December 14th, 1925

Hon. George Gordon Battle
37 Wall Street
New York City

Dear Mr. Battle:

In view of the complaints which you are now receiving, the following memorandum may be of some assistance:

COMPLAINT BY THE MERCHANTS ASSOCIATION

Mr. Blumberg, on behalf of the Merchants Association, has complained to the Commission about a circular letter, which I understand was sent out by the American Association to its members, on the subject of "Registration."

I do not recall that this subject was ever fully discussed before the Commission, though the Merchants Association did make some allusions, without going into detail, to practices on the part of the American Association to which it objected. While I have not looked through all the minutes, I do not find any record of a discussion of this subject. Mr. Blumberg talked with me about it over the telephone about a week ago. I told him I did not recall any ruling of the Commission nor any promise by the American Association made before the Commission. He seemed to feel sure that the matter had been threshed out before the Commission and said he was looking through the minutes to find it. The fact that he has not quoted anything confirms my impression that it is not there.

The general idea of registration seems to be that when members of the American Association take orders, they bring the orders to headquarters so that some one can go over them and point out errors in calculation, so as to show the members if they are doing themselves an injustice. They tell me that this so-called "registration" has been going on most of the time for a period of two years. Last spring the American Association was making a specially strenuous effort along that line and was particularly using it to persuade its members to accept orders only on net terms.

On May 21st, I arranged an informal luncheon conference at which several representatives of each organization were present. I, of course, heard the discussion. Representatives of the Merchants Association said, in effect, that they did not object to efforts by the American Association to educate their own members in figuring on garments. The two specific practices to which they did object were the following:
(1) The practice of having the jobber's sample brought in with the order.

They regarded this as a violation of the property rights of the jobber and said it caused suspicions that his styles might be stolen.

(2) They claimed that the American Association frequently encouraged its members to refuse to carry out an order after it had been accepted by them and even after the merchandise had been delivered and perhaps cut.

The American Association denied that they ever told their members to repudiate orders particularly after the merchandise had been delivered. They admitted that the member would sometimes go back to the jobber, explained that he had figured his garment improperly, and ask for a voluntary increase in price.

Of course, it is evident that there is a border line here in which the facts are not entirely clear.

The conference in May had to do with the conduct of the American Association at that time and pending the report of the Commission. They gave as their reason for insistence on net terms that, if the point were not stressed by them before the beginning of the season, the jobbers would argue before the Commission that it was too late to put it into effect for the Fall season. After the conference I made a memorandum of the results and sent a copy to each organization. I received no criticism to the effect that the memorandum was incorrect. It was in the following form:

MEMORANDUM OF CONFERENCE, MAY 21ST, 1926

An informal conference was held today between the officers and counsel of the Merchants Association and of the American Association, with the Impartial Chairman present. It was held at the request of the Merchants Association.

The purpose of the meeting was to clear up, if possible, certain points which have been the subject of controversy.

The discussion arose out of a circular letter sent out some weeks ago to the members of the American Association to which letter objections had been made by the Merchants Association.

Those present appeared to be in agreement on the following points:
1. Representatives of the American Association said that their Association has not encouraged and will not encourage any member who has received merchandise on an accepted order calling for discounts to refuse to make up and deliver the merchandise. The parties agreed that for the present the matter of discounts is to remain in status quo as of July 15th, 1924.

While no attempt is made by either Association to anticipate what the Commission may or may not recommend or what clauses may or may not be embodied in future collective agreements, it is understood that the mere fact that the fall season is getting under way will not be raised as a barrier to the installation of any new trade practices as to terms of discount now under consideration by the Commission, as applying to orders which may be placed after the making of any new collective agreements. Neither Association has in any way changed its position on this subject as presented to the Commission. They have merely agreed that the fact that the season has commenced is not in itself to operate as an obstacle.

2. The officers of the American Association explained their purpose of aiding their own members in making calculations through the method of having orders registered at their central office.

Here again the American Association denied any purpose to interfere with the execution of orders after they had been accepted. They explained also that in only a few cases had one of their members been asked to bring a sample garment to the headquarters as an aid in analyzing the calculations.

