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States and postoffices.	Col. 1.	Col. 2.	Col. 3.		Col. 4.		Col. 5.	Col. 6.	Col. 7.
	Total number copies received.	Refused to answer or could not be seen.	State they are subscribers.		State they are not subscribers.		Copies refused and unclaimed.	Total not subscribers (columns 4 and 5).	Per cent not subscribers (based on columns 3 and 6).
			Paid for subscriptions themselves.	Another paid subscriptions.	Do not know why publication comes.	Sent free by another.			
Alabama, Selma.....	32	.....	15	10	7	.....	.....	7	21
Arizona, Flagstaff.....	12	.....	4	2	4	2	.....	6	50
Arkansas, Pine Bluff.....	200	104	68	16	7	5	.....	12	12
California, Corning.....	232	21	95	50	27	36	3	66	31
Colorado, Colorado Springs.....	1,041	57	369	519	64	32	.....	96	9
Connecticut, Manchester.....	13	8	2	1	.....	2	.....	2	4
Delaware, Dover.....	26	12	4	4	5	1	.....	6	43
Florida:									
Kissimmee.....	74	.....	53	5	9	3	4	16	21
Orlando.....	115	.....	53	8	26	28	.....	54	47
Georgia:									
Athens.....	83	12	26	10	29	6	.....	35	50
Atlanta.....	411	43	92	111	146	.....	19	165	44
Idaho, Payette.....	105	42	37	16	5	5	.....	10	10
Illinois:									
Mount Vernon.....	474	10	217	1	.....	242	4	246	53
Princeton.....	880	40	187	340	179	134	.....	313	37
Indiana:									
Fort Wayne.....	557	29	107	13	253	144	11	408	77
South Bend.....	150	.....	39	30	40	33	8	81	54
Iowa, Stockport.....	63	9	18	4	25	5	2	32	50
Kansas:									
Arkansas City.....	1,046	80	404	209	182	171	.....	353	36
Manhattan.....	124	18	50	18	20	9	9	38	33
Kentucky, Corydon.....	48	1	18	6	4	19	.....	23	50
Louisiana, Alexandria.....	21	4	4	4	7	.....	2	9	52
Maine, Augusta.....	216	81	54	19	50	12	.....	62	46
Maryland, Cumberland.....	36	.....	11	3	15	7	.....	22	61
Massachusetts, Gardner.....	49	1	5	9	16	11	7	34	70
Michigan, Onondaga.....	7	.....	7	.....	.....	.....	.....	.....	.....
Minnesota, Mankato.....	64	.....	22	24	9	9	.....	18	28
Mississippi, Jackson.....	40	.....	14	16	8	2	.....	10	24
Nebraska, Grand Island.....	25	.....	13	.....	.....	12	.....	12	48
New Hampshire, Concord.....	148	15	74	26	8	25	.....	33	30
New Jersey, Phillipsburg.....	33	.....	8	1	9	14	1	24	72
North Carolina:									
Asheville.....	500	51	195	.....	.....	254	.....	254	50
Biltmore.....	23	.....	2	3	10	8	.....	18	80
Charlotte.....	17	2	.....	9	5	.....	1	6	46
Raleigh.....	74	27	14	6	14	13	.....	27	57
Wilmington.....	59	5	16	.....	1	37	.....	38	70
North Dakota, Bismarck.....	19	2	5	3	.....	5	4	9	53
Ohio: Hamilton.....	386	52	127	131	28	48	.....	76	22
Oklahoma, Muskogee.....	84	.....	33	27	24	.....	.....	24	28
Oregon, Salem.....	112	3	34	44	15	16	.....	31	28
Pennsylvania, Johnstown.....	285	7	71	13	45	141	8	194	68
Rhode Island, Woonsocket.....	47	.....	20	17	.....	9	.....	9	19

Hearings before the Committee on Expenditures in the Post ...

United States. Congress. House. Committee
on Expenditures in the Post-Office Department



Class

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Book

~~1941~~

No. 26

HEARINGS

BEFORE THE

COMMITTEE ON EXPENDITURES IN THE
POST OFFICE DEPARTMENT

HOUSE OF REPRESENTATIVES

ON

HOUSE RESOLUTION NO. 109

TO INVESTIGATE THE POST OFFICE
DEPARTMENT

AUGUST 4 AND 5, 1911



WASHINGTON
GOVERNMENT PRINTING OFFICE
1911

• **COMMITTEE ON EXPENDITURES IN THE POST OFFICE DEPARTMENT.**

[Committee room, room 293, House Office Building. Telephone 589. Meets on call.]

WILLIAM A. ASHBROOK, Ohio, *Chairman*.

JOSHUA W. ALEXANDER, Missouri.

RICHARD W. AUSTIN, Tennessee.

WILLIAM C. REDFIELD, New York.

C. BASCOM SLEMP, Virginia.

WALTER I. McCOY, New Jersey.

HORACE M. TOWNER, Iowa.

ERNEST CORNELL, *Clerk*.

EXPENDITURES IN THE POST OFFICE DEPARTMENT.

COMMITTEE ON EXPENDITURES IN THE
POST OFFICE DEPARTMENT,
HOUSE OF REPRESENTATIVES,
Friday, August 4, 1911.

The committee met at 10 o'clock a. m.

Present: Representatives Ashbrook (chairman), Alexander, Redfield, McCoy, Austin, Slemph, and Towner.

TESTIMONY OF HON. RUSSELL P. GOODWIN, ASSISTANT ATTORNEY GENERAL FOR THE POST OFFICE DEPARTMENT.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. I will state to the committee and to Judge Goodwin that, acting upon the advice of the committee, I addressed a letter on August 1 to Hon. Russell P. Goodwin, Assistant Attorney General, Post Office Department, Washington, D. C., as follows:

AUGUST 1, 1911.

HON. RUSSELL P. GOODWIN,

Assistant Attorney General, Post Office Department, Washington, D. C.

DEAR MR. GOODWIN: This committee has had repeated demands for an investigation of the Dr. Mixer Cancer Cure Concern, of Hastings, Mich.

Before deciding to investigate this case, the committee desires to have you and the expert in the pure-food bureau of the Agricultural Department appear before the committee and explain upon what grounds the fraud order was issued.

The committee would therefore like to have you and the pure-food expert appear before it on Friday next, August 4, at 10 o'clock a. m., with the necessary information and documents, and will thank you upon receipt of this letter to advise the committee whether or not it will be possible for you to be present at the date above mentioned.

Very respectfully,

WILLIAM A. ASHBROOK,

Chairman Committee Expenditures Post Office Department.

To this letter I received the following acknowledgment from the Acting Postmaster General:

POST OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., August 2, 1911.

HON. WILLIAM A. ASHBROOK,

Chairman Committee on Expenditures

in the Post Office Department,

House of Representatives, Washington, D. C.

My DEAR MR. ASHBROOK: Your letter of the 1st instant, addressed to the Assistant Attorney General for the Post Office Department, requesting him to appear before you with the necessary information and documents in the case of Drs. Mixer, of Hastings, Mich., at 10 o'clock a. m. on Friday, August 4, has been brought to my attention. Judge Goodwin will appear before you at the

time mentioned with the files in the case. I am informed that there were present at the fraud order hearing Dr. L. F. Kebler, chief, Division of Drugs, Dr. C. H. Kimberly, assistant chemist, and Dr. F. P. Morgan, all of the Department of Agriculture. The Department of Agriculture has been communicated with, and stated that Dr. Kebler and Dr. Morgan will appear before you at the time indicated. Dr. Kimberly, however, is at present in Detroit, Mich., and will not be called in from there unless you should indicate a desire that that should be done.

Respectfully,

C. P. GRANDFIELD,
Acting Postmaster General.

Then, Judge Goodwin, as indicated to you in the letter addressed to you on the 1st, I wish to repeat that there have been repeated complaints on the part of a good many people throughout the country, complaining against a fraud order that was issued against Drs. Mixer. This committee, before reaching any conclusion in the matter, deemed it would be advisable to ask you to appear before the committee and explain to the committee upon what grounds this fraud order was issued. No opportunity has been given Drs. Mixer to appear before the committee, and the hearing this morning will be in the nature of a preliminary inquiry along the lines mentioned. We would be glad to have you inform the committee on what grounds and upon whose complaints this fraud order was issued.

Mr. GOODWIN. I do not know that I can tell you on whose complaint the order was issued.

The CHAIRMAN. Do you know whether there were any complaints against this company, that it was a fraud, or that people were being defrauded by the company?

Mr. GOODWIN. I know that there was a complaint by Dr. Morgan.

The CHAIRMAN. Who was he?

Mr. GOODWIN. This gentleman right here [indicating], of the Department of Agriculture. Whether there were other complaints I do not know; that is, I do not remember. The papers are all here and it is possible there are other complaints in the files. I could not tell you without looking through the files. The best way I think I can answer your question as to the grounds on which the fraud order was issued is by reading this memorandum.

The CHAIRMAN. We would be very glad to have you read it.

Mr. GOODWIN. That is the best way I can answer it; the most succinct way, and I think the most satisfactory way. This is a memorandum prepared at my office and signed by me, transmitted to the Postmaster General, recommending the issuance of the fraud order. It is dated January 11, 1910, and is as follows:

Memorandum for the Postmaster General in re Drs. Mixer, Hastings, Mich.

POST OFFICE DEPARTMENT,
OFFICE OF THE ASSISTANT ATTORNEY GENERAL,
Washington, January 11, 1910.

On November 4 last Drs. Mixer were cited to show cause why a fraud order should not be issued. December 10 was fixed as date for the hearing, but the department later changed the date of the hearing to the 4th instant. On that date a full hearing was had in the matter, at which were present Mr. C. W. Mixer, proprietor of the business done under the name of Drs. Mixer, and his attorney, Mr. P. T. Colgrove. Congressman E. L. Hamilton, of Michigan, was also present during a portion of the hearing and made some remarks in behalf of the defendant.

The charges in this case are:

"It is charged that under the name set out above, at the post office at Hastings, Mich., there is being conducted a certain scheme for obtaining money

through the mails by means of false and fraudulent pretenses, representations, and promises, which said scheme is in substance as follows:

"Advertisements are published in newspapers soliciting the general public and those persons who may believe themselves afflicted with cancer to open communication by mail with Drs. Mixer, at Hastings, Mich. To said persons so answering said advertisements there are mailed certain printed letters, circulars, pamphlets, and leaflets soliciting the persons to whom they are so sent to remit various sums of money for certain medical treatment to cure them of the disease known as cancer, said treatment to consist of certain medicines to be sent to said persons so afflicted with said disease at their homes and to be used by them at their homes for the cure aforesaid; and it is further a part of said fraudulent scheme to pretend to said persons that if they will write answers to the questions set out on a certain printed question blank furnished for the purpose by said advertisers and mail the same to said advertisers at Hastings, Mich., said advertisers can by said means make a proper and accurate diagnosis of the conditions of said persons, and will advise said persons of their conditions. It is also a part of said fraudulent scheme that if said persons so mail to said advertisers said written answers, said advertisers in most instances mail to said persons certain communications purporting to be true and accurate diagnoses of the cases of said persons, and representing to said persons that they are suffering from cancer and that their condition is such that it may be cured by the treatment of said advertisers.

"Whereas said scheme is one to defraud said persons and to obtain from them money through the mails by means of false and fraudulent pretenses, representations, and promises and without said advertisers intending honestly and in good faith to treat and cure said patients of said disease or to endeavor so to do, and without the belief that they can treat and cure said persons of said disease, and well knowing that their said treatment is incapable of curing said persons of said disease in manner and form as pretended; and

"Whereas in fact said pretended diagnosis is a mere fraudulent device to deceive said persons, and in truth said advertisers have not made any true diagnosis and well know that they can not do so by said method and without any honest understanding of the conditions of said persons and without the belief that they can cure said persons of cancer by said treatment fraudulently use said pretended diagnosis merely as a device to deceive and mislead said persons, and thereby to induce them to order of and pay said advertisers for said treatment."

The defense, speaking generally, admitted the use of the mails for the sale of medical treatment to cure cancer, as alleged, but denied that Mr. Mixer acted with fraudulent intent, and contended that his actions were purified with good faith and the belief that his medicines and treatment were capable of producing the result he claimed for them. A lengthy written answer was submitted by the defendant and the same is hereto attached.

Dr. L. F. Kebler, Chief Division of Drugs; Dr. C. H. Kimberly, assistant chemist; and Dr. F. F. Morgan, of the Department of Agriculture, were, by request, present at the hearing. Dr. Morgan testified that under the name of L. F. Kay, he, in July, 1909, opened correspondence with Drs. Mixer, of Hastings, Mich., about their "cure for cancer"; that he received in reply the various letters, booklets, and printed matter, which he submitted; that he submitted to them an outline of the trouble which they diagnosed as cancer; and that he paid them by mail \$11.80 for medicines to cure his case; that he received by express in August last the medicines sent for this remittance, and he produced the same at the hearing. The newspaper advertisement published by Drs. Mixer and which was submitted by Dr. Morgan and reads as follows:

"THE SAD STORY OF MY FATHER'S GREAT SUFFERING FROM CANCER—READ THE FOLLOWING AND BE CONVINCED—WE CAN CURE YOU.

[Cut representing elderly man with nose eaten off by cancer, and cut of Mr. C. W. Mixer, entitled "Father and Son."]

"Forty-five years ago my father, who was himself a doctor, had a vicious cancer that was eating away his life. The best physicians in America could do nothing for him. After nine long years of awful suffering, and after the cancer had totally eaten away his nose and portions of his face (as shown in his picture here given) his palate was entirely destroyed, together with portions of his throat. Father fortunately discovered the great remedy that

cured him. This was over 40 years ago; and he has never suffered a day since.

"This same discovery has now cured thousands who were threatened with operation and death. We will give their sworn statement that this is the truth. Doctors, lawyers, mechanics, ministers, laboring men, bankers, and all classes recommend this glorious life-saving discovery, and we want the whole world to benefit by it.

"Have you cancer, tumors, ulcers, abscesses, fever sores, goiter, catarrh, salt rheum, rheumatism, piles, eczema, scald head, or scrofula in any form?

"We positively guarantee our statements true; perfect satisfaction and honest service—or money refunded.

"It will cost you nothing to learn the truth about this wonderful home treatment without knife or caustic. And if you know anyone who is afflicted with any disease above mentioned, you can do them a Christian act of kindness by sending us their addresses so we can write them how easily they can be cured in their own home. This is no idle talk; we mean just what we say. We have cured others and can cure you. Forty years' experience guarantees success. Write us to-day; delay is dangerous. Illustrated booklet free.

"DRS. MIXER,
"241 State Street, Hastings, Mich."

The various letters and printed matter received by Dr. Morgan from the advertiser represent that the latter can cure cancer without the knife or caustics by sending the patient certain medicines to be taken by the patient at his home. Many statements are made in regard to the efficacy of the treatment, a few of which are quoted below:

"Greatest cancer * * * remedy of the age."

"Our remedies give safe, speedy, and certain relief to the most horrible forms of cancer of the breast, face, stomach, and womb."

"We have equally as good success with internal cancer as with external, and rarely fail to cure."

"Our success in the treatment of cancers, * * * is without parallel."

"We have cured 86 per cent of all cases who have taken our treatment. This we believe is a better showing than any cancer specialist in this country can make."

"Thousands suffering from cancer and its kindred diseases have been perfectly cured by this great discovery."

"Thousands of people die of cancer and malignant growth from year to year who would surely have been cured by our treatment."

"Our blood remedies cure and cure to stay cured. This valuable treatment is a positive safeguard and preventive against the development of cancer germ."

The letters and printed matter from the advertiser also represent that it is unnecessary for the afflicted to receive personal examination by Drs. Mixer, but that the latter can, through the medium of this correspondence scheme, come to a correct understanding of the patient's case and furnish the necessary treatment to cure. The advertiser furnishes the patient a so-called symptom blank, consisting of printed list of questions, with instructions to the patient to write answers thereto and mail the blank to the advertiser, when, it is represented, the latter can correctly diagnose the case and furnish the necessary treatment. Dr. Morgan stated that he filled out the symptom blank so sent him, giving the following information about the case:

"Woman; 45; married; height 5 feet 5 inches; weight 117 pounds. Passed change of life three years ago. Two children, the youngest 16 years old. An uncle died of cancer. Her complexion is sallow and her general health is bad. Does not faint, but is very weak at times, and gets tired easily. Pulse sometimes rapid. Stooping sometimes causes dizziness. Appetite is not good, but stomach and digestion are fairly good. Rarely troubled with nausea. She is nervous and does not sleep well.

