie-in sales which excluded advertisers from using other media. The grand jury also charged that national and classified advertisers were required to purchase advertisements in both the Star and Times, even though they desired to advertise in only one of these newspapers; and that subscribers to these papers, numbering in excess of 300,000, were required to pay for delivery of the Times, the Star and the	UC	The criminal case was tried and defendants found guilty on February 22, 1955. On August 5, 1955, the court overruled the defendant's motions to set aside the verdict of guilty and for judgment of acquittal, or in the alternative for a new trial. The defendants appealed to the Court of Appeals for the Eighth Circuit. On January 23, 1957, the United States Court of Appeals for the Eighth Circuit affirmed the judgment convicting The Kansas City Star Co. of attempting to monopolize and

		Sunday Star in forced combination, even though they desired to purchase only one or two of these three newspapers. The indictment also alle ed that news carriers, operating as independent businessmen, were required to refrain from delivering competing advertising media. The grand jury further charged that special discounts for advertising in defendants' newspapers were offered to those who advertised on defendants' radio station and that advertisers not using defendants' newspapers were denied access to the Star's; television station.		monopolizing interstate trade and commerce in the dissemination of news advertising and Emil A. Sees of attempting to monopolize such trade and commerce.
National Malleable and Steel Castings Co. Six corporations and four individual persons	1953	Combining and conspiring to restrain and to monopolize, and by monopolizing, interstate and foreign commerce in railroad car couplers, coupler parts and yokes. The indictment charged that the defendants unlawfully conspired to prevent anyone other than the defendant manufacturers from making and selling couplers and coupler parts which had been adopted as standard by the Association of American Railroads, in part by securing and pooling patents covering said couplers and maintaining control by defendant manufacturers of drawings and gauges necessary to the production of said couplers. Further activities alleged in the indictment included the fixing and maintenance of uniform and non-competitive prices for couplers, coupler parts and yokes; division and apportionment among defendant manufacturers of available business in couplers and coupler parts; exclusion of others from the manufacture and sale of certain types of yokes; division of world markets under agreements with certain foreign producers; agreements as to world prices; and exclusion of importations of couplers and coupler parts.	CC	The defendants entered pleas of nolo contendere and were fined a total of $80,000
Cigarette Merchandisers Assn. Trade association, five corporations, a labor union and seven individuals	1954	The indictment charged that for many years defendants had conspired to suppress and to eliminate competition among cigarette vending machine operators who were members of the association. It further alleged that defendants have attempted to monopolize	CC	Defendants pleaded nolo contendere and fines totaling $155,000 were imposed

		and had monopolized the sale of cigarettes through vending machines so as to exclude independent operators of such machines from this business. The indictment also charged that defendants had used the union, Local 805, to enforce and police the conspiracy by means of boycotts and picketing.		
Maryland State Licensed Beverage Assn., Inc. Two state retail associations, one state wholesale association, fourteen distiller corporations, seven wholesalers, and thirty-one individuals connected with the associations and corporations	1955	The indictment charged that beginning on or about January, 1950, the defendants entered into a combination and conspiracy to raise, fix, maintain, and stabilize the wholesale and retail prices of alcoholic beverages shipped into Maryland, in restraint of interstate trade and commerce. It was alleged that the substantial terms of the combination and conspiracy were that so-called "fair trade" prices for alcoholic beverages were required to be established and that manufacturers and wholesalers were required to enforce the observance of such prices. It was alleged also that retailers were required to observe and adhere to, or were induced and compelled to observe and adhere to such "fair trade" prices. The indictment further alleged that it was a term of the conspiracy charged that no alcoholic beverages would be sold directly to the Department of Liquor Control for Montgomery County and to the liquor control boards of the seven other "monopoly counties," and that alcoholic beverages sold to the official agencies of these "monopoly counties" would be sold only through a wholesaler who charged the "monopoly counties" his customary resale price. The indictment charged that manufacturers, wholesalers, and retailers agreed to boycott and to induce others to boycott those who did not adhere to the terms of the conspiracy.	CC	The court accepted nolo contendere pleas from most of the defendants and imposed fines of up to $10,000 on defendants.
National Cranberry Assn. Cooperative, two corporations, and two individuals	1955	Combining and conspiring to restrain interstate trade in the manufacture and sale of cranberry products, with combining and conspiring to monopolize such trade, and attempting to monopolize and monopolizing such trade. defendants induced and compelled independent cranberry growers, other cooperatives and independent shippers of	CC	Defendants pleaded nolo contendere and imposed fines totaling $37,500 imposed.

