

U. S. DEPARTMENT OF COMMERCE
NATIONAL BUREAU OF STANDARDS
WASHINGTON, D. C.

May 15, 1936.

Subject: Decision of the Supreme Court of the
United States and Its Effect on
Establishment of Commercial Standards

In opinion No. 268 of the October Term, 1935 the Supreme Court of the United States in the case of the Sugar Institute, Inc., et al, reviewed not only the situation affecting this case but other previous cases involving price fixing and among other things said:

"Designed to frustrate unreasonable restraints, they (restrictions of the Sherman Anti-Trust Act) do not prevent the adoption of reasonable means to protect interstate commerce from destructive or injurious practices and to promote competition upon a sound basis. Voluntary action to end abuses and to foster fair competitive opportunities in the public interest may be more effective than legal processes. And cooperative endeavor may appropriately have wider objectives than merely the removal of evils which are infractions of positive law. Nor does the fact that the correction of abuses may tend to stabilize a business, or to produce fairer price levels, require that abuses should go uncorrected or that an effort to correct them should for that reason alone be stamped as an unreasonable restraint of trade. Accordingly we have held that a cooperative enterprise otherwise free from objection, which carries with it no monopolistic menace, is not to be condemned as an undue restraint merely because it may effect a change in market conditions where the change would be in mitigation of recognized evils and would not impair, but rather foster, fair competitive opportunities."

It seems that this constitutes a definite and authoritative encouragement of voluntary action such as the establishment of commercial standards in correcting trade abuses. National laws may be written to prevent the sale in interstate commerce of goods which are definitely unsanitary or otherwise unfit for use, but voluntary standards can be set up for all grades or for the highest grade of any commodity so as to place competition on a fairer basis; to bring about a better understanding between buyer and seller; and to give the buyer a basis for redress against the seller who definitely misrepresents his goods.

If the voluntary establishment of commercial standards (grade specifications) by business through the impartial and open procedure of the National Bureau of Standards, results in a natural stabilization of prices and improvement of market conditions, such stabilization and improvement are not to be condemned. In fact, commercial standards mitigate recognized evils and do not impair, but rather foster, fair competitive opportunities.

DIVISION OF TRADE STANDARDS