"Has upon left breast a hollow sore or cavity 3 inches in diameter of eight months standing. It is painful, the pain being sharp, stinging, and agonizing, and there is much bad smelling discharge. The growth is not movable. The nipple is drawn in. There are painful bunches under the arms, and the arm pains when moved. The pain does not shoot through the back. There has been no marked recent change. No operation has been performed. Patient does not know for certain what her disease is called.

"In answer to other questions it was stated patient's mouth does not taste badly in the morning and her bowels are regular. Lungs, heart, liver, and kid-

neys O. K. No catarrh or piles. Can not trace her present trouble to any injury. No lumps in neck or groin, nor sores on back, mouth, face, or privates. No irritation elsewhere. Does not bloat, and there is no pain in back or head; no night sweats nor chilly feeling. Is not especially drowsy or stupid. Neither the perspiration nor the urine had a bad odor. The urine is not dark or cloudy. No deposit. She does not have to urinate during the night. No blurring of the eyesight, palpitation of the heart, or rushing of blood to the head. The skin is not dry, harsh, or cold. She does not use liquor, tobacco, or opiates."

Drs. Mixer's reply was that the patient was afflicted with cancer of the "epithelial type," and that there was perceived "no reason why you can not be cured."

The treatment sent Dr. Morgan consisted of seven medicines, respectively labeled and directed to be taken as follows:

1. "Established 1862. MIXER'S Cancer and Scrofula Syrup. (Cut of man's face, circled with: Dr. Mixer's condition after cured by this remedy.) The Greatest Blood Purifier in the World. Directions. Adult: Commence with $\frac{1}{2}$ teaspoonful and gradually increase to spoonful—if stomach will bear it—which is sufficient in ordinary cases. With very strong constitution dose may be increased to $1\frac{1}{2}$ to 2 spoonfuls. Great care should be used not to overcome the stomach and produce nausea or dizziness. Persons with sensitive stomachs must take small doses. Child: $\frac{1}{4}$ to $\frac{1}{2}$ teaspoonful. Shake bottle well, and always take after meals, three times daily. This medicine will never spoil, and will keep under any temperature.

"N. B. None genuine without this signature, Drs. MIXER. Sole Manufacturers. Hastings, Michigan. Price, one dollar."

2. "From Drs. MIXER, Mfg's Mixers' C. & S. S. Specialists on Cancer and Blood Diseases. Hastings, Michigan. No. 1 Wash. To be used at every dressing of the sore by spraying with an atomizer, or applying with small brush, after parts have been thoroughly cleansed with warm water and Cleanoine Soap Powder.

"Apply one thoroughly, then wipe off and apply the second time allowing it to remain, and apply other dressings.

"Keep in a cool dark place."

3. "From Drs. MIXER, Mfr's Mixers' C. & S. S. Specialists on Cancer and Blood Diseases. Hastings, Michigan.

"No. 1 ALTERNATIVE. Not to be taken until 4 bottles of C. & S. S. are consumed, then discontinue and take Alternative. Dose: One dessert spoonful before meals, in water. If too strong for stomach take smaller doses. When finished resume the C. & S. S. Shake Thoroughly."

4. "From Drs. MIXER, Mfg's Mixers' C. & S. S. Specialists on Cancer and Blood Diseases, Hastings, Michigan. CANCER REDUCER. Shake thoroughly. Apply around the edge of the sore and upon swollen parts at night, after using the No. 1 Wash and before applying the salve as a night dressing. The absorbent cotton upon which the salve is spread can be slightly moistened with it around the edges. It can be used as a mouth wash, or by wetting absorbent cotton to apply to growths in the mouth or throat. (It is not poison. Not to be applied in the morning before using Cancer Paste)."

5. "From Drs. MIXER, Mfr's Mixers' C. & S. S. Specialists on Cancer and Blood Diseases, Hastings, Michigan. CANCER PASTE. Spread on absorbent cotton or old linen, and apply as a dressing for the sore and swollen parts during the day, after using the No. 1 Wash. Reduce $\frac{1}{2}$ with vaseline if it produces any irritation."

6. "From Drs. MIXER, Mfr's Mixers' C. & S. S. Specialists on Cancer and Blood Diseases, Hastings, Michigan. CANCER SALVE. Spread on absorbent cotton or old linen; and apply as a dressing for the sore and swollen parts at night, after using the No. 1 Wash and Cancer Reducer. (Opium one scruple per ounce) Keep in a cool place."

7. "From Drs. MIXER, Mfr's Mixers' C. & S. S. Specialists on Cancer and Blood Diseases, Hastings, Michigan. CLEANOINE SOAP POWDER. To be used at every dressing of the sore by dusting over and washing off with soft cloth or brush. If more convenient it may be put in warm soft water and used to cleanse sore with. It is also most valuable to use in warm water as an injection or douche."

Dr. Kimberly testified that he had made chemical analysis of these preparations and had found them to be composed, respectively, as follows:

1. *Mixer's cancer and scrofula sirup*.—A sirup containing potassium iodide and a small amount of vegetable ingredient similar to sarsaparilla, flavored with methyl salicylate, and containing about 6 per cent alcohol.

2. *No. 1 wash.*—An ordinary solution of hydrogen peroxide.

3. *No. 1 alterative.*—A hydroalcoholic solution containing a large amount of glycerin and a small amount of vegetable matter similar to gentian.

4. *Cancer reducer.*—A strong alcoholic solution of camphoraceous oils combined with considerable glycerin.

5. *Cancer paste.*—An ointment paste made up of vaseline, incorporating a large amount of ground flaxseed, and including therewith a camphoraceous substance and alkaloidal bearing matter which resembled hyoscyamus.

6. *Cancer salve.*—A salve composed of vaseline and lanolin, incorporating powdered opium and tannin.

7. *Cleanoine soap powder.*—An antiseptic soap powder containing borax and thymol.

Dr. Thomas A. Claytor, of No. 1315 New Hampshire Avenue, this city, a regularly licensed and practicing physician of about 20 years' experience, was presented by request and testified that it was impossible by the absent mail method pursued in this case and the use of symptom blanks, where the patient writes answers to a list of questions and sends it to the physician, and without any personal examination of the patient by the physician, and without any knowledge of a microscopical examination of the affected part, for a physician to make a reliable diagnosis of cancer. He also testified that, in his opinion, a treatment composed of the remedies disclosed by Dr. Kimberly's analysis could not be relied upon to affect a cure of cancer in such a case as Dr. Morgan submitted to this advertiser, assuming that the trouble in that instance was cancer. He also testified that such a treatment, in his opinion, could not be relied upon to cure any case of cancer irrespective of variety, duration, and location in the body, nor could it be relied upon to produce the results indicated in the advertised claims of Drs. Mixer, as set out above.

Dr. J. Ford Thompson, an eminent physician and surgeon of this city, of long experience in practice, was also present by request, and testified to the same effect as Dr. Claytor.

Further evidence of the spuriousness of this business is found in the false pretense that it is conducted by physicians. Inspection of the advertisements, correspondence, and printed matter reveals assiduous effort to impress patients with this idea. Not only the names used for the business does this, but in much of the advertising matter Charles W. Mixer is in terms referred to as "Doctor." As is admitted, the business is owned and conducted by Charles W. Mixer. He is neither a graduate of nor licensed to practice medicine. The idea given by the advertising matter is that the doctors are Charles W. Mixer and his father, L. N. Mixer, who, it is claimed, originated the treatment. The father, however, has been dead for many years, and Charles W. Mixer is, as has been said, not a physician.

Further evidence of the spuriousness of the alleged cure is this: Part of the advertising matter used to impress prospective patients with the claimed genuineness of the treatment is an article which, it is pretended, was published by the American Journal of Health. This article appears on page 20 of a pamphlet entitled "A Truthful Treatise on Cancer and Malignant Tumors," and is headed:

"The following is reprinted from one of the leading journals of the country:

"PALLIATIVES AND CURATIVES IN THE TREATMENT OF CANCER AND SCROFULA.

"By G. H. BROWN, M. D."

This so-called article is too lengthy to be inserted here, but its effect is that investigation has proven that the Drs. Mixer's treatment is a reliable, permanent, and positive cure for cancer. The manifest object is to have it seem that this is an impartial and reliable article by a reputable medical journal. The facts are that this thing was sold to Mr. Mixer, as he stated at the hearing, for \$5 or \$10. He could not recall the exact amount, and said that the arrangement was that he was to pay the money for a certain number of copies of the issue containing this writeup. He failed to state whether, in fact, he ever received those copies.

The evidence offered by the defendant was directed to the point of showing that cases of cancer had been cured by these medicines. To show this they produced statements, some of which were sworn and some not, from various persons to the effect, in general, that those persons had had troubles which they believed were cancers; that they had used the Drs. Mixer treatment; and that they

became relieved of their troubles. In some instances it was also stated that local physicians had expressed a belief that the trouble might be cancer.

These testimonials are substantially the only evidence submitted by the defendant.

However, there was no satisfactory evidence adduced that the persons making these statements had cancer, and consequently the mere fact that this advertiser had been able to produce these testimonials of apparent cures of cancer is of little significance on the question of whether this treatment is a cure for cancer. This is especially so in the light of the facts proven by the analysis. The opinion of the patient himself on this subject is, of course, of no consequence. It is a well-recognized fact that cancer is one of the most difficult diseases to diagnose with certainty, and that a microscopical examination is essential to the making of a positive diagnosis. And there has been positively no proof of this kind submitted in this case. Of course the statement of Mr. Mixer as to the character of the trouble is of no particular value, as it is admitted that he is not a physician, and even any statement on such subject—and there has been none submitted to me—by such professional assistants as he might hire would be substantially worthless in the light of the evidence of the impracticability of a physician's making a reliable diagnosis of cancer by the absent mail method in vogue in this case. In fact, it is to be expected that out of the multitude of cases that this advertiser treats each year there should be a certain number of instances in which persons do not have cancer at all but are afflicted with some nonmalignant sores which are amenable to treatment and which in some instances do yield to treatment. The recovery of such cases is what furnishes this advertiser with the pretext of claiming that he has actually cured cancer. Furthermore, it may be said, speaking generally, that in all my experiences in this office, never has a medical concern, no matter how fraudulent its methods or worthless its treatment, been unable to produce, as occasion might seem to require, an almost unlimited number of these testimonial letters.

After careful consideration of all the circumstances of this case I am convinced that the business of this person in the treating of patients at their homes for cancer under the representations made, is a scheme to obtain money through the mails by means of false and fraudulent pretenses, representations, and promises. I am satisfied that said business is not conducted in good faith, but merely as a scheme to fraudulently extort money without intending to return therefor the services promised, and without any belief that patients with cancer can be cured as represented. The analysis of the medicines sent to the Department of Agriculture proves conclusively, I think, the spuriousness of the practice of this advertiser.

I find that this is a scheme for obtaining money through the mails by means of false and fraudulent pretenses, representations, and promises, and I therefore recommend that a fraud order be issued against Drs. Mixer.

Assistant Attorney General.

Mr. GOODWIN. Now this is a copy of the order which was issued.

The CHAIRMAN. It is not necessary to read the fraud order.

Mr. GOODWIN. This is a copy of the order attached, with a copy of the letter transmitting the order to the postmaster.

The CHAIRMAN. We would be glad to have the order printed in the record, but I do not believe that it is necessary to read any of that other matter.

Mr. AUSTIN. You have there the orders issued in this case?

Mr. GOODWIN. Yes, sir.

The CHAIRMAN. They may be inserted in the record at this point. (The matter referred to is as follows:)

Order No. 2871.]

POST OFFICE DEPARTMENT
Washington, January 24, 1916.

It having been made to appear to the Postmaster General, upon evidence satisfactory to him, that Drs. Mixer, at Hastings, Mich., are engaged in conducting a scheme or device for obtaining money through the mails by means of false and fraudulent pretenses, representations, and promises in violation

of the act of Congress entitled "An act to amend certain sections of the Revised Statutes relating to lotteries, and for other purposes," approved September 19, 1890.

Now, therefore, by authority vested in him by said act and by the act of Congress entitled "An act for the suppression of lottery traffic through international and interstate commerce and the postal service, subject to the jurisdiction and laws of the United States," approved March 2, 1895, the Postmaster General hereby forbids you to pay any postal money order drawn to the order of said party; and you are hereby directed to inform the remitter of any such postal money order that payment thereof has been forbidden and that the amount thereof will be returned upon the presentation of the original order or a duplicate thereof applied for and obtained under the regulations of the department.

And you are hereby instructed to return all letters, whether registered or not, and other mail matter which shall arrive at your office directed to the said party to the postmasters at the offices at which they were originally mailed, to be delivered to the senders thereof, with the word "Fraudulent" plainly written or stamped upon the outside of such letters or matter: Provided, however, that where there is nothing to indicate who are the senders of letters not registered, or other matter, you are directed in that case to send such letters and matter to the Division of Dead Letters with the word "Fraudulent" plainly written or stamped thereon, to be disposed of as other dead matter under the laws and regulations applicable thereto.

F. H. HITCHCOCK,
Postmaster General.

The POSTMASTER, *Hastings, Mich.*

POST OFFICE DEPARTMENT,
OFFICE OF THE ASSISTANT ATTORNEY GENERAL,
Washington, January 24, 1910.

POSTMASTER, *Hastings, Mich.*

SIR: I inclose herewith a copy of order No. 2871, dated January 24, 1910, forbidding the delivery of mail matter and the payment of money orders to Drs. Mixer, Hastings, Mich., the original of which, signed by the Postmaster General, has been retained on the files of this department.

In the enforcement of this order please observe the following general regulations, published in the United States Postal Guide for January, 1903 (p. 955, sec. 30), viz:

"Postmasters are notified that fraud orders issued under the provisions of the acts of September 19, 1890 (26 Stat. L., 465), and March 2, 1895 (28 Stat. L., 963), do not cover mail matter under the frank of a Senator or Representative or other officer entitled to the franking privilege; nor that which is covered by an official envelope. Nor do these orders apply to matter not under seal, such as newspapers, circulars, etc., unless specifically stated in the order or by subsequent letter of instructions."

Very respectfully,

Assistant Attorney General.

Mr. GOODWIN. Now, we had also at that hearing a statement, which I think I can find here, that was obtained by the Agricultural Department. The Agricultural Department wrote to a large number of physicians, and I have here a copy of one of the several letters. The same identical letter was sent to each one of these physicians.

This letter reads as follows:

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF CHEMISTRY,
Washington, D. C., November 9, 1908.

CHARLES SPENCER WILLIAMSON, M. D.,
103 State Street, Chicago, Ill.

DEAR SIR: We are at present investigating so-called cancer cures which are widely advertised and sold throughout the United States, and in order to obtain information in regard to such cases from medical men direct, for the use of this department, I would ask that you answer the questions on inclosed

sheets as fully and directly as possible and return same in inclosed franked envelope. Comments and suggestions are invited.

Respectfully,

H. W. WILEY, *Chief.*

Inclosure: Blank for reply. Franked envelope.

The CHAIRMAN. The letter you have read was signed by H. W. Wiley. He is chief of what?

Mr. GOODWIN. He is the Chief of the Bureau of Chemistry.

Now, here is a list of the questions inclosed, which I will read. These questions cover a number of cases, and some of them do not apply to this case:

1. In the present state of our knowledge can radium and other substances which possess radioactivity be properly regarded as cures for cancer in the sense of eradicating the disease completely and permanently?

2. In the present state of our knowledge can the Roentgen or X-rays, or other rays of this type, be properly regarded as a cure for cancer in the sense of eradicating the disease completely and permanently? If so, under what conditions?

3. In the present state of our knowledge can electricity in the form of current or spark be properly regarded as a cure for cancer in the sense of eradicating the disease completely and permanently? If so, under what conditions?