		cranberries to sell solely to the defendant association all cranberries to be used in the manufacture of cranberry products, and agreed to limit and confine the manufacture of cranberry products solely to the association. In addition, the defendants were charged with preventing, eliminating, and excluding competition from independent manufacturers and from other cooperatives in the manufacture and sale of cranberry products, and of controlling and regulating prices and terms of sale for cranberry products.		
Safeway Stores, Inc. Two of its officers	1955	Violations of the Sherman and Robinson-Patman Acts. The indictment was in three counts. The first charged that the defendants engaged in a conspiracy to monopolize the retail grocery business in various cities in Texas and New Mexico. The second count charged that the defendants were attempting to monopolize this business. The third count brought under Section 3 of the Robinson-Patman Act named only Safeway and Warren as defendants. It charged that Safeway sold goods in its stores in Texas at prices lower than those it charged in other parts of the United States and below cost for the purpose of destroying competition. According to the indictment, Safeway established sales quotas for each of its stores in Texas and New Mexico, amounting to from 25 to 50 per cent of the total retail grocery business and insisted that the store managers meet these quotas. It was further charged that Safeway engaged in price wars in these areas for the purpose of destroying competition and that for that purpose during the course of these wars it sold groceries below its invoice cost for these commodities. According to the indictment, one of the effects of the defendants' activities had been to drive some independent grocers in Texas out of business. According to the indictment, Safeway in 1954 sold more than $155,000,000 of food and food products in Texas and New Mexico and	UC	Original indictment was voluntarily dismissed by the government in favor of filing a parallel criminal case (by information) and civil injunctive case. All defendants plead nolo contendere. The court imposed a fine totaling $187,500 and one-year prison sentences on the individualdefendants, which were probabted.

		sold substantially more of these products in this area than any of its competitors		
National Linen Service Corp. Four of its officers	1955	Attempting to monopolize and monopolizing the linen service industry in various southern states. The grand jury charged in the indictment that National had excluded competitors in the linen service business in the South by buying out hundreds of competing linen service concerns, and had threatened to force out of business existing competitors and concerns desiring to engage in the linen service business. According to the indictment, National had prevented and suppressed competition by conducting price wars; lowering prices in areas where National had competitors until competition was eliminated; offering customers service at below cost or free; and giving customers rebates and other inducements not to deal with competing linen service concerns. The indictment also charged that National had circulated defamatory or misleading reports among customers to induce them to refrain from patronizing competing linen service concerns. It was further charged that, in selected areas, National had induced or compelled linen service concerns to enter into agreements with it eliminating competition.	UC	A consent judgment was entered against the defendants in related civil case. At the same time the court permitted defendants in the criminal case, to change their pleas from not guilty to nolo contendere and imposed fines of $10,000 on the corporation and $4,000 on each of the three individual defendants
Radio Corp. of America	1958	A federal grand jury in New York City, on February 21, 1958, indicted the Radio Corporation of America on charges of violating Sections 1 and 2 of the Sherman Antitrust Act. RCA had been one of the nation's leading electronic firms since its incorporation in 1919. The four-count indictment charged that RCA conspired to restrain the manufacture, sale, and distribution of radio purpose apparatus and the licensing of radio purpose patents; and that it conspired to monopolize, attempted to monopolize, and monopolized the licensing of radio purpose patents in the United States. Radio purpose patents were defined in the indictment to include patents relating not only to radio and television receiving and	CC	Plea of nolo contendere by Radio Corporation of America. A fine of $25,000 on each of the four counts in the indictment was imposed.

		broadcasting apparatus, but also to such vital electronic devices as-radar, sonar, and various instruments used in guided missiles. Named as co-conspirators in the indictment were more than 25 of the leading electronic manufacturers in the world. The indictment charged that RCA agreed with, General Electric, Westinghouse, and American Telephone & Telegraph that those companies would not compete with RCA in the domestic licensing of radio purpose patents. RCA was also charged with agreeing with leading foreign electronic manufacturers not to compete in patent licensing, nor to export radio purpose apparatus into each other's home territory. It was further charged that RCA's foreign patents were made available for licensing by foreign co-conspirators through patent pools and exclusive agents under conditions which restricted American foreign trade. As a result of these agreements, it was alleged that RCA had been able to control the licensing of domestic radio purpose patents originating not only with itself but with the other leading domestic and foreign companies in the electronic field. The indictment charged that with control over more than 10,000 patents in the radio purpose field, RCA was placed in a position to compel every domestic manufacturer in that field to take licenses u:nder one or more of its major package licenses.		
American Natural Gas Co. Three natural gas companies and three corporate officials	1958	Count one of the indictment charged that the defendants, commencing in or about 1954, had engaged in a combination and conspiracy to monopolize interstate trade and commerce in the transmission and sale of natural gas in the States of Wisconsin, Minnesota, and parts of Illinois and Michigan. Count two charged them with a combination and conspiracy unreasonably to restrain that trade, while counts three and four alleged that the defendants had attempted to monopolize and had monopolized it. Under the terms of the conspiracy as set out in the indictment, the defendants and the co-conspirators agreed to:	CC	Each of the defendant companies was fined the following amounts on pleas of nolo contendere: Count I, $35,000; Count II, $30,000; Counts III and IV (merged), $35,000.