Knowing that the Merchants Association has been criticizing recently the American Association's registration procedure, I inquired at the latter's office some time ago whether they are having garments brought in and whether they are encouraging their members to repudiate accepted orders. They have told me that they are not doing either of these two things.

I have talked over the telephone with Mr. Blumberg and Mr. Copelof, and have told them that if they have any specific abuses to complain of, I should be very glad to take them up through the impartial machinery if they would file complaints in the usual way, just as they are already doing with complaints of the more usual character. This is provided for in the fifth paragraph of the agreement between the two associations, which reads as follows:
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FIFTH: All complaints, disputes or grievances arising between the members of the Merchants Ladies Garment Association and the members of the American Clock and Suit Manufacturers Association, involving questions of interpretation or application of any of the findings of the Commission or acts, conduct or relations between the members of the Merchants Ladies Garment Association and the members of the American Clock and Suit Manufacturers Association, and between the Associations themselves, directly or indirectly, shall be submitted in writing by the party claiming to be aggrieved to the other party, and the manager of the Merchants Ladies Garment Association and the manager of the American Clock and Suit Manufacturers Association, or their deputies, shall in the first instance jointly investigate such complaints, grievances or disputes, and attempt an adjustment. Decisions reached by the managers or their deputies shall be binding. Should the managers fail to agree, the question or dispute shall be referred to a Trial Board, consisting of one member from each organization, and a permanent umpire to be known as the "Impartial Chairman" in the industry. Such Impartial Chairman shall be selected in the manner provided for in the findings of the Commission.

COMPLAINT BY THE AMERICAN ASSOCIATION

I understand that the American Association is sending the Commission a complaint to the effect that many members of the Merchants Association, including a number of its most prominent Board members, are continuing to insist on eight per cent discounts. The reports in the trade press indicated that at a membership meeting of the Merchants Association held last week, a number of their officers and leaders stated that they expected to continue doing business on the discount basis. While the Association has not repudiated the Commission's ruling, they have not, so far as I know, sent out any instructions to members informing them that they are expected to abide by the new ruling. The attitude taken by some of those who spoke at the meeting seemed to be that the Association had never, even from the start, agreed to have the Commission pass on anything but strictly labor questions. This, of course, is absurd, because these trade subjects were up before the Commission for the entire year and this particular point was never raised until after the hearings were completed and the Commission's report rendered. The point was raised in communications afterwards sent by the Merchants Association, but they nevertheless accepted the Commission's report, involving continuation of the old contracts, including the ruling that they must agree to accept a decision to be rendered in November on the subject of discounts.
The American Association has already filed one complaint with the Merchants Association, charging a violation of the discount ruling. Such a complaint is usually followed by a joint investigation by the clerks or managers of the two organizations. In this case, however, the manager has sent the complaint to the counsel who has told the American Association that he cannot go on with it just now because their member is out of the city. Very likely, the American Association may be filing some other complaints.

SUGGESTIONS

Both the question raised by the Merchants Association and the one raised by the American Association seem to be extremely simple in themselves. The only real question is one of a proper procedure for clearing them up.

It would, of course, be logical for the Commission to reply to both communications, calling attention to the fifth paragraph of the collective agreement, and saying that if there are complaints of unlawful or unfair procedure, the complaints should be brought up before me through the impartial machinery in the usual way.

It occurs to me, on the other hand, that in as much as there are complaints on both sides of a rather general character, a solution might be expedited should the Commission or the Commission's chairman arrange an informal meeting with a few representatives of each organization and with the impartial chairman present. I do not doubt that the American Association would definitely agree neither to bring garments to their headquarters nor to encourage their members to repudiate contracts. The other side of the proposition would be to have the Merchants Association agree to inform all its members that they must do business on a net basis and to enforce that ruling.

Of course, a slightly different method would be to reply to the two associations, calling attention to the possibility of their bringing up cases and saying at the same time that a suggestion had been made by the Commission or its chairman to the impartial chairman to get the parties together in an informal conference, in order to expedite, if possible, the clearing up of any points of disagreement.

Sincerely yours,

Raymond W. Ingersoll