4. In the present state of our knowledge can the use internally, or externally, or both, of water which has been reduced radioactive, either with or without the addition of fluorescent agents, such as esculin, acid solutions of quinine sulphate, etc., be properly regarded as a cure for cancer in the sense of eradicating the disease completely and permanently? If so, under what conditions?

5. In your opinion, in the present state of our knowledge is there any substance or mixtures of substances which by its use can be relied upon with any degree of certainty to effect a complete and permanent cure of cancer? If so, please name the substance and state the conditions under which it may act as a cure for cancer in the sense above defined.

Mr. GOODWIN. Now, that is the only question that applies to this case—that is, the last one I have read. Now, we have the answers here.

The CHAIRMAN. Let us have the answers that apply to this case.

Mr. GOODWIN. These answers are duplicated.

Mr. TOWNER. Would it not be a good idea to let the reporter take these complete answers and insert them in the record just as they are? I am satisfied that there may be some superfluous matter, but I would like to have it all go in.

The CHAIRMAN. It might go in the record, but I suggest that he read only those inquiries and answers that are applicable to this case. I understand that only one of the queries submitted to the doctors throughout the country apply to this particular case?

Mr. GOODWIN. That is all; it is the last question here.

The CHAIRMAN. Then, all we care for are the answers to the last query.

Mr. SLEMP. And that would apply to any other remedy?

Mr. GOODWIN. Yes, sir; it would apply to any remedy whatever. The question reads as follows:

In your opinion, in the present state of our knowledge, is there any substance or mixture of substances which by its use can be relied upon with any degree of certainty to effect a complete and permanent cure of cancer?

If so, please name the substance and state the conditions under which it may act as a cure for cancer in the sense above defined.

The letters from these physicians were at the hearing and open to the examination of Dr. Mixer and his counsel.

The answers of the physicians are as follows:

Question submitted to medical men with letter of the Department of Agriculture, dated November 9, 1908: "In your opinion, in the present state of our knowledge, is there any substance or mixture of substances which by its use can be relied upon with any degree of certainty to effect a complete and permanent cure of cancer? If so, please name the substance and state the conditions under which it may act as a cure for cancer in the sense above defined."

Robert Abbe, surgeon, New York City (lecturer on surgery College Physicians and Surgeons, Columbia University; surgeon to New York Cancer Hospital, Roosevelt, Woman's Rabies', St. Luke's, and other hospitals in New York City): "There is no known cancer cure worth anything but the knife in general cancer."

Truman Abbe, practitioner, Washington, D. C.: "Yes; caustics. Celey's Fluid in sarcoma."

J. M. Anders, physician, Philadelphia, Pa. (professor medicine and clinical medicine, Medico-Chirurgical College, Philadelphia, physician to Medico-Chirurgical Hospital, Jewish Hospital; Author): "I know of nothing."

Carl Beck, surgeon, New York City (professor surgery New York Post Graduate Medical School, surgeon St. Mark's Hospital and German Poliklinik; Author): "No."

J. Wesley Bovee, physician and surgeon, Washington, D. C. (professor gynecology, medical department George Washington University; Gynecologist Columbia, Providence, and George Washington University Hospitals; consulting physician St. Ann's Infant Asylum: "Absolutely none known to me.")

W. O. Bridges, physician, Omaha, Nebr.: "No; except as stated." [Exceptions referred to relate to replies to questions with regard to radium and Roentgen or other rays.]

P. K. Brown, physician, San Francisco, Cal. (instructor in clinical pathology and experimental medicine University of California; physician to Mount Zion Hospital; California Eye and Ear Hospital, and French Hospital): "I do not believe anything affects cancerous tissue except arsenic paste. The principle back of all these things is the diminished resistance of cancerous tissue to destructive agents, whether from chemical substances, X ray, or heat."

R. C. Cabot, physician, Boston, Mass. (physician, Massachusetts General Hospital, Massachusetts Eye and Ear Infirmary, and New England Hospital; author): "There is none."

Solomon Solis Cohen, physician, Philadelphia, Pa. (professor clinical medicine Jefferson Medical College, physician Philadelphia General Hospital, Jefferson, Rush, and Jewish Hospitals; author): "None."

Nathan S. Davis, Jr., physician, Chicago, Ill. (professor of medicine Chicago Medical College; physician Mercy and Wesley Hospitals; author): "No. There are none."

John B. Deaver, surgeon, Philadelphia, Pa. (professor of surgery, medical department, University of Pennsylvania; author): "No."

F. H. Gerrish, physician and surgeon, Portland, Me. (professor of surgery Bowdoin College; surgeon Maine General Hospital): "No."

E. L. Hunt, practitioner, New York City: "No."

Joseph Taber Johnson, physician and surgeon, Washington, D. C. (professor of gynecology and abdominal surgery Georgetown University; consulting surgeon to six hospitals): "No."

Howard A. Kelly, physician and surgeon, Baltimore, Md. (professor of gynecology Johns Hopkins University Hospital; surgeon Johns Hopkins Hospital; author): "No."

Charles H. and William J. Mayo, surgeons, Rochester, Minn. (William J. Mayo, surgeon St. Mary's Hospital): "In the present state of our knowledge there is no substance or mixture of substances that can be relied upon to effect a complete and permanent cure of cancer; and most of them are harmful in that they cause delay, thus preventing any possibility of cure of the individual. No."

Robert T. Morris, physician and surgeon, New York City (professor of surgery, New York Post-Graduate Medical College; author): "In my opinion no substance or mixture of substances can be relied upon for beneficial influence in cases of cancer unless 'luminiferous ether' would come under the head of 'substance,' and even the X rays or high-frequency current can not be relied upon. Some gland extracts help."

John B. Murphy, surgeon, Chicago, Ill. (professor of surgery, University of Chicago; inventor of the "Murphy button"): "No; none."

J. H. Musser, physician, Philadelphia, Pa. (professor of clinical medicine, University of Pennsylvania; physician to Philadelphia University, Presbyterian, and other hospitals; author): "I know of no substance or mixture of substances that can effect a permanent and complete cure of cancer. I am told that Coley's fluid, so called, may have an influence in the arrest of sarcoma."

O. T. Osborne, physician, New Haven, Conn. (professor of materia medica and therapeutics, Yale Medical School): "No."

Robert Reyburn, late physician and surgeon, Washington, D. C. (late professor of hygiene and preventive medicine, medical department, Howard University): "No. The methods of treatment spoken of here [relating to questions submitted to Dr. Reyburn regarding radium, X rays and other rays, electricity, etc.] can only relieve the local symptoms. After the cancerous growth has been removed by the knife or local treatment, the patient should be treated medically for the purpose of removing the morbid products which are the cause of the cancerous tumor." Refers to an article by himself, entitled "The causes of cancer," published in Washington Medical Annals, volume 1, No. 4, 1902.

Sterling Ruffin, physician, Washington, D. C. (professor of medicine, George-Washington University; physician to various hospitals in Washington): "Not to my personal knowledge. Favorable reports have been made on the use of the 'Alexander fluid,' the composition of which is to me unknown. If spindle-celled sarcoma is intended to be included in the term 'cancer,' there is reason to believe that some cases are favorably influenced, or even cured, by injections of Coley's mixed toxins of the cryspelas organism and the bacillus prodigiosus."

Thomas E. Satterthwaite, physician, New York City (professor of medicine, Post Graduate Medical School, consulting physician to Post Graduate, Babies, Orthopaedic, and Manhattan State Hospitals; author): "I know of no substance or mixture of substances that can be used successfully to cure cancer in any of its forms. Note.—There is, however, some probability that cancer will in very rare instances disappear of itself. Such cases have been reported. I have known an instance of cancer of the breast existing 40 years, but these are the exceptions that do not vitiate the general law that cancer is incurable."

John V. Shoemaker, physician, Philadelphia, Pa. (professor materia medica and therapeutics Medico-Chirurgical Medical College, Philadelphia; author): "No; none."

Samuel Cecil Stanton, practitioner, Chicago, Ill.: "No."

Charles G. Stockton, physician, Buffalo, N. Y. (professor of medicine, medical department University of Buffalo; physician to Buffalo General Hospital, and New York State Hospital for Crippled and Deformed Children): "No."

Frank P. Vale, physician, Washington, D. C. (practitioner and author): "I know of none."

George Tully Vaughan, surgeon, Washington, D. C. (professor of surgery Georgetown University; surgeon to Georgetown University, Emergency, and St. Elizabeth Hospitals; author): "No."

James E. Walker, physician, Hornell, N. Y.: "So far as I know thorough surgery is the only cure. Pastes can sometimes be used to advantage in epitheliomas."

Robert F. Weir, surgeon, New York City (professor of surgery College of Physicians and Surgeons, Columbia University, New York, consulting surgeon to various hospitals in New York City): "There is, in my judgment, no reliability to be given to any yet known substance or mixture of substances that will, with any certainty, effect a cure of cancer when administered, with one possible exception, in which, however, the result is very doubtful and the tests yet too small. I refer to the internal use of thyroid products as now being tried by Drs. Ewing and Beebe, of the Cornell Medical School. They have reported a few cases in which benefit has apparently arisen, and the method is now under private test in New York City. I allude to this mainly because the matter is being developed in a cold scientific way, and also because three cases are now under my immediate supervision. It would not be fair to the suggestors of this method to do more than allude to their work, but I confess it is the only thing so far that has raised any hope in my mind on this point. Six months hence may prove its failure though three years would at least be required to show its success."

Reynold Webb Wilcox, physician, New York City (professor of medicine New York Post Graduate Medical School; physician to Nassau and St. Marks Hospitals; author): "At the present time knowledge in regard to what cancer

is too indefinite to admit of accurate knowledge of what means or method will cure. Cancer is curable by absolute eradication by various means, but the cancerous disease is not."

Charles Spencer Williamson, practitioner, Chicago, Ill. (professor of clinical medicine and associate professor, Medical College Physicians and Surgeons): "No."

James C. Wilson, physician, Philadelphia, Pa. (professor of medicine Jefferson Medical College, Philadelphia; physician to Pennsylvania, Jefferson Medical College, German, Lying In, and Charity, Rust, Jewish, and other hospitals in Philadelphia; author): "Arsenical pastes as escharotics in cutaneous cancer. The treatment is painful, prolonged, and of very uncertain results."

Mr. GOODWIN. These answers that I give here are summaries of the replies to the letters, and they are in the possession of the Department of Agriculture. It must not be understood that the answers to the inquiries here are given in exactly the same language. We have the letters here, and that is a summary of their remarks.

Mr. MCCOY. I do not think we can have any intelligent understanding of it until we can read those letters.

Mr. SLEMP. Is that an abstract of the contents of the letters received?

Mr. GOODWIN. Yes, sir; I have read a copy of the letter that was sent out, to which answers were received.

The CHAIRMAN. Judge Goodwin, I would like to ask you whether or not any complaints were filed with the Post Office Department by persons who had answered the advertisements of the Drs. Mixer, claiming that they have been defrauded?

Mr. GOODWIN. As I told you before, I can not tell you whether there was or not.

The CHAIRMAN. What inspired this investigation which lead to the issuance of the fraud order?

Mr. GOODWIN. The first information I had of the matter was when the citation came on to my desk. The citation that I read to you as a part of this opinion, or quoted in this opinion, that citation was prepared in my office by my assistant and was sent in to me with the rest of my mail when it came to me to sign. I do not pretend to state this entirely from memory, but it is the practice, and it was the case in this case. I know it was the case in this case, and that was the first knowledge I had of the case. As I stated, this citation was sent in to me. I read the citation, or, rather, the memorandum of charges, and then signed the citation, which required Dr. Mixer to appear on the day stated therein and show cause why a fraud order should not be issued.

The CHAIRMAN. That citation would not be issued without complaint on the part of some one, would it?

Mr. GOODWIN. It is possible. I said there was a complaint by Dr. Morgan. I know that Dr. Morgan made a complaint.

The CHAIRMAN. This is Dr. Morgan here?

Mr. GOODWIN. Yes, sir. I have here a number of letters in this case. I have not read them, and do not know what they are, but I presume some of them are perhaps protesting against the action of the department in issuing this order.

Mr. SLEMP. Are they in response to any circular letter sent out by you?

Mr. GOODWIN. No, sir.

The CHAIRMAN. Did you send a post-office inspector to make an investigation of Dr. Mixer?

Mr. GOODWIN. No, sir; I think not.

The CHAIRMAN. And all that you know about this case is that you found this citation on your desk, and after this came to your notice, it was referred to the chemical experts in the Agricultural Department?

Mr. GOODWIN. No, sir; I found the citation on my desk and the memorandum of charges, with the citation prepared for my signature, and with a letter to the postmaster at Hastings, Mich., directing him to deliver the citation with a copy of the charges to Dr. Mixer. I signed the citation and letter to the postmaster, and it was sent to the postmaster in the usual course and delivered by him to Dr. Mixer. The investigation of the case which led up to the making of this memorandum of charges was made by my assistant.

Mr. AUSTIN. I would like to ask you whether the department has to wait for complaints when they are satisfied that a fraud is being perpetrated?

Mr. GOODWIN. No, sir; we do not wait for that.

Mr. McCoy. Do you look through the newspapers to find out what is going on along this line?

Mr. GOODWIN. Of course, we do not do that either, although there have been occasions when we have cut out advertisements from the newspapers which we believed to be frauds, and have sent them to the chief inspector and asked for an investigation. Of course, we do not have a corps of men who make it their business to watch the newspapers to see these advertisements, but we have on occasions done that. As I understand it, these cancer cases—and there were a number of them probably a dozen of them, I should judge—and these cases, as I understand it, were prepared by the Department of Agriculture and brought to the attention of my assistant, whose duty it is to prepare these cases for presentation to me. My assistant, in conjunction with these gentlemen who represent the Department of Agriculture, prepared the cases for presentation to me. I knew nothing about the case until I received this memorandum of charges, and I knew nothing more about the case until the time of the hearing, except, of course, what I gathered from the memorandum of charges.

The CHAIRMAN. In your opinion, are the advertisements of this company any more extravagant than those of the ordinary proprietary medicine advertisements?

Mr. GOODWIN. Well, possibly not more so than some of them.

The CHAIRMAN. Possibly not more so than many of them?

Mr. GOODWIN. That may be true.

Mr. AUSTIN. Did it not carry on its face an impossibility?

Mr. GOODWIN. Yes, sir.

Mr. McCoy. How do you know that?

Mr. GOODWIN. I know that by ordinary human knowledge.

Mr. McCoy. What human knowledge has disclosed the fact that cancer is not curable?

Mr. GOODWIN. These medicines which he sent out could not by any possibility, according to the testimony of the physicians, which I had to rely upon—as I say, could not by any possibility—cure cancer.

Mr. McCoy. Those physicians who answered the letters did not have this medicine, did they?

Mr. GOODWIN. The physicians who appeared before me personally did have the medicine or an analysis of it.

Mr. MCCOY. What was their experience as specialists on cancer?

Mr. GOODWIN. Dr. J. Ford Thompson has had very many years' experience. He has had very many years' experience as a cancer specialist and surgeon. He is conceded to be one of the very best in the country. Dr. Morgan has the papers here and will produce them.

Mr. TOWNER. Is it not true that every one of these so-called remedies have been in use for a long time, and that, if submitted to chemists, it could be determined by them or by anyone who had any knowledge whatever of the subject, that all of these were remedies that had been used for all kinds of superficial sores, from sore toes up, and that if they were in fact a cure for cancer there would be no such thing as cancer in existence?

Mr. GOODWIN. I think that is true.

Mr. MCCOY. Then you would exclude any remedy which is advertised to cure anything?

Mr. GOODWIN. No, sir; not necessarily.

Mr. TOWNER. But this man pretended that it was a discovery—a new discovery?

Mr. GOODWIN. Yes, sir.

Mr. TOWNER. And a secret formula?

Mr. GOODWIN. Yes, sir.

Mr. AUSTIN. Did he say whether an Indian told his father about it or not?

Mr. GOODWIN. No, sir; he did not tell that story. We have had that story several times, but he did not offer that.

Mr. REDFIELD. How much notice of the hearing did he have?

Mr. GOODWIN. Two months.

Mr. AUSTIN. The hearing was continued, as the record shows.