		(a) maintain free from com- petition respective service areas in Wisconsin, Minnesota, Michigan, and Illinois within which the defendants American, Northern, and Peoples shall operate; (b) exclude Midwestern Gas Transmission Co. as a competitor in the interstate transportation and sale of natural gas in said states; (c) boycott and refuse to purchase natural gas from Midwestern; (cl) attempt to obstruct and prevent Midwestern from obtaining natural gas from Canadian sources; (e) contract to supply natural gas to unserved communities for the purpose of absorbing markets which would otherwise be available for a potential competitor; and (f) cooperate closely and coordinate their activities for the purpose of preventing the interstate transportation and sale of natural gas in said states by any new competitor.		
Harte-Hanks Newspapers, Inc. Three companies and three individuals engaged in the operation and publication of the Herald-Banner newspaper in Greenville, Texas	1958	The indictment alleged that, prior to October 1956, there had been published and distributed in the Greenville area two newspapers, The Morning Herald and The Greenville Banner. These two newspapers were the only significant sources of local news, advertising, and other information disseminated regularly for the residents of the Greenville area through the publication and circulation of newspapers, according to the indictment. The indictment charged that the defendants, who had controlled and operated the Banner since 1954, conspired to eliminate the competition of the Herald, and in fact did do so. The indictment charged that the defendants conspired to, and did eliminate the competition of the Herald by: intentionally operating the Banner at a loss, utilizing revenues from other Harte-Hanks newspapers to finance such losses; lowering subscription rates for home and mail delivery of the Banner; distributing copies of the Banner free of charge; reducing the display and classified advertising rates of the Banner; increasing the Banner's advertising staff and the number of pages published; endeavoring to purchase and	UC	On January 21, 1959, the United States District Court for the Northern District of Texas, Dallas Division, ruled that the defendants did not violate the antitrust laws.

		purchasing the Herald; and seeking to curtail credit resources available to the Herald.		
Jas. H. Matthews & Co. Vice-President of company	1958	The company was the nation's largest manufacturer of bronze grave markers allegedly controlling at least 75 percent of industry sales. The indictment charged the defendants with achieving and maintaining a monopolistic position in the industry by conspiring with its cemetery customers to restrain trade in the sale and distribution of bronze grave markers. According to the indictment, the company had suggested, and the cemeteries had adopted, certain restrictive devices designed to prevent the installation of any bronze grave marker not purchased from the particular cemetery where the marker was to be installed. In return for this assistance in eliminating their bronze marker sales competition, the cemeteries were said to have agreed to purchase their own marker supplies predominantly from the company.	UC	The United States District Court for the Western District of Pennsylvania accepted the defendants' pleas of nolo contendere. The Court imposed a fine of $10,000 on each of the four counts in the indictment against Jas. H. Matthews & Co., and a fine of $2,500 on each of two counts was imposed on N. Neilan Williams, with sentence suspended on the other two counts.
True Temper Corp. 5 corporations and 6 individuals	1958	According to that indictment and companion civil complaint, True Temper Corporation was the leading manufacturer of steel shafts for golf clubs, producing approximately 90% of all such steel shafts made in this country and selling them for more than $5,000,000 per year. The other corporate defend- ants were the "big four" manufacturers of golf clubs, selling about 80% of all golf clubs in this country for nearly $25,000,000 per year. It was charged in the indictment and companion civil complaint that True Temper Corporation and the "big four" golf club manufacturers violated the Sherman Antitrust Act by engaging in a combination and conspiracy to restrain and to monopolize interstate trade in steel golf shafts and golf clubs. Pursuant to that alleged combination and conspiracy: (1) The "big four" manufacturers allegedly fixed so-called lowdown prices for golf clubs; (2) True Temper Corporation allegedly communicated those prices to other golf club manufacturers who purchased True Temper steel shafts, and	CC	All of the defendants in the criminal action (No. 1400) pleaded nolo contendere. True Temper Corp. and Wilson Athletic Goods Mfg. Co., Inc. were fined $10,000 each; A. G. Spalding & Bros., Inc. and MacGregor Sport Products Inc. were fined $5,000 each; Hillerich & Bradsey Co. was fined $2,000; and the six individual defendants were fined $200 each