Mr. GOODWIN. His notice was dated November 4, and the hearing was originally set down for December 10, but was afterwards postponed to January 4.

Mr. REDFIELD. Did he have ample time?

Mr. GOODWIN. Yes, sir.

Mr. AUSTIN. Did he have plenty of time?

Mr. GOODWIN. Yes, sir; all the time he wanted.

Mr. REDFIELD. Was any complaint made by the defendant in the case that he had not been given full time, or sufficient time, or notice sufficient, or sufficient opportunity in any way, to be fully heard?

Mr. GOODWIN. Not the slightest.

Mr. REDFIELD. Is there anything of that kind in the record?

Mr. GOODWIN. No, sir.

Mr. AUSTIN. If he could make good on that proposition now, the order would be revoked, would it not?

Mr. GOODWIN. Yes, sir; certainly.

I have here, along the line of these questions, a letter from Mr. Colgrave, who was his attorney.

Mr. SLEMP. Suppose you read the entire letter?

Mr. AUSTIN. This committee is fond of having everything read in full.

Mr. REDFIELD. Especially the gentleman from Tennessee.

Mr. GOODWIN. The letter reads as follows:

[Colgrave & Potter, attorneys at law, Phillip T. Colgrave, William W. Potter.]

[Stamped on face: Office of Assistant Attorney General. Received January 14, 1910. Post Office Department.]

HASTINGS, MICH., *January 12, 1910.*

Hon. R. P. GOODWIN,

Assistant Attorney General, Washington, D. C.

MY DEAR JUDGE: I have been at a loss to know just exactly what I ought to do further, if anything, in the matter now pending relating to the Drs. Mixer matter. I am so thoroughly impressed with the fairness and frankness with which you met me and my cause, and I am impelled to do so far as it is possible my whole duty, as I see it, first, however, seeking your pleasure. The case is before you only in part, and I am so confident that no court under our system of jurisprudence would render a decree taking away from a citizen everything he possesses on earth, that I shall, with your permission, present for your consideration some matter I deem of the greatest importance.

I had a long conference with Judge Smith yesterday, who feels and thinks in this matter just as I do.

It was the conclusion that I should inclose you the within correspondence and telegrams, by all means, and ask for the privilege of submitting further proof along such lines as you might indicate. You will remember that during the argument Mr. Keyser, representing the Government, referred to the payment of \$250 to Mr. Weinschenk, of New York. I am very frank in my statement to you that Mr. Keyser, in my judgment, was extremely fair, and my estimate of him advanced with the progress of the investigation.

I am inclosing you the correspondence in full, and very fortunate for us I have been able to procure from the Western Union Telegraph Co. the telegrams which were sent and which, together with the correspondence, completes a perfect chain of proof in this matter. First, I wish to call your attention to the fact that this correspondence shows beyond any question the desire on the part of Mr. Mixer to comply with the law of your department.

I here challenge your attention, and especially do I wish Mr. Keyser to note the fact that the objectionable literature which he held in his hands (and which I assured him was not being used and that the plates were fully destroyed), is here taken up. You will notice in Mr. Weinschenk's letter of September 21, 1906, which is the last letter in package herewith inclosed, he uses this language which I have marked with pencil brackets: "I have carefully read and considered the printed matter which you submit for my opinion. To be frank with you, as I must be, there is an abundance of matter, especially in the booklet, that is unquestionably repugnant to the postal laws and regulations, and which if brought to the attention of the authorities would certainly cause trouble. To take these matters up by correspondence would cover a long period of time, and I strongly urge you to have a personal talk with me about it at once. The best way would be for you to come right on to New York and meet me here some day next week."

I call your attention to the fact that immediately on the receipt of this letter Mr. Mixer wired Mr. Weinschenk as follows:

"Can be there Tuesday if agreeable. Wire answer. Tell Watkins."

Copy of this message is also attached and on the back is the signature of Mr. Watkins, who is now and was the agent of the Michigan Central. Mr. Watkins has attached, you will notice, the stamp of the Michigan Central Railroad Co. on the back to authenticate this message.

Mr. Weinschenk immediately wired his answer, which is also certified to by Mr. Watkins.

Mr. Mixer immediately proceeded to New York and the matter was taken up to the end that Mr. Mixer might be set right.

I submit that the proof herewith inclosed stands as a monument to the integrity of my client. The booklet had been published and certain copies sent to Mr. Mixer. It was the most unfortunate of all things for my client that the lady in charge should have by mistake sent one of the obsolete booklets as late as 1909 to the person in Washington seeking evidence for this investigation. I can furnish you absolute proof that this literature has not been used since Mr. Mixer's return from New York; that the plates were destroyed, and

only the copies that had been sent with this offensive literature, before the visit to New York, were ever received by Mr. Mixer.

Since my return home I have taken this matter up with Miss Trask, who is in charge of these matters, and the result of my investigation satisfied me beyond question that this was simply an oversight, and that a few copies which were still in the office and which had not been destroyed by error were inclosed in this most unfortunate incident.

I am confident that this inclosed proof will be welcomed by you, as it will, I am sure, put at rest the unfortunate statement in Mr. Mixer's letter to the Minnesota doctor when he stated in his letter that he had paid \$250 to be set right with the Post Office Department and will explain fully a branch of the case I know must have annoyed both yourself and Mr. Keyser.

In concluding, I earnestly urge that you advise me if you require further proof and along what lines, and I promise you it will be furnished and to your entire satisfaction as well as I trust to the satisfaction of Mr. Keyser, whose only care and concern I am sure is that complete justice shall be done. Within a radius of 75 miles from this city I can take any expert the Government may desire to send from Washington to dozens of cases where the Mixer remedies have positively cured the most malignant cancers. These people are alive. The doctors who resided in their various villages and cities are alive. In some instances these cancers were preserved in alcohol. To be honest, Judge, would it not be only fair before ruining a citizen to send a man in whom you have utter confidence and let us prove by absolute, positive, undeniable evidence that somehow and in some way these remedies do exactly what is claimed. You and I know only too well that the schools of medicine disagree more widely than any of the professions upon cures for the various diseases the human family is inflicted with. As a court you would hesitate, I am sure, to condemn or approve the opinion of any one school. The two or three physicians who were sworn in this case were absolutely true to their convictions. On the other hand, you have in our exhibits the affidavits of various doctors, and the testimony we have presented so completely outweighs the evidence of the witnesses who were brought before you on the 4th instant that there remains practically nothing by way of argument, and until I learn your pleasure I will not force upon you anything that might be either offensive or objectionable to the cause in which I am engaged.

I would highly appreciate it if you would suggest any line of proof upon which you are seeking further light.

Believe me to be, sincerely, yours,

P. T. COLGRAVE.

Mr. AUSTIN. Who is the Judge Smith referred to in that letter?

Mr. GOODWIN. I do not remember, but I think perhaps he is a local judge there.

Mr. AUSTIN. He used to be this man's attorney before he was put on the bench?

Mr. GOODWIN. I guess that is right.

Now the main object of that letter I have just read was to show, as I take it, that the doctor had not intended—at least, in his statement to the doctor in Michigan—to infer that there was any corruption in the manner in which he was protecting himself in the matter before the Post Office Department.

Mr. SLEMP. And also expressing satisfaction with your hearing?

Mr. GOODWIN. Yes, sir.

Mr. ALEXANDER. You had not decided it at that time, had you?

Mr. GOODWIN. Yes, sir; but he did not know it. The memorandum had been sent to the Postmaster General before this letter was written. The memorandum is dated one day before the date of this letter and three days before the letter was received.

Mr. McCoy. He refers to some affidavits from physicians?

Mr. GOODWIN. Yes, sir.

Mr. McCoy. What weight, if you can say now, was given to those affidavits?

Mr. SLEMP. Let me ask you—possibly this case is briefed?

Mr. GOODWIN. We have the answers in writing.

Mr. ALEXANDER. Have you his answer?

Mr. GOODWIN. I think it is here.

Mr. ALEXANDER. It ought to go into the record.

Mr. REDFIELD. What inquiry was addressed to the point as to whether this man, while possibly selling something which was inefficient or harmless, or, perhaps, useless, might have been sincere in his conviction that it was useful?

Mr. AUSTIN. He published these lies and believed them, I think.

Mr. ALEXANDER. I think that is an unkind statement to make.

Mr. AUSTIN. I think he believed them.

Mr. GOODWIN. I do not think it is possible that he could have believed what he said.

Mr. REDFIELD. The question in my mind is this, not whether the remedy used was necessarily the proper one in the case. Let it be conceded that the things were useless for the purpose indicated, yet it remains true that the man may conceivably have been sincere in his belief. I think I have known people who have been sincere in the belief both that they did cure and would cure in such cases.

Mr. SLEMP. Do you not think that these questions should be directed rather to the chemical experts of the Department of Agriculture?

Mr. REDFIELD. I am dealing with the remedy itself.

Mr. ALEXANDER. Let him pursue his own inquiries.

Mr. REDFIELD. The question is whether your inquiry was confined to the broad question of whether the remedy was good for anything or not, and, assuming the remedy not to be good for anything, whether that was assumed to be fraud, or whether the possibility of the man being sincere in advertising and selling something which was useless was taken into consideration?

Mr. GOODWIN. We took all these matters into consideration.

Mr. REDFIELD. Had you any evidence before you that the man was not sincere in his advocacy of these medicines?

Mr. GOODWIN. I do not remember that we had. I do not know that we had any evidence aside from the fact that he was telling the people that he had a sure cure for cancer, when, in fact, he had no cure for cancer.

Mr. ALEXANDER. You do not state that as a fact, that he had no sure cure for cancer?

Mr. GOODWIN. I state it as my belief.

Mr. ALEXANDER. Was your belief based on the evidence of experts in the matter?

Mr. GOODWIN. Yes, sir; I stated that as my belief.

Mr. REDFIELD. May I illustrate my contention with a little experience? I know a lady who went to the Harvard Medical School and was there diagnosed by three professors of the Harvard Medical School in Boston as having a case of malignant sarcoma. That was many years ago. Within a very few weeks another great hospital authority in Boston told her that she was entirely free from any malignant disease of any nature. Now, I ask if there was any opportunity here for the man to have been deceived or misled, while still being honest? The question in my mind is as to the righteousness of making a man a fraud who may simply be mistaken. I am telling you these things from actual experience.

Mr. GOODWIN. I have heard of such cases. Dr. J. Ford Thompson told of a case in my office which equaled that, and perhaps surpassed it. But suppose this man had believed that he could cure cancer with this medicine he had when, in fact, he could not cure cancer with it, and he was getting money from the people all over the country. Perhaps their condition in life does not amount to anything, but for the most part this money was coming from people who could ill spare the money. He was getting money from all over the country for something that did the people who purchased it no good.

Mr. ALEXANDER. Right there, does the testimony in this case bear out that statement?

Mr. GOODWIN. If they had cancer——

Mr. ALEXANDER (interposing). But they had some trouble they called cancer?

Mr. GOODWIN. Sometimes.

Mr. ALEXANDER. And had they not failed to get a cure from their regular physicians?

Mr. GOODWIN. I think the testimony states some such case as that.

Mr. ALEXANDER. And they applied to Dr. Mixer, and he furnished them a remedy which resulted in a cure?

Mr. GOODWIN. Yes, sir.

Mr. ALEXANDER. Well, is that a fraud?

Mr. GOODWIN. They were not defrauded.

Mr. ALEXANDER. Certainly not; they had a disease, a malignant sore that they thought was cancer. Now, they may have been mistaken about that, but here is a man who does produce a remedy. While the doctors say that it is not cancer, and that the remedy is not a remedy for cancer, is this man to be excluded from the mails because he does produce a remedy for those whom the doctors could not cure?

Mr. GOODWIN. That is not a fair statement of it. In the first place, if it is a malignant sore, this remedy will not cure it.

Mr. ALEXANDER. But they did cure it. Here is the testimony.

Mr. GOODWIN. None of a malignant sore.

Mr. ALEXANDER. Did you have testimony from anybody that had been cured of any disease? You ignored that, did you not?

Mr. GOODWIN. I do not say that I ignored it absolutely.

Mr. ALEXANDER. The statement is made in that letter that he has cancers preserved in alcohol which he removed. Did you take that into consideration?

Mr. GOODWIN. He did not offer it until after the case was concluded.

Mr. REDFIELD. Suppose the woman of whom I spoke to you, and whose case was diagnosed as cancer, as a matter of fact had nothing of the kind. Suppose that woman had gone to Dr. Mixer and got hold of his medicine, taken it, and was cured by natural causes. She would have been sincere in her belief in the efficacy of the medicine. What is there to show that the doctor was not equally sincere in his belief?

Mr. GOODWIN. He may have been.

Mr. REDFIELD. Did he represent himself to you as a physician?

Mr. GOODWIN. He certainly represented himself in the advertisements as a physician.

Mr. REDFIELD. Directly so?

Mr. GOODWIN. Yes, sir.

Mr. McCoy. Can not a man be a doctor without having graduated from a medical school?

Mr. SLEMP. He ought to have a license in order to practice medicine.

Mr. AUSTIN. Are not all of these advertisements signed "Dr. Mixer," and is it not a fact that his father, who was represented as a member of the firm, had been dead for years?

Mr. GOODWIN. Yes, sir.

Mr. TOWNER. Is it not true that the evidence in the case before you showed that the Dr. Mixer who was the only physician in the firm had been dead long before this?

Mr. GOODWIN. Yes, sir; many years before this.

Mr. TOWNER. Long before these charges were made?

Mr. GOODWIN. Yes, sir.

Mr. TOWNER. Did not the evidence show that at the time these charges were made and at the time these advertisements were published there was no Dr. Mixer?

Mr. GOODWIN. Yes, sir.

Mr. TOWNER. Can a man be a doctor without being a physician?

Mr. GOODWIN. I do not think he could be a doctor of medicine without being a physician.

Mr. TOWNER. The words "doctor of medicine" have a significance which means or implies the securing of a degree from a medical college?

Mr. GOODWIN. That is my understanding.

Mr. REDFIELD. Is there anything in this evidence to show that he was a doctor of medicine?

Mr. GOODWIN. No, sir.

Mr. TOWNER. Then you had before you this kind of a case: The case of a man who was not a physician, but who claimed that he had a secret remedy that was a sure cure, or, at least a cure, for cancer, and who was advertising himself as a physician and pretending that on the diagnoses that were sent in by mail he could cure this disease, if they would send the money for it?

Mr. GOODWIN. Yes, sir.

Mr. TOWNER. Then, there was fraud in the fact that he was pretending to be a physician while he was not a physician?

Mr. GOODWIN. I think so.

Mr. TOWNER. And then there was fraud in the fact that he was pretending to diagnose by mail cases that could not be diagnosed by mail, as shown by the uncontradicted evidence?

Mr. GOODWIN. There is no contradiction in the evidence on that, I think.

Mr. TOWNER. And also fraud in the fact that he was pretending to cure this disease by the use of remedies every one of which were known from time immemorial almost as cures for superficial diseases?

Mr. GOODWIN. Yes, sir.

Mr. TOWNER. And there was further fraud in the fact that he claimed to have a secret remedy that was known and discovered by himself or his father, and that he had a secret formula that no one else had any knowledge of?

Mr. GOODWIN. Yes, sir.

Mr. TOWNER. And did not that constitute fraud?

Mr. GOODWIN. Yes, sir.

Mr. TOWNER. And did he not obtain money upon false representations through the mail?

Mr. GOODWIN. Yes, sir.

Mr. MCCOY. I am going to read from Webster's Dictionary the definition of the word "doctor." It is as follows: "A teacher; one skilled in a profession or branch of knowledge; a learned man." If a man uses the word "doctor," he may come within that classification without having a license to practice medicine or have a medical education, may he not?

Mr. GOODWIN. Yes, sir.

Mr. MCCOY. So there was no reason why he should not use the term "doctor" if he were one skilled in a profession or branch of knowledge, or a learned man. Do you find anything here in this case which says that he was a doctor of medicine? We are getting down to the use of words by this man which has been claimed to constitute a fraud. Now, I ask you if it is a fact that he claimed that he was practicing medicine?

Dr. MORGAN. The matters discussed here pertain to medical subjects only. It is significant.