		it allegedly refused to supply its steel shafts to golf club manufacturers who failed to adhere to those fixed prices; (3) the "big four" manufacturers allegedly refused to purchase steel shafts from competitors of True Temper Corporation and purchased all of their steel shafts requirements from True Temper Corporation; (4) True Temper Corporation allegedly granted to the "big four" manufacturers preferential prices, discounts, and allowances on steel shafts; and (5) True Temper Corporation's top grade steel shafts allegedly had to be used in those types of golf clubs only which were sold to "pro shops" and not to ordinary retail outlets.		
Greater Blouse, Skirt & Neckwear Contractors Assn. Three associations, a labor union, and five individuals	1959	The indictment charged that the defendants since 1949 had conspired to (1) fix the prices jobbers and manufacturers of blouses pay to blouse contractors for the fabrication of blouses, (2) allocate the blouse contracting work of members of National among the members of Greater and Slate Belt, and (3) require members of National to give all their blouse contracting work to members of Greater and Slate Belt.	CC	On April 13, 1964, the court granted the government's motion to dismiss the indictment as to all defendants
Philadelphia Assn. of Linen Suppliers Trade association of linen suppliers, 10 corporations, and 9 individuals	1959	The indictment charged that since the year 1950, the defendants engaged in a conspiracy to suppress competition in furnishing linen supplies to customers in Pennsylvania, southern New Jersey, and Delaware. The terms of the alleged conspiracy included refraining from competing for customers; fixing prices for furnishing linen supplies; submitting rigged bids for furnishing linen supplies to public agencies, institutions, and hospitals; and impeding other linen suppliers who were not members of the conspiracy in order to exclude such other linen suppliers from the industry or compel them to join the conspiracy.	CC	Fines, totaling $170,500, were imposed on pleas of nolo contendere
Irving Bitz Eleven individuals and one corporation	1959	According to the indictment, Suburban Wholesalers Assn., Inc. (which consisted of twelve wholesale distributors of newspapers and magazines who operated in specified areas in New York, New Jersey, and Connecticut) acted as bargaining agent for its	CC	Prison sentences imposed (including on Hobbs Act claims)

		members in negotiating- labor contracts with the Newspaper and Mail Deliverers' Union of New York and Vicinity. The Union, it was alleged, supplied these distributors with all employees engaged in the handling and delivery of newspapers and magazines, and by provisions in labor contracts between the Union and publishers, such publishers could use as wholesalers only such distributors as were themselves under labor contractual relation with the Union. Count Two of the indictment charged all of the defendants except Lospinuso and Walsh with an "unlawful combination and conspiracy to monopolize for defendants Irving Bitz, Charles Gordon and Bi-County . . . interstate trade and commerce in the wholesale distribution and sale of news- papers and magazines in the area comprising Nassau and Suffolk Counties in the State of New York" in violation of Section 2 of the Sherman Act. This count in the indictment alleged the same substantial terms and the same means of effectuation as alleged in Count One of the indictment, but also charged that this offense was effectuated "by acts of violence and intimidation in 1958 to coerce publishers to deal with defendants Irving Bitz, Charles Gordon and Bi-County and to exclude competitors from obtaining business from such publishers."		
Brunswick-Balke-Collender Co. Brunswick-Balke-Collender Co., Chicago, Ill., and its production manager, Jack B. Shipman; Wayne Iron Works, Wayne, Pa., and its executive vice president, Charles M. Wetzel; Universal Bleacher Co., Champaign, Ill., and its president,	1959	Combination and conspiracy to restrain and to monopolize interstate com- merce in folding gymnasium bleachers, in violation of the Sherman Antitrust Act. Pursuant to the alleged combination and conspiracy, it was charged, the defendants agreed: (a) to allocate among themselves business in folding gymnasium bleachers; (b) to adopt uniform base prices, terms, and conditions of sale for such bleachers; (c) to submit to prospective purchasers bids calculated according to certain agreed upon formulae; and (d) to retain defendant Corray as a consultant, to coordinate the activities of the defendant corporations. Thus, it was alleged,	CC	On June 20, 1960, Brunswick-Balke-Collender Co., Wayne Iron Works, and Universal Bleacher Co. were each fined $20,000, and Fred Medart Mfg. Co. and Crosby-Miller Corp. were each fined $10,000. Five of the individual defendants were fined a total of $14,500. The court

Donald E. Vance; ,Fred Medart Manufacturing Co., St. Louis, Mo.; Crosby-Miller Corp., Berlin, Wis., and its president, John C. Miller; Safeway Steel Products, Inc., Milwaukee, Wis., and its vice president, James Jay; and Fred H. Corray,		competition in sales of folding gymnasium bleachers was artificially restricted, and prices were fixed at arbitrary levels.		had previously accepted their pleas of nolo contendere.
Southeast Texas Chapter, Natl. Electrical Contractors Trade association of electrical con-tractors, seven corporations and three individuals	1960	The defendants are charged with having engaged in a conspiracy, under the terms of which the defendant and co-conspirator electrical contractors would allocate jobs among themselves, and the conspiring electrical contractors other than the one selected to be low bidder on a job would submit higher bids or would refrain from submitting bids. The indictment also charges that the Union (Local No. 716, International Brotherhood of Electrical Workers), named as a co-conspirator, would refuse to supply union labor for, or supply only inferior or incompetent labor on, any job obtained by a contractor not a member of the conspiracy. The indictment further charges that the Association members agreed to limit the amounts of work obtained through competitive bidding in accordance with a quota established by the Association, and to use identical over- head percentages in computing their bids.	CC	Nolle prossed
General Motors	1961	General Motors Corporation was indicted by a federal grand' jury in New York on charges of using its vast economic power illegally to monopolize the manufacture and sale of railroad locomotives. Attorney General Robert F. Kennedy announced the return of the indictment, which charged that General Motors violated section 2 of the Sherman Antitrust Act. Two. substantial competitors	UC	On December 28, 1%4, the court granted the government's motion to nolle prosequi the case.

		were driven from the market and General Motors captured 84.l% of the locomotive business, As a result, the indictment asserted that "the purchasers of locomotives and the public in general have been. deprived of the benefits of competition". The indictment listed at least 14 ways in which General Motors assertedly misused its economic power to force most of the nation's 40 railroads to buy locomotives. The indictment pointed out that General Motors is the largest manufacturing corporation in the United States in terms of total sales and assets and is probably the nation's largest shipper of freight. As a result, the complaint asserted, General Motors was able to vary its price and rate of return in locomotive sales, make investments in manufacturing facilities for railroad locomotives, and establish production capacity in a manner which no competitor could meet. This power, the indictment asserted, was "unlawfully acquired and maintained." Among the ways in which General Motors did so, the indictment said, included: Routing rail shipments to favor purchasers of General Motors locomotives and withholding or reducing shipments from lines which purchased locomotives from General Motors' competitors. Building plants, warehouses and storage areas near lines of railroads for the purpose of persuading the railroads to purchase General Motors loco-motives. Obtaining steel from General Motors suppliers on terms which were substantially more advantageous than those available to its competitors. Financing the sale or lease of locomotives on terms its competitors could not match. Participating in the for ulation of locomotive specifications for use in obtaining competitor bids which prevented other manufacturers from com- peting. Selling locomotives at a loss in segments of the market where it had competition.		
Avdel, Inc Four foreign firms and five individuals	1961	The two-count indictment asserted that the firm and its international affiliates have suppressed competition, fixed, prices,	CC	The court found the companies guilty of conspiring to

were listed as co-conspirators but not as defendants.		allocated bids and monopolized sales in the market for quick release pins		suppress and eliminate competition in the manufacture, sale, and distribution of quick-release pins in violation of Section 1 of the Sherman Act (Count 1). Each of the defendants was fined $50,000. It found the companies not guilty as to Count 2, which charged a combination and conspiracy to monopolize trade in violation of Section 2 of the Sherman Act
American Optical Co. Victor D. Kniss, its executive vice president; -Bausch & Lomb, Inc., Rochester, N. Y. and Alton K. Marsters, a vice president, also of Rochester.	1961	The two largest eyeglass manufacturers in the country were charged with trying to pressure independent competitors out of business and with price-fixing	CC	Following nolo contendere pleas, fines totaling $126,000 were imposed
Charles Pfizer & Co. Three of the nation's largest manufacturers of antibiotic “wonder" drugs and three of their top executives	1961	The indictment charged that beginning in November, 1953, Pfizer and American Cyanamid conspired to maintain non-competitive prices on broad spectrum antibiotics. After Tetracycline was developed, those two firms and Bristol conspired to control patents on it and make prices for Tetracycline conform to the non-competitive prices maintained for the other drugs	CC	All defendants acquitted following Supreme Court decision
Victor D. Kniss executive vice president of the American Optical Co., a corporation, and trustee of the-American ' Optical Co., a voluntary	1961	Previously, both of the officers were named as defendants in an indictment charging their companies with violating Sections l and 2 of the Sherman Act by conspiring to pressure independent competitors out of business and with fixing prices for ophthalmic lenses	CC	