Mr. MCCOY. Then, if he had no such experience in the practice of medicine, but if he were skilled in the use of medicines, is there anything to show that he did not have the right to use the word "doctor"?

Mr. GOODWIN. He might have the legal right to use the term "doctor." You can go out to the ball park and find any number of doctors out there playing ball.

Mr. AUSTIN. Is it not a fact that some States have laws on this subject, and that it is a violation of law for a man to claim to be a doctor when he is not one?

Mr. GOODWIN. I think so.

Mr. AUSTIN. Is it not a fact that some of the States in the Union have laws on the subject, and that it is a violation of law for a man to pretend to be a doctor if he is not a doctor?

Mr. GOODWIN. Yes, sir.

Mr. MCCOY. Was there any such law in the State in which the Mixers were practicing?

Mr. GOODWIN. I do not know. I have an impression that Dr. Mixer did attempt to procure a license to practice medicine from the State of Indiana and failed to do so. I am not certain about that, however.

Mr. MCCOY. What State was he in?

Mr. GOODWIN. Michigan.

Mr. MCCOY. Is there any law of the State of Michigan which made it illegal for him to use the word "doctor" in connection with his name?

Mr. GOODWIN. I do not know.

Mr. MCCOY. Let us assume that there was such a law. Is it any part of the business of the Post Office Department to enforce that law?

Mr. GOODWIN. Not at all.

Mr. MCCOY. I want to ask you in regard to these scheduled answers we have here to the question that was propounded. I will ask

you whether, in your opinion, those three or four physicians who stated that they did not know of any remedy for cancer did not give a more intelligent and more scientific answer to the question than those who answered positively "no"?

Mr. GOODWIN. I have no opinion on that subject.

Mr. MCCOY. Was it not your business to form an opinion upon them?

Mr. GOODWIN. No, sir.

Mr. MCCOY. Do you say it was not your business to form an opinion on those answers given by the doctors?

Mr. GOODWIN. On any questions put to me it was my business, of course, to take these answers into consideration in forming my opinion, but it was not my business to judge as to which one of the doctors gave the most intelligent opinion. I should say that these three were perhaps more conservative, but whether their opinions were more reliable, I can not say.

Mr. MCCOY. Was it not your business to form an intelligent opinion in this matter?

Mr. GOODWIN. I think so.

Mr. MCCOY. Then, was it not your business to go through the necessary intellectual operations in deciding what weight should be given to these answers?

Mr. GOODWIN. Yes, sir.

Mr. MCCOY. Then, I ask you whether, as a matter of human knowledge and experience, the answers of these doctors were entitled to more credit and weight than those who answered positively "no"?

Mr. GOODWIN. I can not say that they were more reliable. I can only say that they were more conservative.

Mr. MCCOY. I ask you whether you had before you any evidence of any kind of regularly admitted and duly licensed practitioners of medicine to the effect that any case which had at any time been under their observation had yielded to the application of the remedies advertised by the Mixers?

Mr. GOODWIN. Well, if I had any such evidence before me, it was in the shape of letters and affidavits. No such physicians appeared before me.

Mr. MCCOY. Did you have any such affidavits?

Mr. GOODWIN. I do not know.

Mr. MCCOY. Will you look through your papers and see?

Mr. GOODWIN. I think that Mr. Colgrove's letter refers to some such affidavit. Whether there were any such I do not know. This was some time ago, and I have a good many of these cases. I think we had a number of letters from people who had taken this treatment, and some claimed to have been benefited.

Mr. MCCOY. I am not concerned with that for the time being. If you can not find the affidavits, I will put a supposititious case to you: Suppose you had an affidavit from a regular physician, a skilled physician, duly admitted to practice medicine and entitled to call himself "doctor," and that affidavit contained the statement that he had examined a given case and had diagnosed it as cancer; that subsequently the person afflicted bought some of these remedies and applied them, and this doctor testified, or the fact was, that the cancer disappeared. What weight would you intellectually give to the positive assertion of such a physician as against the mere negative state-

ment of other physicians who stated that cancer could not be cured, that being a general statement?

Mr. GOODWIN. It would depend largely upon the physician and what I knew about him; that is, the reputation of the physician.

Mr. McCoy. In other words, you would weigh the reputations of two physicians who were engaged in practice regularly, one of them making the general statement that cancer could not be cured and the other making the affirmative statement that this cure was apparently effected by these remedies?

Mr. GOODWIN. I would take that into consideration.

Mr. McCoy. Then you are sure you would take that into consideration?

Mr. GOODWIN. Yes, sir. Of course, if testimony of the tenor which you suggest was presented to me from a man I had never heard of before, and a physician like Dr. Thompson should say to me that the affidavit could not be true, and that it must be a mistake, I should think that Dr. Thompson was probably right.

Mr. McCoy. Let me ask you this question: Did the attorney for the Mixers, or the Mixers themselves, suggest that they would bring before you here in Washington a physician who was willing to testify that he believed that a cure had been effected by these remedies?

Mr. GOODWIN. I remember no such suggestion, except as made in that letter.

Mr. McCoy. Do you remember writing to anybody saying that it was not necessary to bring such person here?

Mr. GOODWIN. It may have been so after the hearing.

Mr. McCoy. But not before the hearing?

Mr. GOODWIN. No, sir.

Mr. McCoy. Will you have somebody to ascertain whether there is any such correspondence?

Mr. GOODWIN. I think the correspondence is all here.

Mr. McCoy. Judge Towner has asked you whether these remedies, or the ingredients of these remedies, which are used by these people were not well-known remedies and long used in the attempt, at least, to cure malignant sores, or whatever you please, and whether they had not been found to be useless as cures. Let me ask you this: Is it possible in compounding remedies to so use them skillfully that they might be effective, while, if compounded in a different way, they might not be effective?

Mr. GOODWIN. I am not a physician or chemist, and am not qualified to answer that question.

Mr. McCoy. Did you make any inquiry as to whether or not that might be true?

Mr. GOODWIN. The evidence before me in this case was that these remedies might be beneficial in nonmalignant cases; that they would perhaps be palliative in the malignant cases; but that they could not cure cancer. That was the evidence before me.

Mr. REDFIELD. Who gave that testimony?

Mr. GOODWIN. I do not remember who gave that, but it was the doctors. There was further evidence that they were well-known remedies, in use for many years.

Mr. REDFIELD. But did you claim that in the performance of your duty, in determining to issue the fraud order, that the good faith of

the person against whom the charge was made had nothing to do with the matter?

Mr. GOODWIN. I never claimed that at all.

Mr. REDFIELD. Is it any part of your duty under the law to inquire whether a remedy that is advertised as an absolute cure for a certain disease, and which may not be effective in all cases, is, nevertheless, apparently effective in some cases? Did you inquire into that? Would you, if you found a remedy which apparently did act in some cases and did not act in others, therefore conclude that a fraud was perpetrated on the public by a man who honestly believed that it could cure every case?

Mr. GOODWIN. I do not know that I can answer that question.

Mr. REDFIELD. I want to know how you handled this case. Here is a man who believes that he has a remedy; he says he can cure every case of cancer; there are a great many sores called cancers. Now, if it is a fact that that remedy in a great many cases apparently cured some things which were called cancer, but failed absolutely in other cases, is that man a fraud because he claims he can cure all cases of cancer?

Mr. GOODWIN. Well, he is making a false claim. I would not say that he was a fraud for that reason alone, but he is making a false claim.

Mr. REDFIELD. Is it any part of your duty in connection with these matters to issue a fraud order against any man who makes a false claim to induce people to part with their money?

Mr. GOODWIN. No, sir.

Mr. REDFIELD. Then, why did you do it in one case and not in another?

Mr. GOODWIN. In the first place, of course, there are very many claims. The chairman asked me a few minutes ago about the claims of patent medicines, and whether the claims in this case were worse than those in other proprietary medicines. I want to say that under the statute we have no jurisdiction over cases where the product is sold as proprietary medicines are sold. They are sold over the counter. A person comes to the store and buys the goods. He does not send to the manufacturer who advertises the medicine, and send the money for them through the mail. These goods are sold over the counter. That takes the case from our jurisdiction. We only have jurisdiction of cases where people are receiving the money or other thing of value through the mail—that is, where they are doing a mail-order business.

Mr. McCoy. Is it any part of the business of the Post Office Department to issue fraud orders in all cases where it believes that a man is making promises which he can not fulfill, or where there is evidence to that effect?

Mr. GOODWIN. I would not say in all cases.

Mr. McCoy. Why not?

Mr. GOODWIN. A man may make promises which he can not fulfill and yet not be a fraud. You might believe that he could not fulfill the promises, and yet it might develop that he could fulfill them. I would not be willing to act on such a question on mere belief.

Mr. McCoy. Yet you have admitted that the Mixers might have believed they had something that was effective.

Mr. GOODWIN. Well, I do not know whether I have admitted that or not. I do not think they did believe it.

Mr. McCoy. You have no means of getting at their minds physically to find out what they believe about it?

Mr. GOODWIN. No, sir.

Mr. McCoy. Then, take the general case of a man who believes that he has something that will accomplish a purpose. It may be a patent medicine or a booming land scheme, or anything you please. Is the belief on the part of the Post Office Department that this man can not make good sufficient to warrant you in issuing a fraud order?

Mr. GOODWIN. I do not think so.

Mr. McCoy. Let us take any case. Let us take the case of a man who says he can accomplish a certain thing, and you have reason to think that he does not believe it. Suppose you have evidence that he does not believe it. Nevertheless, you think he can accomplish the thing that he says he can accomplish. Would you issue a fraud order in that case?

Mr. GOODWIN. I never had such a case as that.

Mr. McCoy. What is the definition of "fraud," or what facts, coming within that definition, will lead the Post Office Department to act?

Mr. GOODWIN. The statute says that if the Postmaster General is satisfied that a party is operating a scheme to obtain money by false and fraudulent representations through the mail, that it is his duty to issue a fraud order, and that is the basis upon which we act—that is, that he is operating a scheme to obtain money or other thing of value by false and fraudulent promises and representations.

Mr. McCoy. Will you define what is "false"?

Mr. GOODWIN. I do not think any man living can give an abstract definition for what "fraud" is.

Mr. McCoy. I can cite you to books that are full of definitions of "fraud."

Mr. GOODWIN. You can judge a concrete case, but you can not give an abstract definition of "fraud."

Mr. McCoy. Please state what, in the law books which you act upon, is considered in the issuance of a fraud order within the terms of the statute?

Mr. GOODWIN. The obtaining of money or other things of value by means of false and fraudulent representations.

Mr. McCoy. That is a general statement. What is the indicia of fraudulent representations and false pretenses on which you act? What is it that impels you to say that a man has been doing something that is prohibited by that statute?

Mr. GOODWIN. That depends on the case.

Mr. McCoy. Take this case as an illustration. Where did you discover the fraud?

Mr. GOODWIN. In the first place, I discovered fraud in the claim that he was a doctor.

Mr. McCoy. But, according to the dictionary definition, he is a doctor.

Mr. GOODWIN. I was not investigating that matter. I was taking into consideration the impression that he was endeavoring to create by the use of the title. Then I discovered fraud in the fact—

Mr. MCCOY (interposing). Let us take up that question—

Mr. AUSTIN (interposing). That is not fair—

Mr. GOODWIN (interposing). Let me answer it.

Mr. MCCOY. I want to develop that particular statement. I do not want to let that get out of my mind now.

Mr. GOODWIN. You have asked me a question, and I do not want to let that get out of my mind. In the next place, he was claiming to diagnose cancer by means of these blank diagnoses, which, in my judgment, was impossible for him to do. The evidence of the physicians was that it was impossible to do that. The evidence of the physicians before me had been that it is impossible to accurately diagnose cancer without a microscopic examination.

The CHAIRMAN. I want to interrupt you at this point. Have you any literature or any representations by Dr. Mixer that he could accurately diagnose cancer by that means?

Mr. GOODWIN. I think so.

The CHAIRMAN. Produce them.

Mr. GOODWIN. I will do so. I have some of his literature here. He states that he is able to give a good diagnosis. That is from his printed advertisement.

Dr. MORGAN. I have his statement here, which I will read:

Many of the questions may seem useless and unnecessary to you, but may be the very question of vital importance to us and give a key to the prime factor in your case that leads up to your present condition and a correct diagnosis. These reports are carefully filed for reference from time to time in order that we may give you the best possible service and judge correctly of your improvement and medicine you require to perfect a cure.

He further says:

By our system of questions we are able to get a very good diagnosis.

The CHAIRMAN. But he does not say an accurate diagnosis?

Mr. GOODWIN. He says a correct diagnosis.

The CHAIRMAN. Will you now come back to the point where you were interrupted?

Mr. MCCOY. Judge Goodwin, when you were interrupted by some questions, you had reached the diagnosis point.

Mr. GOODWIN. Now, another fraudulent feature of the case was that he claimed to have discovered a new medicine when, in point of fact, it was not a discovery, but they were old remedies used many years by practitioners. Of course, the prime element of fraud in the case was that he was claiming that these medicines would cure cancer when they would not cure it.

Mr. MCCOY. Were those all of the elements of fraud?

Mr. GOODWIN. I do not think of others now. The use of this advertisement in the so-called Public Health Medical Journal was a fraud.

Mr. AUSTIN. May I ask a question bearing on that point? Judge, I will ask you if this was not one of the matters submitted to you at that time [passing paper to Mr. Goodwin]?

Mr. GOODWIN. Yes, sir.

Mr. AUSTIN. Does it not read:

Sure cure for cancer, scrofula, running sores, and all blood diseases. A never-failing cure luckily discovered by an old Michigan doctor.

Mr. GOODWIN. Yes, sir.

Mr. AUSTIN. It reads further:

Have you got cancer, tumor, ulcer, abscesses, fever sores, goitre, catarrh, salt rheum, rheumatism, piles, eczema, scald head, or scrofula in any form?
* * * We have cured others and can cure you.

That was one of the claims before you?

Mr. GOODWIN. Yes, sir.

Mr. McCoy. Did you have any evidence before you when you acted on this case that any person who had bought any of these remedies was misled by anything that these alleged doctors did or said into the belief that they, or either of them, were doctors of medicine regularly licensed to practice?

Mr. GOODWIN. I do not know whether there was or not; I do not remember. I assume that they represented themselves as regular practicing physicians. That was the evident intention of this literature.

(Thereupon, at 12 o'clock noon, the committee took a recess until 10 o'clock a. m., Saturday, August 5, 1911.)

COMMITTEE ON EXPENDITURES IN THE
POST OFFICE DEPARTMENT,
HOUSE OF REPRESENTATIVES,
Saturday, August 5, 1911.

The committee met at 10 o'clock a. m., Hon. William A. Ashbrook (chairman) presiding.

The following members of the committee were present: Messrs. Alexander, McCoy, Austin, and Slemph.

STATEMENT OF HON. RUSSELL P. GOODWIN, ASSISTANT ATTORNEY GENERAL FOR THE POST OFFICE DEPARTMENT—Continued.

The CHAIRMAN. We will proceed with the examination. Judge Goodwin, I assume that you have a reasonably accurate knowledge of this Drs. Mixer case?

Mr. GOODWIN. I think so.

The CHAIRMAN. And you have not relied upon those under you or superior to you for your information in reaching your decision?

Mr. GOODWIN. Not at all. Of course, I received information from those under me, but I did not have anything to do with those superior to me in arriving at my conclusions.

The CHAIRMAN. Can you tell us this morning who prepared the citation that you found on your desk?

Mr. GOODWIN. It was dictated, undoubtedly, by Mr. Keyser, my assistant, and it was undoubtedly signed by him. The copy which I had here does not show by whom it was signed, but I have no doubt it was signed by Mr. Keyser.

The CHAIRMAN. Who authorized Mr. Keyser to prepare the citation?

Mr. GOODWIN. That is his duty in our office, to prepare these citations. There was no special authorization for it.

The CHAIRMAN. There was some inspiration for the action, was there not, on the part of some one?

Mr. GOODWIN. Well, I do not know what you mean by "inspiration." As I suggested, the complaint was made by Dr. Morgan. The complaint, as I understand it, was made by Dr. Morgan, and Mr. Keyser got the evidence, or such as was presented to him, and, after his investigation, made up his mind that it was a matter that ought to be investigated, and prepared the citation.

The CHAIRMAN. You do not know what prompted Dr. Morgan to make the complaint, do you?

Mr. GOODWIN. Dr. Morgan, as I understand it, as a part of his duties at the Agricultural Department, investigates matters of this kind.

The CHAIRMAN. You do not understand or know what prompted Dr. Morgan to make the complaint?

Mr. GOODWIN. No, sir; except that it was in the line of his duty.

The CHAIRMAN. You stated yesterday that this matter was not referred to the post-office inspectors. Is that correct?

Mr. GOODWIN. It was not referred to them to my knowledge. There may have been some investigation by post-office inspectors in regard to it, but the information that we acted upon, I am informed, came from the Department of Agriculture.

The CHAIRMAN. Have you refreshed your memory in regard to this case recently?

Mr. GOODWIN. No, sir; no more than to read that memorandum; that is, the memorandum on which the order was based.

The CHAIRMAN. Is it not a fact that Inspector Pond, about July 25, 1909, investigated this case and reported that there was no complaint and no cause for action?

Mr. GOODWIN. I do not know.

The CHAIRMAN. Is it not a fact that this report is on file among your papers or on file in the Post Office Department?

Mr. GOODWIN. It may be.

The CHAIRMAN. But you have no knowledge of it?

Mr. GOODWIN. No, sir; I have no knowledge of it.

The CHAIRMAN. Is it not a fact that on December 17, 1908, you yourself requested an inspection in this case?

Mr. GOODWIN. I do not know.

The CHAIRMAN. Did you not, on May 25, 1909, state to Congressman Hamilton, of Michigan, that there was nothing in the files relative to this case?

Mr. GOODWIN. I can not say whether I did or not; I may have or I may not have.

The CHAIRMAN. Well, do you know whether there was at that time anything on file?

Mr. GOODWIN. I do not know now.

The CHAIRMAN. Can you tell from those papers?

Mr. GOODWIN. I can tell by the records in the office.

The CHAIRMAN. Did not Inspector Pond report on September 15, 1909, that a complete formula of these medicines was on file in the Department of Agriculture?

Mr. GOODWIN. I do not know.

The CHAIRMAN. Is it not a fact that in June, 1909, a great number of inquiry letters in regard to Drs. Mixer were sent out, and that replies were received which are now a part of your record?

Mr. GOODWIN. I find here this batch of papers and letters. I have not looked at them, and it may be that these are replies to some inquiries of that kind.

Mr. AUSTIN. With the permission of the chairman, I would like to suggest that some persons connected with the department ought to read over all these papers and get all the facts in their minds, so we can get answers to these questions, or any explanation that the officials of the department desire to make. Those who prepared the citation might do this work.

Mr. GOODWIN. Yes, sir. I do not remember these dates. It was some time in 1909 that Mr. Hamilton wrote to me.

The CHAIRMAN. Yes.

Mr. GOODWIN. Well, the fact is that if Mr. Hamilton came in there and inquired about it I would have made an inquiry from my clerks as to whether there was anything in the office, and would have given him the answers that came to me. That would be the method by which it would be done.

The CHAIRMAN. I assume from your replies that you have made no examination of these papers since you received my letter asking you to be present and give this information?

Mr. GOODWIN. No, sir; I have had no opportunity to do it.

The CHAIRMAN. Is it a fact that under a ruling of the Agriculture Department Dr. Mixer was violating the pure-food act in advertising these medicines?

Mr. GOODWIN. I understand that he was.

The CHAIRMAN. Do you know whether there has been any recent decision by the Supreme Court of the United States touching cases of this kind?

Mr. GOODWIN. I understand that there has been.

The CHAIRMAN. What is the decision?

Mr. GOODWIN. I do not know. I understand there has been a decision, but I can not give the details of that decision.

The CHAIRMAN. Is it not a fact that that decision of the Supreme Court holds that this is not a violation of the law?

Mr. GOODWIN. I do not think that there has been any decision of the Supreme Court on this case.

The CHAIRMAN. Well; on a case similar to this.

Mr. GOODWIN. There was a decision, of which I saw the newspaper account. I saw something about the decision of the Dr. Johnson case, which held that a false representation as to the curative properties of the medicine did not come with that statute, or something to that effect.

The CHAIRMAN. Do you know when it was that the chemical experts in the Agricultural Department analyzed the medicines of the Drs. Mixer, and made a report as to the ingredients of the medicine?

Mr. GOODWIN. There is a copy of the report of the Postmaster General here, which was made along about the time of this hearing, or shortly before this hearing.

The CHAIRMAN. When was that?

Mr. GOODWIN. It is here, I think.

The CHAIRMAN. What is the date of it?

Mr. GOODWIN. This report from Mr. Pond, the post-office inspector, to the inspector in charge at Chicago, who was Gen. James E. Stewart, is a report in this case.

The CHAIRMAN. What is the first knowledge you had of that report?

Mr. GOODWIN. I do not know.

The CHAIRMAN. Are not these reports and papers referred to you?

Mr. GOODWIN. They are referred to my office.

The CHAIRMAN. Then, as a matter of fact, when you issue a fraud order, the case is passed upon by those under you and a recommendation is made?

Mr. GOODWIN. No, sir.

The CHAIRMAN. And you cause the fraud order to be issued without investigation by you?

Mr. GOODWIN. No, sir.

The CHAIRMAN. It seems to have been done in this particular case.

Mr. GOODWIN. It does not seem to have been in this case at all.

The CHAIRMAN. You do not seem to have any knowledge of the case.

Mr. GOODWIN. Well, I think I have. Now, as a matter of fact, as I stated yesterday, the case was prepared for presentation to me by Mr. Keyser, my assistant, in connection with officials of the Department of Agriculture. When the parties came there for a hearing Mr. Keyser presented to me such matters as he considered material; the answer was made, and I passed upon the case as presented to me there.

The CHAIRMAN. Did you inform Dr. Mixer or his attorney that it was not necessary for them to bring with them any witnesses?

Mr. GOODWIN. No, sir; I did not.

Mr. ALEXANDER. Have you found Dr. Mixer's answer yet?

Mr. GOODWIN. Mr. Keyser told me, when I spoke to him about it yesterday, that his recollection was that Dr. Mixer's attorney withdrew the answer after the decision. He said he had some exhibits in the way of testimonials attached to it, and that he wanted to withdraw the answer, and it was returned to him.

Mr. AUSTIN. This decision in the Johnson case, to which reference has been made, will not operate against the issuance of fraud orders by the Post Office Department?

Mr. GOODWIN. Not at all. In this particular case, Dr. Mixer was indicted and plead guilty and paid his fine.

Mr. AUSTIN. In which case; in this case?

Mr. GOODWIN. In this case we have under consideration now.

Mr. AUSTIN. Did he take an appeal?

Mr. GOODWIN. No, sir; he paid a fine; he was indicted and plead guilty to a violation of the pure-food law and paid his fine.

Mr. AUSTIN. I will ask you to file a copy of that for the record, if you have it.

Mr. McCoy. Do you mean that he was indicted for the thing that you were investigating?

Mr. GOODWIN. He was indicted for misbranding his medicines. A copy of the notice of judgment is here.

Mr. McCoy. This notice of judgment applies to another case. He plead guilty in another case.

Dr. MORGAN. This was a case of misbranding, and the alcohol present in the product was not declared upon the label. All of these medicines were included in the Post Office case, and there are one or two in addition.

Mr. ALEXANDER. The Supreme Court, in the case referred to, held that the pure-food law did no more than to provide that the ingredients of the so-called remedies should be plainly marked on the bottle and that under the law a man could not be convicted for making claims as to its curative properties.

Mr. GOODWIN. So I understand.

Mr. ALEXANDER. If that decision had been rendered before he was tried, he would have been acquitted.

Mr. McCoy. What was he indicted for—for violating a post-office regulation, or for violating the pure-food act?

Mr. GOODWIN. For a violation of the pure-food act.

Mr. McCoy. Then, it has nothing to do with this matter.

The CHAIRMAN. Let me inquire again when it was that the doctors in the Agricultural Department analyzed these medicines and reported the ingredients to you? Do you know the date of that report?

Mr. GOODWIN. Here is the report to the Postmaster General, dated August 20, 1909.

The CHAIRMAN. From whom?

Mr. GOODWIN. From the Department of Agriculture, signed by Willis L. Moore, Acting Secretary. It is stamped "received" in the office of the chief clerk "August 25." Now there is nothing to indicate that this report came to my office. I do not know anything about that. It appears that it went through the chief inspector's office. Here is a letter of transmission to the chief inspector from Chicago asking for samples to be submitted to the Department of Agriculture for analysis. Now, whether the chief inspector sent that directly to the department or wrote the letter of transmission to the Postmaster General, or whether he wrote the letter of transmission for the Postmaster General, I do not know. There is nothing here to show.

Mr. AUSTIN. If there is no objection, I would like to have this printed in the record. I refer to this notice of judgment.

The CHAIRMAN. It can be done.

(The matter referred to is as follows:)

[F. & D. No. 1348. I. S. No. 7-b. Issued March 27, 1911. United States Department of Agriculture, office of the Secretary. Notice of judgment No. 797, food and drugs act.]

MISBRANDING OF A DRUG PRODUCT—"MIXER'S CANCER AND SCROFULA SYRUP."

On or about April 18, 1900, Charles W. Mixer, doing business under the name of Drs. Mixer, Hastings, Mich., shipped from the State of Michigan to the District of Columbia a quantity of a drug product consisting of seven packages constituting an alleged treatment for the cure of cancer, labeled, respectively: (a) "Mixer's Cancer and Scrofula Syrup"; (b) "No. 1 Wash"; (c) "No. 1 Alterative"; (d) "Cancer Reducer"; (e) "Cancer Paste"; (f) "Cancer Salve"; (g) "Cleanolne Soap Powder." With these drugs was a pamphlet called "The Truth," and in said pamphlet and on the labels of the packages above referred to were numerous statements as to the curative value of the treatment in question. Samples of this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture, and the above seven packages were found to contain respectively: (a) A syrup containing potassium iodide, a small amount of vegetable ingredient similar to sarsaparilla, methyl salicylate flavoring, and about 6 per cent alcohol; (b) an

ordinary solution of hydrogen peroxide; (c) a hydro-alcoholic solution containing a large amount of glycerine and a small amount of vegetable matter similar to gentian; (d) a strongly alcoholic solution of camphoraceous oils combined with considerable glycerine; (e) an ointment paste made up with vaseline, including a large amount of ground flaxseed and camphoraceous oils and a substance resembling hyoscyamus or belladonna; (f) a salve composed of vaseline; (g) a powdered soap with borax and thymol. As the findings of the analyst and report thereon indicated that the product was misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the said Charles W. Mixer was afforded an opportunity for hearing. As it appeared after hearing held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney-General with a statement of the evidence upon which to base a prosecution.

On November 5, 1910, a criminal information was filed in the District Court of the United States for the Western District of Michigan against the said Charles W. Mixer charging the above shipment and alleging that the drugs so shipped were misbranded, in that the alcohol present in the product labeled "Cancer and Scrofula Cure" was not declared on the label on the container thereof; in that the words "For the cure of Cancer" appearing on the label of the carton enclosing said remedy were misleading and deceptive, as they would induce the purchaser to believe said product to be a cure for cancer, which was contrary to fact; in that the statement "Greatest cancer * * * remedy of the age," appearing on the label of said carton, was false and misleading, inasmuch as said product was not the greatest cancer remedy of the age; in that the following statements appearing in the pamphlet above referred to, packed with the product, were false and misleading: "Our remedies give safe, speedy and certain relief to the most horrible forms of cancer of the breast, face, stomach, and womb"; "Our blood remedies cures and cures to stay cured"; "We have equally as good success with internal cancer as with external, and rarely fail to cure"; "Thousands of people die of cancer and malignant growth every year who would surely have been cured by our treatment"; "Diseases for which our treatment is especially intended and will cure. Cancers * * *"; "Thousands suffering from cancer and its kindred diseases have been perfectly cured by this great discovery"; "We have cured 86 per cent of all cases who have taken our treatment. This, we believe, is a better showing than any cancer specialist in this country can make"; "This valuable treatment is a positive safeguard and preventive against the development of cancer germ"; "A medicine sufficiently powerful to rid the system of every cancer * * * germ," said statements being false and misleading because they tend to mislead the purchaser into the belief that the product would cure cancer, which was contrary to the facts, and because the alcohol present in the product labeled "Cancer Reducer" was not declared upon the label.

On November 11, 1910, the defendant entered a plea of guilty to the above information and the court imposed a fine of \$25.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *March 1, 1911.*

Mr. AUSTIN. I would like, with the permission of the chair, to ask a question or two of Mr. Goodwin. Judge Goodwin, why does not the Post Office Department go systematically to work against these quacks and gold-brick propositions who are advertising through the columns of the newspapers all over the country?

Mr. GOODWIN. Well, the department is doing its best.

Mr. AUSTIN. Why do they not increase or double their force of inspectors and clean them up—lock, stock, and barrel?

Mr. GOODWIN. The department can not do that now. The matter of increasing or doubling the force depends on Congress. We can not employ more men than Congress authorizes us to employ.

Mr. AUSTIN. I would like to have an increase of the appropriation for this purpose, because I consider this business a most outrageous

imposition and fraud being perpetrated upon the people of the country. I want to call attention to two cases right here so you can make a memorandum and go after them. I have here a copy of the *Woman's National Weekly* of the issue of July 15, 1911, and call your attention to this advertisement:

Prof. Samuel originates peculiar method of treatment. His phenomenal success causes enmity of doctors.

The advertisement goes on to say:

This is a secret that has taken many years of my life to accomplish. I can only say that my results are obtained treating disease by dropping a colorless liquid, which I prepare, into the eye. Strange as it may seem so-called incurable cases of consumption, Bright's disease, dropsy, epileptic fits, nervous prostration are treated in this apparently miraculous way. My system is based absolutely on scientific principles.

There is a foot of absolutely false statements made here in two columns of this paper.

Mr. GOODWIN. Is he doing a mail-order business?

Mr. AUSTIN. This paper is going through the mails.

Mr. GOODWIN. That is not sufficient under the statute.

Mr. AUSTIN. Well, look it up.

Here is another advertisement:

Women made beautiful in 24 hours.

Mr. GOODWIN. I am informed that they are at work on that case now.

Mr. AUSTIN. Well, double your force, and work night and day on it. These are simply samples.

Mr. GOODWIN. Yes; that is true, and yet I was severely criticized one time because the clerks in my office cut out a lot of advertisements to have them investigated. The statement was made that I was trying to increase the business of my office in an unwarrantable way by doing that.

Mr. McCoy. I suggest that you examine the advertisements in the papers in regard to the sale of stocks. In other words, let us have the Post Office run all the business of the United States.

Mr. GOODWIN. Yes, sir; that is where we get it; we are between the devil and the deep blue sea. One side criticizes us for doing too little and the other side for doing too much.

Mr. ALEXANDER. I think the Post Office Department should become the guardian of the American people. They are non compos mentis, and the department should issue writs of de lunatico inquirendo against them.

The CHAIRMAN. It does not appear that the Post Office Department requires any further authority to wipe out any concern or business they might want to exterminate.

Mr. ALEXANDER. That is the only question, how far they ought to go.

The CHAIRMAN. Now, I understand that there are no complaints on file in the Post Office Department from any person who may have purchased these remedies of the Drs. Mixer, claiming that they were frauds?

Mr. GOODWIN. I did not say so. I never said that.

The CHAIRMAN. You said so in your evidence yesterday, did you not?

Mr. GOODWIN. No, sir; I do not think I did.

The CHAIRMAN. Well, is there any?

Mr. GOODWIN. I do not know whether there are or not. There may be. As I said, here is a package of letters here.

The CHAIRMAN. Did you have any complaints of this kind before you when you acted upon this case and caused the fraud order to be issued?

Mr. GOODWIN. I can not remember to-day whether any such complaints were presented to me at that time or not.

The CHAIRMAN. There certainly were not many of them, or they would have made some impression on your mind.

Mr. GOODWIN. It may or may not have been. I have a great many of these cases. This was a year or more ago, and I have not carried it in my mind at all, and it may or may not have been the case. I can not remember.