association under the laws of Massachusetts, and Alton K. Marsters, vice presidentof Bausch & Lotnb, Inc.				
\Minnesota Mining and Mfg. Co Indictment named as co-conspirators and not defendants, nine other corporations in connection with the sale and manufacture of pressure sensitive tape	1961	The grand jury charged that 3M abused patent privileges by compelling or attempting to compel its competitors to accept patent license agreements. The agreements would enable Minnesota to dictate to the industry what prices could be charged, what products could be made and how they could be made and sold	CC	The district court accepted a plea of nolo contendere, and imposed fines of $50,000 on each of three counts, and $20,000 on each of two counts, totaling $190,000
Huck Mfg. Co. Nation's two principal manufacturers of lock-bolts-metal fasteners used in virtually every American airplane	1961	Conspiring to expand legal patent privileges into an illegal monopoly and to fix prices.	CC	On December 6, 1965, the district court ruling that the manufacturer's practices did not violate the Sherman Act (1690) was affirmed by the U. S. Supreme Court.
M. Klahr, Inc. Two officers of the firm and one union official	1962	Price fixing, bid rigging, monopolization in the venetian blind business	CC	Defendants were fined and given suspended prison sentences
Greater New York Roll Bakers Assn. Fourteen firms, seventeen individuals, and three trade associations on c	1962	Conspiracy to fix prices and monopolize in kosher meat industry	CC	Jury found defendants not guilty
Johns-Manville Corp. Two companies and five of their officials	1962	Conspiring to restrain and monopolize, and attempting to monopolize, trade in asbestos-cement and pipe and couplings. he indictment charged that the defendants and co-conspirators con- i spired to (1) fix prices and terms of sale, (2) restrain and eliminate competition between the corporate defendants in manufacturing and selling, (3) restrain and	CC	Defendants acquitted

		eliminate competition with and among the corporate defendants' distributors, (4) restrain and eliminate the importation, distribution, sale, and use of foreign-made products in the United States, and (5) maintain a dominant position in domestic production and sale in the United States		
H.P. Hood & Sons, Inc. The Great Atlantic & Pacific Tea Company, Inc	1963	H. P. Hood & Sons of Boston, the largest milk wholesaler in New England, was indicted on charges of trying to drive out of business milk dealers who sell MILK at cheaper prices in glass jugs. charged Hood with illegally cutting prices in selected areas, often below cost, in order to destroy competition from "jug handlers." Mr. Kennedy said the indictment further charged that Hood conspired with the Great Atlantic & Pacific Tea Company, Inc. to restrain competition and to monopolize the Greater Boston milk market. Approximately 350,000,000 quarts of milk, worth about $70,000,000 are sold there annually. The indictment said Hood paid secret rebates to A&P for milk sold in its Boston area stores. Jug handlers process, sell and distribute milk in gallon and half-gallon jugs, a cheaper form of packaging than the milk cartons used by Hood and other dairies.	UC	Jury found defendants H. P. Hood and The Great Atlantic & Pacific Tea Co. not guilty of the charges.
United Fruit Co.	1963	The United Fruit Company was indicted in Los Angeles on charges of unlawfully monopolizing the banana market in seven western states'. '" Attorney General Robert F. Kennedy said the antitrust indictment also charged United with trying unlawfully to drive out budding competition by flooding the market and by predatory pricing. The defendants maintained substantially higher prices in the western states than in markets where they faced competition, the indictment said. They also were charged with strictly limiting banana imports in order to shelter the western market from oversupplies which might have brought down prices. This count said the defendants refused to sell to a number of wholesalers and allocated bananas in such a way that customers had to buy excessive	UC	On October 23, 1963, the following fines were imposed on nolo contendere pleas: United Fruit, $2,000; United Fruit Sales Corp., $1,000; Joseph H. Roddy, $500; and Marion E. Wynne, $500.