The CHAIRMAN. You relied largely, then, upon the opinions and theories of the doctors to whom this query was sent out, which you read yesterday, in determining that this was a fraud and a fake? You decided that there was no cure for cancer, and, consequently, that this was a fraud?

Mr. GOODWIN. I decided that these medicines would not cure cancer. That was the testimony of the doctors—that is, that these particular medicines would not cure cancer.

The CHAIRMAN. Is it not a fact that many affidavits were submitted to you and offered to be submitted to you as testimonials from those who had used these remedies and claimed that they had been cured?

Mr. GOODWIN. There were many letters, and perhaps some affidavits.

The CHAIRMAN. Did you give them any consideration?

Mr. GOODWIN. I considered everything that was presented.

The CHAIRMAN. But you considered these of no consequence, or of very little consequence?

Mr. GOODWIN. I considered them not sufficient to offset the other testimony.

The CHAIRMAN. You considered them not sufficient to offset the testimony of the doctors who stated that there was no cure for cancer?

Mr. GOODWIN. All the doctors stated that this medicine would not cure cancer.

The CHAIRMAN. I do not understand that this query you sent out made reference to this particular medicine, but simply inquired as to whether there was a cure or not.

Mr. GOODWIN. Well, that is true of those sent out by mail, but doctors were present at the hearing and testified before me in regard to this matter, and they were subjected to cross-examination.

The CHAIRMAN. Did you give the attorney for the Drs. Mixer an opportunity to cross-examine some of the doctors?

Mr. GOODWIN. Certainly.

Mr. AUSTIN. You gave a full hearing, and gave full consideration to the testimony on both sides?

Mr. GOODWIN. Yes, sir. The case was tried as well as I could try the case as though I was sitting as a judge in a court.

Mr. AUSTIN. Did you have any prejudice in the case?

Mr. GOODWIN. Not the slightest in the world. I had never heard of this matter until it came up before me.

Mr. AUSTIN. And you were not interested in any gold-brick project which was running in opposition to this?

Mr. GOODWIN. No, sir.

The CHAIRMAN. I have read certain memorandum before me, and it does not appear that the Drs. Mixer's attorney cross-examined the witnesses, nor does it appear that any stenographic record of the testimony in the case was preserved, if there was any such.

Mr. GOODWIN. I do not think there was any stenographic record, but I know that the attorney was there and cross-examined the witnesses. He will tell you himself that he cross-examined these doctors. He was there and cross-examined them.

Mr. AUSTIN. He had the opportunity to cross-examine them?

Mr. GOODWIN. Yes, sir; and he did so.

Mr. AUSTIN. And he wrote you a letter expressing his satisfaction with the hearing?

Mr. GOODWIN. Yes, sir.

The CHAIRMAN. Do you know anything about a man by the name of Weinschenk in New York?

Mr. GOODWIN. Yes, sir.

The CHAIRMAN. Who is he?

Mr. GOODWIN. He is a lawyer in New York who has had considerable practice before the department in cases of this character, and also before the Third Assistant Postmaster General on second-class mail matter questions.

The CHAIRMAN. He is a fraud-order lawyer, is he not?

Mr. GOODWIN. Practically that; yes, sir.

The CHAIRMAN. You do not know about any fee he collected from Drs. Mixer for services in this case?

Mr. GOODWIN. Dr. Mixer testified before me, and that letter I read yesterday states that Dr. Mixer paid him a fee of \$250 for advice in regard to his literature.

The CHAIRMAN. Did he appear before you as attorney for Dr. Mixer or did he appear before you against Dr. Mixer?

Mr. GOODWIN. I do not think he appeared before me at all in this case. The only knowledge I have of his connection with this case is the letter from Mr. Colgrove. What he states there in that letter is the only knowledge I have of his connection with this case.

The CHAIRMAN. Have you a brother who is a fraud-order lawyer?

Mr. GOODWIN. No, sir.

The CHAIRMAN. Is Mr. Leonard Goodwin your brother?

Mr. GOODWIN. Yes, sir.

The CHAIRMAN. Is he not regarded and recognized as a fraud-order lawyer?

Mr. GOODWIN. I can not tell you.

The CHAIRMAN. Has he appeared before you in cases of this character?

Mr. GOODWIN. No, sir; not in any.

The CHAIRMAN. And you have no knowledge of his connection with any such cases?

Mr. GOODWIN. He never appeared before me in any such case. I have been told by him by other people that he had given some people who were conducting a mail-order business advice. I have been told by him and by other people that he did that.

The CHAIRMAN. Did he ever practice in your department?

Mr. GOODWIN. No, sir.

Mr. McCoy. Does he practice in the Post Office Department, or has he done so?

Mr. GOODWIN. Not to my knowledge.

Mr. McCoy. And you told him you wished he would stop giving advice in matters which might come before your department?

Mr. GOODWIN. I told him he could not do any business before me, or before my office as long as I was there.

Mr. McCoy. Did you go further and tell him that he would have to keep out of that business as long as you were in the department?

Mr. GOODWIN. I can not say whether I did or not. I do not remember making any such statement as that to him.

The CHAIRMAN. You have no knowledge, then, that he would solicit business from concerns of this kind upon the representation that he was your brother?

Mr. GOODWIN. I have no such knowledge. I have no idea that he ever did solicit business from any man.

The CHAIRMAN. You do not believe that he ever did solicit business?

Mr. GOODWIN. No, sir; I do not think he is a lawyer who would solicit business at all.

Mr. ALEXANDER. I move that the hearings in this case be continued, and that Dr. Mixer be notified of the fact. If he wants to be represented here by counsel, he should have that privilege. I do not feel that it is incumbent upon us to dig up this record and try this case for Dr. Mixer.

Mr. AUSTIN. Judge Alexander, I asked the witness yesterday if the department would not reopen and give a rehearing in this case on a proper showing, and the answer was in the affirmative. In view of that statement, why would it not be a wise thing for this committee to indefinitely postpone the hearing of this case and give Dr. Mixer an opportunity to come before the department?

Mr. ALEXANDER. I accept that as an amendment to my motion; that is, that further hearings of this committee be continued to some future day, and that Dr. Mixer be advised that the department will give him a rehearing, and suggest that he take his case before the department.

The CHAIRMAN. You have heard the statement of Mr. Austin. Is that correct, and are you willing to reopen this case?

Mr. GOODWIN. I am willing to do it if the committee wants me to. I tell you honestly, gentlemen, if you want to act as a court of appeals in this matter, of course you can do so. There does not seem to be any charge in this case except that of a mistake of judgment. Of course, if you see fit to sit here as a court of appeals on these fraud-order cases, it is your privilege to do so. I am perfectly satisfied that this was a fraud; I say that candidly and fairly; I am satisfied that it was a fraud. When I heard the case originally I knew nothing about it, and I came to it fresh, just as any man would do who had never heard of it before. I have heard his case and heard all the evidence. I have gone over all these matters which were presented to me, and I know of the fraudulent statements which he made, and which I have shown you.

Mr. ALEXANDER. You are referring to his literature?

Mr. GOODWIN. Yes, sir; and the evidence showed that his medicines could not cure cancer.

Mr. ALEXANDER. I do not want you to understand that I am finding any fault with your judgment in the matter. Based on his literature, the position of the department may have been right. But does he deceive? The difference between us is this: There is in the medical profession a great deal of jealousy, and simply because this man has not a specific for cancer does not necessarily constitute fraud. It may be there is no cure for cancer. There are a great many cases that are called cancer and popular known as cancer that are malignant and may result seriously unless there is a remedy provided. This man may have a remedy for that class of diseases, and yet, because of this extreme hostility toward this man on the part of some members of the medical profession, you would shut him out from the sale of that remedy. Now, if he modifies his literature to represent just what he has, I do not know of any reason why the people should not have the benefit of his remedy.

Mr. GOODWIN. He can do that to-day. There is nothing to prevent him from doing that; but he can not use the name "Drs. Mixer."

The CHAIRMAN. You will admit that that is a very valuable asset?

Mr. GOODWIN. But he is not entitled to it.

Mr. AUSTIN. You mean to the title of "doctor"?

Mr. GOODWIN. He can use that name to do any business under it—that is, not a medical business under it.

Mr. McCoy. The question is whether people are deceived by things of that kind. We know perfectly well that people frequently go under the name of "doctor" and apply remedies, and the people understand perfectly well that they have not been regularly admitted to practice medicine. I can not see that anybody is deceived by that. If I wrote that advertisement, I would not be deceiving anybody.

Mr. AUSTIN. The people of this country have great confidence in the physicians. Every man here has confidence in physicians, especially in his family physician, and here goes out the public statement that this man is a doctor. That must carry with it the implication that he is a doctor of medicine. Besides, coupled with it, is the name of a man who has been dead for years; and in that very advertisement he says that his father was cured for cancer 45 years ago and has never had any further trace of it to this day, when, as a matter of fact, he has been in his grave for years. People answer these advertisements because they believe these statements. It is just as bad as the soliciting of clients as a lawyer by one who is not a lawyer.

Mr. McCoy. If there was a law providing that a man should not call himself a doctor unless he was a regularly admitted practitioner of medicine, I would say that he should not use it, but in popular parlance a great many people are called doctors when it is a well-known fact that they are not doctors, and these instances occur among the very class of people who buy these remedies. They are called doctors when, in a strict sense, they have no right to be so called, but nobody is deceived by it.

Mr. AUSTIN. They would not be deceived in my district, but some Reubens up in New Jersey might be deceived, and it is for their protection that I protest.

Mr. GOODWIN. He assumes to diagnose diseases, which constitutes a further objection to his assuming the nominal title of doctor.

The CHAIRMAN. Do you not know, as a matter of fact, that in this particular case these question blanks that were returned to C. W. Mixer were submitted to doctors in his home city?

Mr. GOODWIN. There was a doctor who claimed that he went there occasionally—

The CHAIRMAN (interposing). His affidavit states that he went there daily.

Mr. GOODWIN (continuing). And did some work in regard to it. I do not recall who the doctor was, but I think that evidence was in the case.

The CHAIRMAN. Mr. Goodwin, I want to state a concrete case and ask your opinion upon it: In my home county, for many years there was an old herb doctor. I do not know that he was ever admitted to the practice of medicine, but he was called "doctor," and had considerable practice as a physician, his specialty being a cure for cancer. I will say that he treated and cured many cases. I know that he did treat and cure many persons. Now, then, he died a few years ago, and his wife conducts the business, applying his remedies and treatment. She treats and cures many patients. Now, would she have the right to advertise this medicine, say, as Dr. Lyman's cure for cancer? She is not a doctor. Would she be permitted, under the law, to continue to give that treatment and sell that medicine, or advertise it in the newspapers, if she wished to use the papers in carrying on the business?

Mr. GOODWIN. You are stating the case in such terms that the question can not be answered.

The CHAIRMAN. Well, Dr. Mixer carried on the business of his father, and his father was a physician.

Mr. GOODWIN. Yes, sir; he carried it on under the name of Drs. Mixer, claiming himself to be a doctor. Of course, if the business this woman is doing is local, I do not have anything to do with it. If she undertook to do a mail-order business, and sell it to people generally throughout the country, then, whether she could do that legally would depend upon the representations she made in regard to it. If she made truthful representations and truthful statements in regard to the business, there would be nothing to prevent her from doing the business. On the other hand, if she made fraudulent representations, she would not be permitted to continue using the mails.

The CHAIRMAN. I know that in this case several physicians are trying to buy this remedy from her for the purpose of carrying on an extensive business and advertising it. Now, if this decision in the case of Dr. Mixer is correct, no one can acquire this remedy and continue the business.

Mr. GOODWIN. That does not necessarily follow.

Mr. AUSTIN. If she said, "I have cured thousands, and can cure you"—

The CHAIRMAN (interposing). But in this case they say 87 per cent of the patients are relieved—

Mr. AUSTIN (interposing). But this advertisement says, "We have cured thousands, and can cure you."

Mr. GOODWIN. And he says it in his letters.

Mr. McCoy. If these are fraudulent statements, I do not know—

Mr. GOODWIN (interposing). And he reiterates that statement in his letter here.

Mr. ALEXANDER. In this case you have a statement from doctors who say that there is no cure for cancer. I do not know whether they ever saw a cancer or not, or whether they have treated one, or know one-tenth as much about it as this man Mixer does. Yet you censure him and cut him out of the mails. Now, these physicians whose testimony is offered here say there is no cure for cancer; at least, some of them say there is no cure for it, and some are doubtful if there is any. Some of them mention radium and some other remedies, and there is a physician in my town who uses the X ray as a remedy for cancer—

Mr. AUSTIN (interposing). The only man who makes the broad statement that he can cure them is this man Mixer.

Mr. SLEMP. I want to call attention to this statement, that there is no application of a substance taken internally or applied externally that will do that.

Mr. ALEXANDER. I have heard expert testimony in a personal injury case where eight doctors testified that spots on a man's back were spots resulting from the injury and eight doctors on the other side testified that they were freckles.

Mr. GOODWIN. I am not the partizan of the doctors of any school.

Mr. ALEXANDER. I believe in the old school of medicine.

Mr. McCoy. I want to go on record with reference to a statement made by Judge Alexander about these physicians who testified here or who made affidavits in this Mixer case. I want to say that the department evidently picked out some of the noblest physicians in the United States. Drs. Mayho, of Rochester, Minn., are probably the greatest surgeons in the world, and I presume Dr. Kelly, of Baltimore, is one of the most noted physicians in the world. So that I would not want to base my objections to the decision in this case upon the ground that there was any lack of experience on the part of the doctors who gave testimony, because if they have no experience, nobody has.

Dr. MORGAN. Just one word about the question that was asked these physicians. The question was not "Is there any cure for cancer," but the question asked was whether in their opinion is there any cure, and the answers were, therefore, that in their opinion there was none.

Mr. McCoy. The question was, "In your opinion, in our present state of knowledge, is there any?" Now, then, I thought yesterday that I had made a mistake in asking my questions, comparing the answers of those who said "No" and the answers of those who said "I do not know." I still think after reading these answers that the answer of those who said "I do not know" is the proper answer to make. The word "our" has great significance in that connection. It says, "The present state of our knowledge," but the knowledge of other people may be different.

Mr. GOODWIN. They simply gave their opinion about the matter.

Mr. McCoy. There may be some things in their philosophy that we have not dreamed of, yet there may be some secrets in the earth which they do not know anything about and, possibly, Mixer has them.

Mr. GOODWIN. I want to say on this matter of a rehearing of this proposition that there is nothing to-day to prevent Dr. Mixer from selling his remedy for what it is.

The CHAIRMAN. As he is selling it to-day, but compelled to use the express companies.

Mr. GOODWIN. To use the express company does not help him any. There is nothing, I say, to prevent him selling his remedy now, if he sells it for what it really is.

Mr. McCox. There are certain institutions in this country—and very large ones, some of them—called sanitariums, which, if I remember their advertisements rightly, advertise to cure cancers. Now, if a man should go to one of these sanitariums, and remit to them, say, \$100 by mail to pay for their treatment, would that bring them within the prohibition of the law?

Mr. GOODWIN. Not as we construe it.

Mr. McCox. You have stated that if Drs. Mixer receive their remittances by mail—

Mr. GOODWIN (interposing). If that is his method of doing business, but paying the remittances is perhaps another thing.

Mr. McCox. It is not the question what you can do practically, but what would you do?

Mr. GOODWIN. As I say, I know there are a number of sanitariums throughout the country that are treating patients for cancer.

Mr. McCox. And claiming to cure them?

Mr. GOODWIN. Yes, sir. We will say a person went to them as a patient and received personal treatment; presumably he paid for the treatment while there, or a part of it any way, and that would not be within our jurisdiction.

Mr. McCox. Would not a man in that case, running one of these places, come within the condemnation of this decision which says that there is no remedy?

Mr. GOODWIN. Yes, sir.

Mr. McCox. I will tell you frankly my attitude toward this whole matter. Of course, we can not allow the mails to be used for fraudulent purposes, but at the same time we must recognize the fact that the Post Office Department has a tremendous power in its hands, and it seems to me that, except in absolutely clear cases, that power ought not to be used.