		amounts during periods of oversupply in order to increase their allotments during periods of short supply. Starting in July, 1960, two other banana companies-the Standard Fruit and Steamship Company and Ecuadorian Fruit Import Corporation-joined to import bananas into Los Angeles by ship. The other two counts charged the defendants with conspiring and attempting to eliminate this competition. They did so, the grand jury charged, by: -Increasing their imports, in order to flood the area with an oversupply of bananas; -Maintaining maximum inventories with customers to forestall purchases from Standard-EFIC; -Deliberately reducing wholesale prices, starting July 9, 1960 in order to keep Standard-EFIC from making any profit; and -Causing the Port of Los Angeles to deny Standard-EFIC a pier assignment for its banana cargoes.		
American Oil Co. 8 major oil companies	1965	Fixing the prices of gasoline in Pennsylvania, New Jersey and Delaware	CC	Defendants pleaded nolo contendere and paid $50,000 each in fines.
Union Camp Corp. Two manufacturers of paper bags, and two officials of one of the firms	1967	Conspiring to exclude competitors through use of an allegedly invalid patent. The charges related to patents for a paper bag with a mesh-covered "window" to permit contents such as potatoes and onions to be seen and ventilated. According to the indictment, Union was issued a product patent in 1947, and in 1950 initiated a licensing arrangement with selected competitors through which it collected $50,000 in royalties annually and exerted major control of the industry. Bemis acquired a patent in 1953 covering the apparatus which produced such bags, and later transferred all licensing rights under the patent to Union. The government charged that both firms were aware the Bemis patent was invalid. Through use of the invalid Bemis patent, Union, according to the indictment, then extended its power to collect royalties and to block additional competition another six years after its own patent expired in 1964. The government said Union and Bemis used	UC	The two officials were permitted to plead nolo contendere to the conspiracy charge, and the government declined to prosecute them on the monopoly charge. Bemis was allowed to plead nolo contendere to the conspiracy count over the govern-ment's objection. (Unio Camp moved to change its guilty plea to nolo contendere, the government objecting and the court taking the matter under

		the invalid patent to force a manufacturer of window-front bag attachment machinery to restrict sales to Union licensees.		advisement.) On May 6, 1968, Union Camp was permitted to enter a plea of nolo contendere.' On the same date fines totaling $135,000 were imposed as follows: Union Camp, on the conspiracy count, $50,000 and on the monopoly count, $25,000; Bemis, $50,000; Mr. Calder and Mr. Bauer, $5,000 each.
N. V. Nederlandsche Combinatie 11 drug companies and 8 executives	1968	International conspiracy to monopolize sales and fix prices of quinine and quinidine.	CC	Nolo contedere pleas and fines of $40,000 or $50,000 for the corporate defendants
Dunham Concrete Products, Inc., Three Louisiana industrial concrete suppliers, their principal management official, and the busi- ness agent of a local union	1969	Charges of criminally conspiring to monopolize trade in concrete products and of extortion. Since early in 1966; the indictment charged, the defendants and unnamed co-conspirators violated the restraint of trade and antimonopoly provisions of the Sherman Act by coercing industrial purchasers of concrete products to deal exclusively with the Dunham companies through strikes, work stoppages, and property damage at construction sites. The indictment also charged that the defendants conspired to obstruct and delay construction projects which used competitors' concrete products, to supply truckdrivers and equipment operators to concrete suppliers at higher wage rates and upon less favorable terms than those extended to Dunham companies, and to fix prices and prescribe areas of sale of concrete products.	CC	The jury convicted the defendants of attempting to monopolize trade in concrete products and violating the labor racketeering provisions of the Hobbs Act through strikes, work stoppages and physical violence. The defendants were acquitted of a charge of conspiring to eliminate competition, and the jury was unable to reach a verdict as to a conspiracy to monopolize count and another Hobbs Act count involving activities at another construction site.

				The court imposed fines of $30,000 each on Dunham Concrete Products Co. and Louisiana Ready-Mix Co. and a fine of $40,000 on Anderson-Dunham, Inc. for Sherman Act violations. Ted F. Dunham, Jr., also for Sherman Act violations, was fined $30,000 and sentenced to 6 months in prison. Fines and a prison sentence were also imposed for Hobbs Act violations. On March 22, 1973, the U. S. Court of Appeals in New Orleans dismissed appeals of Louisiana Ready-Mix Co. and Dunham Concrete Products, who had not prosecuted their appeals, and affirmed the convictions of Anderson- Dunham, Inc. and Ted F. Dunham, Jr. On September 26, 1974, the U. S. Court of Appeals in New Orleans reaffirmed the convictions.
Air Conditioning and Refrigeration Wholesalers Trade association and two of its officers	1970	The indictment charged the trade association and the officers with conspiring with members of ARW and the six manufacturers, who were named as co-conspirators but not as defendants, to monopolize and restrain trade in the sale of refrigerant gas since at least 1953, in violation of Sections 1 and 2 of the	CC	Fines were imposed pursuant to acceptance of pleas of nolo contendere, as follows: the association, $50,000

		Sherman Act. Assistant Attorney General Richard W. McLaren, head of the Antitrust Division, said the defendants were charged with excluding business concerns other than air conditioning and refrigeration wholesalers from competing with ARW's members in the sale of refrigerant gas for replacement purposes and restraining competition in the sale of the gas. The indictment also alleged that ARW members agreed to boycott refrigerant gas manufacturers who sold to business concerns other than air conditioning and refrigeration wholesalers and who refused to adhere to limitations on the shipment of such gas.		the two individuals, $10,000 each.
General Motors Corp. and Ford Motor Co.	1972	Conspiring to eliminate price concessions and otherwise restrict competition in the sale or lease of automobiles to the fleet market.	CC	On December 13, 1973, the court acquitted defendants of the conspiracy to monopolize count in the criminal action. On December 19, 1973, the jury acquitted defendants of the restraint of trade count in the criminal action. On January 11, 1974, the court supplemented its bench opinion of December 13, 1973, that acquitted defendants of the conspiracy to monopolize count in the criminal action
Empire Gas Corp. Two individuals	1972	A federal grand jury indicted Empire Gas Corp. of Lebanon, Missouri-one of the largest liquified petroleum gas distributors in the United States and two individuals on charges of violating the antitrust laws and conspiring to violate federal firearms law in connection with an unsuccessful attempt to dynamite a tank truck belonging to a competitor	UC	Jury acquitted defendants
Morgan Drive Away, Inc.	1973	Monopolizing the business of transporting mobile homes in violation of the Sherman	CC	Following nolo contedere pleas, the

Three leading transporters of mobile homes and six individuals		Act. The defendants have combined and conspired to restrain, have combined and conspired to monopolize, and have monopolized, the business of transporting mobile homes within the United States. According to the indictment, the substantial terms of the conspiracy have been to exclude other persons from the business of transporting mobile homes, to limit the growth of competitors, and to coerce competitors to join a rate making conference. The suit also charged the defendants conspired to raise their rates to levels charged by the defendants, and to fix and stabilize rates for transporting mobile homes within individual states, without authorization of state law.		following fines were imposed for each count, to run concurrently: Morgan Drive Away and National Trailer, $50,000 each; Transit Homes, $25,000; Messrs. Miller and DeMaras, $15,000 each; Mr. Privitt, $7,500; Messrs. Thompson and Thee, $5,000 each, all payment suspended as to Mr. Thee; and Mr.Hobson, $2,500.
Allan Molasky Missouri magazine wholesaler and its two principal offers	1973	Attempting to monopolize the wholesale distribution of magazines and paperback books in the Gulf Coast area. Defendants attempted to monopolize by trying to acquire almost all of the local wholesale agencies located in the area between Victoria, Texas and Pensacola, Florida. In addition, the indictment charges the defendants induced wholesalers to sell their businesses, by threatening to put them out of business or otherwise to injure them economically.	UC	Defendants entered pleas of nolo contendere over the objections of the government. On February 12, 1975, the court accepted Allan Molasky's plea of nolo contendere. On Mar.ch 11, 1975, each of the defendants was fined $50,000. A sentence of 1 year, with 11 months suspended, plus 2 years' probation was imposed on Mark Molasky
Braniff Airways, Inc. and Texas International Airlines	1975	Conspiring to monopolize airline business among three major Texas cities. The indictment charged that Braniff and Texas International attempted to deter, delay, and increase the cost of Southwest's entry as a competitor; exchanged information, schedules and fares to maximize competitive pressures brought to bear on Southwest; and jointly undertook a boycott of Southwest by preventing passengers scheduled for their	CC	Case dismissed, new indictment entered in 1977 (see below)

		cancelled flights from switching to Southwest flights.		
Lynn B. Hirshom	1976	A federal grand jury indicted a retired national sales manager for Bethlehem Steel Corporation on charges of violating antitrust laws in connection with the sale of reinforcing steel bars in Texas. The indictment charged Lynn B. Hirshorn, Bethlehem's former National Manager of Sales, Reinforcing Bars, Piling and Construction Specialties Products, with conspiracy to restrain and monopolize Texas reinforcing steel bar sales in violation of Sections 1 and 2 of the Sherman Act. The indictment charges that Mr. Hirshorn combined and conspired with his co-conspirators from 1969 to at least June 30, 1971, in violation of Sections 1 and 2 of the Sherman Act, to: raise and stabilize prices of reinforcing steel bars; require independent fabricators in the Houston and Dallas areas to limit their bid submissions for the supply of re-bar materials to construction projects requiring no more than a specified tonnage of steel bars; and allocate certain construction contracts among themselves in accordance with their respective shares of the market for re-bar materials in the State of Texas	CC	Jury returned verdict of not guilty
Braniff Airways, Inc. and Texas International Air-lines, Inc	1977	The indictment charged that the two companies conspired to restrain and monopolize the airline business between Dallas-Fort Worth, Houston, and San Antonio by actions aimed at impairing the ability of Southwest Airlines, Inc., to serve the three cities	CC	On June 14, 1978, Texas International was fined $100,000 on a plea of nolo contendere. On December 27, 1978, Braniff was fined $100,000 on a plea of nolo contendere.