Mr. GOODWIN. I agree with you.

Mr. McCox. And it impresses me this way: That when you, as a lawyer and not claiming to be a physician, undertake to pass upon disputes between physicians—and I assume there must have been a dispute in this matter, because there are affidavits here from physicians, whom we must presume to be reputable, saying that people have been cured by this remedy—I say, when you undertake to sit in judgment on disputes between physicians I doubt very much whether you ought to do so. Frankly, I say that.

Mr. GOODWIN. I do not blame you for saying that.

Mr. AUSTIN. But who would do it?

Mr. McCox. I say that we have here two reputable physicians; one says that this stuff can cure cancer and the other says that it can not cure cancer. There is no inference that can be drawn against—

Mr. AUSTIN (interposing). You have already stated the high regard in which you hold the physicians the department called on for testimony in this particular case.

Mr. McCoy. But suppose we take the humblest physician in the United States, but one who has graduated from a medical college and been educated to practice medicine, and if he says that Dr. Kelly, of Baltimore, is wrong, and that that stuff will cure cancer, then I say that the man who sells that stuff can not be accused of being a fraud. Now, I would believe Dr. Kelly and some other of these physicians against almost any physicians, probably, who had not had the experience that they have had, but we are passing upon the fraudulent intent of a man whose business is said to be the selling of a remedy which some reputable physician says is a cure. Consequently I say that it can not be claimed that the man is a fraud.

Mr. AUSTIN. Do you have this case under consideration?

Mr. McCoy. I have referred to this case. Of course, if he makes any absolute misstatements of fact, I do not stand for them a minute, but when he says, "I can cure all cases of cancer," it is conceivable that he may think that he can.

Mr. AUSTIN. He simply lies, that is all.

Mr. McCoy. That is your opinion, but the most you can say is that the man is deluded, and when we come down to that, we can mention a great many delusions.

Mr. AUSTIN. But there is money back of his delusions.

The CHAIRMAN. Now, if you will allow me to say a few words, not in a spirit of criticism, but rather as a suggestion, I will say, it strikes me that in this case certain things should have been considered that were not evidently. I do not know Dr. Mixer; I do not know anything about him at all, except the knowledge obtained in reading the affidavits that have been sent in, and the correspondence I have had, but it strikes me this way—granting that you had no desire to do this man an injustice, it occurs to me that you should have made a more thorough investigation of the case. Now, he claimed to have a cure, and he sent out in his advertisements, literature, and the testimonials of patients whom he claimed that he had cured. For instance, here is a picture or photograph of a man who had a cancer on his lip. Here is his statement showing his condition before he took that treatment, and his condition after he took the treatment, which indicates that he is cured. Now then, if that is fraudulent; if he knows that to be fraudulent, and knew it to be fraudulent when he sent it out, then I would say that he was a fraud and that a fraud order should be issued against him. But, on the contrary, if these testimonials that he sent out, after investigation, were found to be true, it seems to me there was merit in this cure and did warrant a different action being taken. Now, as I have said, I have no interest in or acquaintance in any way with Dr. Mixer, but the case appeals to me for this reason: My father, eight years ago, had a bad cancer on his under lip, and I had no notion at all but that it would take him away in a few months. Now, he went to see a cancer doctor—not this Dr. Mixer—but he went there upon the advice of my brother, who is a physician of 30 years' practice, and the cancer doctor treated him and cured him. He is 88 years old, and that was eight years ago. If that brought him relief and cured him, as I know it did, it is absolutely wrong to prevent people from receiving treatment that is valuable and so badly needed by them. Therefore it seems to me that if you, or those under you who investigated this case, had found these testimonials and affidavits to

be frauds, you would have been warranted in doing what you did; but, on the contrary, if they had found them correct, and a post-office inspector reported to you, as he did, that there was no cause for action, I am at a loss to understand why this action was taken and fraud order issued.

Mr. GOODWIN. I do not know whether a post-office inspector did report that to me.

The CHAIRMAN. I think you will find that in the post-office inspector's report.

Mr. GOODWIN. I have it here and will examine it.

Mr. ALEXANDER. It seems to me that this case has never been tried upon its merits, but on opinions and impressions, and it ought to be tried on its merit.

Mr. GOODWIN. The evidence showed that there were many fraudulent features in this case.

Mr. MCCOY. Let me ask you this question: You have seen advertisements in the papers by manufacturers of office furniture of fireproof furniture, have you not?

Mr. GOODWIN. I do not remember that I have.

Mr. MCCOY. Well, I have seen them, and plenty of them. Of course, we all know that there is no such thing as fireproof furniture. What do you do in cases of that kind?

Mr. GOODWIN. Well, I can not tell you of a case of that kind. It would depend upon many other matters.

Mr. MCCOY. Let me put a case to you?

Mr. GOODWIN. It is a different proposition entirely from this.

Mr. MCCOY. I understand that it is an entirely different field of human activity.

Mr. GOODWIN. If a man simply advertised to sell fireproof furniture, and a man came to me and said he had ordered fireproof furniture, and that it was not fireproof furniture, and wanted me to issue a fraud order, I would probably tell him that it was all nonsense.

Mr. MCCOY. Why?

Mr. GOODWIN. Because he ought to have investigated it and found out what it was. He could probably have found out that it was not fireproof furniture. Now, if they told him that it was steel furniture—

Mr. MCCOY (interposing). But I am not taking that sort of a case.

Mr. GOODWIN (continuing). And they sent him wood furniture, that would be a different matter.

Mr. MCCOY. What would be your reason for saying that would be all nonsense?

Mr. GOODWIN. You stated a case so baldly that a man, it seems to me, could not pass upon it. There is nothing in the question that you could get hold of in order to form an opinion.

Mr. MCCOY. I am stating a case in which a man makes that sort of statement in his advertisement, and I have no doubt uses the mails to sell his goods and to receive his money. This statement is absolutely false in every respect. There is no such thing as fireproof furniture, such as refer to. Now, then, there is a clear case of misrepresentation. Now, is your position this, that you would not pay any attention to it because it is a matter of common knowledge that there is no such thing as fireproof furniture, and therefore people

could not be deceived by such an advertisement? Is that why you say it would be nonsense to bring a case of that kind before you?

Mr. GOOWIN. If one was brought before me to-day, I should feel that way about it.

Mr. MCCOY. But this is a false statement; I do not want you to assume a case.

Mr. GOODWIN. That I assume there is no fireproof furniture? I do not know.

Mr. MCCOY. Then I will put it this way: Suppose they did send furniture which was not fireproof to people who order fireproof furniture by mail and they find that it is not fireproof furniture?

Mr. GOODWIN. That would be another question. There might be a difference of opinion.

Mr. MCCOY. Now, that brings us to what I am trying to get at. When there is a difference of opinion there is no fraud committed, is there? Now, in this case there are physicians who honestly disagree in their opinions on this matter.

The CHAIRMAN. I want to read the affidavit of Dr. Burton, and I believe this affidavit was before you at the time you issued the fraud order. The affidavit reads as follows:

HASTINGS, MICH.

Dr. C. H. Burton, of this city, personally appeared before me, a notary public, deposes, and says:

I am a regular practicing physician and surgeon of Hastings, Mich., and have been so engaged for seven years. I am a graduate of the University of Michigan, Detroit Homeopathic College, Detroit Optical College, and the Chicago Eye and Ear College. I have also studied and practiced medicine and surgery in London, England, for one year and have a certificate from the London Throat Hospital. I have served as city physician of Hastings, Mich., for two years and county physician of Barry County for four years. I was president of the Hastings Board of Health for two years and health officer for the city of Hastings two years. I am at present surgeon for the Michigan Central Railroad and coroner of Barry County.

I visit the office of Drs. Mixer daily and give advice in regard to the selection of remedies for patients who write for treatment. I examine all question sheets, and either approve of the use of Drs. Mixer's remedies in suitable cases or throw out the sheets because I deem the treatment unsuitable for same. When we take into consideration the fact that 90 per cent of the cases of cancer which are placed before this firm for treatment have been diagnosed as cancer by physicians, and either operated upon without success or treated with the X ray, and most of the cases have been given up as incurable by the regular medical fraternity and finally succumb to the treatment offered by this firm, in consideration of this fact I deem this treatment a godsend to the poor, suffering people. I have seen the results of this treatment, read with my own eyes the discouraging and downhearted letters written before treatment, and then their buoyant, cheerful letters after being treated. I have seen photographs of the worst cases of sarcoma, cases which the regular surgeon would shrink from operating upon, then read letters from these people later on telling of their joy after being cured by this treatment.

I heartily indorse this method of treatment, because I believe, first, that it does not conflict with the regular practice of medicine; second, it affords relief and a cure that the medical profession can not offer.

I make oath to the above in testimony of what I believe to be facts, and without recompense.

C. H. BURTON, M. D.

HASTINGS, MICH., ss:

Subscribed and sworn to before me, a notary public, this 7th day of December, 1909

[NOTARY SEAL.]

P. T. COLGROVE, *Notary Public.*

(My commission expires January 24, 1911.)

A true copy.

Now, it seems to me that this physician ought to be as well qualified to give expert evidence in this particular case as some other physicians who have been called into consultation and who possibly have not had as much experience as Dr. Burton.

Mr. GOODWIN. Perhaps he has had experience. I guess he was an interested witness, because he was a part of this concern.

The CHAIRMAN. Not a part of it, but he undoubtedly received pay for his advice.

Mr. GOODWIN. Yes, sir; he received compensation for his services, and was interested.

Mr. AUSTIN. It meant money for him.

Mr. GOODWIN. Certainly.

Mr. SLEMP. Have you ever made any suggestions to this gentleman about correcting the form of his advertisement?

Mr. GOODWIN. No, sir; I have not, because I thought it was a fraud.

Mr. SLEMP. But if the form of his advertisement was changed, it might not be.

Mr. GOODWIN. My recollection is that the doctors from the Agricultural Department testified that this remedy might be beneficial as a blood remedy, and, if he advertises it simply as a blood remedy, there would be no objection to it. If he would only claim for it what it really is, there would be no objection to it.

Mr. ALEXANDER. I do not believe you have the right to place any such limitation upon it.

The CHAIRMAN. Undoubtedly he believes it is a cancer cure, and very likely it is.

Mr. GOODWIN. I do not think so. I doubt it, but that is what he wants to do, to advertise it as a cancer cure.

Mr. ALEXANDER. Where a reputable physician diagnoses a case as cancer and cures it, are you going to say that it is not cancer, and are you going to take the testimony of these physicians in the Agricultural Department to prove that it is not cancer?

Mr. GOODWIN. I did not take their testimony alone.

Mr. ALEXANDER. I am not trying to impeach their credibility at all, but this physician may have had a better chance to judge by his practical knowledge, while their knowledge is theoretical.

Mr. GOODWIN. But this man is treating people at a long distance, all over the country; people that he never saw, people whose condition he could not know; and he is sending them this medicine with the assurance that it will cure them. He does not know whether it will cure them or not; he can not know, and it is an impossibility that he should know. He is taking their money away from them, and many of them, as I said, have nonmalignant sores that can be cured. If anyone has a cancer, it can not be cured by him, but the effect of this would be to deter them from getting competent medical service. It is one of the worst swindles in the world.

The CHAIRMAN. Is it shown by the evidence that his charges were excessive or unreasonable?

Mr. GOODWIN. No, sir; if it is what he claims it to be, the charges would be very moderate.

The CHAIRMAN. If he can cure 50 per cent or 25 per cent of the cases he treats, don't you think he ought to be encouraged rather than be discouraged?

Mr. GOODWIN. No, sir; not if 1 or 2 per cent of them might have lived if they had had proper treatment.

The CHAIRMAN. Is there any evidence that any of his patients died as the result of the treatment?

Mr. GOODWIN. No, sir; I do not know that anyone would die as a result of the treatment, but they might die for the lack of proper treatment.

Mr. MCCOY. That illustrates the situation exactly. He says that some people who were using this medicine might have been cured if they had gone somewhere else. That is one of the most preposterous statements I ever heard.

Do you object to absent treatment? Do you object to anybody writing to a physician and describing what he feels to be his symptoms and asking the physician to prescribe for him?

Mr. GOODWIN. No, sir; not officially.

Mr. MCCOY. Do you, as a man?

Mr. GOODWIN. I think, as a man, it depends altogether on the case.

Mr. MCCOY. It depends on circumstances? The mere fact that these people undertook to give their symptoms and wrote to him should not be objectionable.

Mr. GOODWIN. There is nothing objectionable in that mere fact.

Mr. AUSTIN. What does he charge them for curing a cancer?

Mr. GOODWIN. He charged Dr. Morgan \$11.80 for the medicine sent him.

Mr. SLEMP. That was simply a sale of medicine?

Mr. GOODWIN. Yes, sir.

The CHAIRMAN. In my opinion there is as much fraud, and more, in the advertisements of consumption cures than in the advertisement of cancer cures.

Mr. GOODWIN. I think perhaps that is true; and we have issued fraud orders against consumption cures, too.

Mr. SLEMP. Suppose the case of a sanitarium issuing circular letters stating that they could cure cancer, and as a result of that a number of people went to the sanitarium and, of course, were out a considerable sum of money, would you deny them the use of the mails for sending out such matter?

Mr. GOODWIN. No, sir.

Mr. SLEMP. But it would be a fraudulent representation inducing them to go there?

Mr. GOODWIN. Yes, sir; but not seeking remittances through the mail. He is inviting them to come to the sanitarium, and they deal with him face to face. There is a vast difference between dealing with a man across the counter, at arm's length, and dealing with him clear across the United States.

Mr. MCCOY. Do you mean to say that the doctrine of caveat emptor applies in one case and not in the other? If I can see a bottle of this medicine, and buy it, does not the rule of caveat emptor apply to it?

Mr. SLEMP. Suppose the advertisement of this man was simply an invitation to go there to see him and be treated, would you still maintain there should be a fraud order?

Mr. GOODWIN. If that was all the treatment given; that is, if he did not do what we denominate a mail-order business, we would not consider that we had any jurisdiction over it. We would have no

jurisdiction over it unless he did what we denominate a mail-order business. But I agree with what Mr. McCoy has said about the necessity for care in the administration of this law. I have been very careful and conservative during my administration of it. I can say to you candidly that if I have made a mistake, it has been in failing to recommend more fraud orders. I do not know of one case where I have recommended a fraud order where I would not recommend it to-day if I had it to do over again. There have been cases, perhaps, where I have neglected to recommend fraud orders where they ought to have been issued, because I have been careful to protect the rights of the people who came before me. It is not a pleasure to me to issue a fraud order; it is not a pleasure for me to stop a man and close him out of business—it is no pleasure to me at all.

Mr. McCoy. I want to develop one point a little further. I am not criticizing you, and I do not question your good faith in this matter at all. I am trying to find out just what the point of differentiation is. I will give you a concrete case. A friend of mine mailed me the other day the advertisement of a mortgage company doing business in New York City. They advertise to sell mortgages which they say they guarantee to net 6 per cent return. The necessary inference from reading these mortgages is that they are on New York City property. Now, it is a perfectly well-known fact that no company can do business by lending money on mortgages in New York and in selling their debentures—I think that is what they sell—to net 6 per cent. They advertise them, by the way, as first mortgages and not as second mortgages. Now, I wrote this company and asked for their literature, and it turned out that what they sold in the way of debentures were secured by mortgages on New Jersey property. Well, you can not get any more than 6 per cent interest on New York or New Jersey mortgages. My opinion about that business is they are getting people to put money in there on false pretenses. Is that the kind of business you would undertake to regulate?

Mr. GOODWIN. Well, it is not as bad as it might be. There is a solid security there.

Mr. McCoy. But the way they are able to make payments, if they do make 6 per cent payments, is by speculating in the purchase and sale of real estate. That is the only way in which they could possibly pay 6 per cent on debentures secured by mortgages on New York City or on New Jersey property—that is, by speculating in the purchase and sale of real estate and taking chances on making enough money on these speculations to pay the 6 per cent on the mortgages.

Mr. GOODWIN. I would be careful in issuing a fraud order in such a case. If a case of that kind came into my office, I would send it to the chief inspector, with request that an investigation be made, and when the report of the inspector came in it would then be determined whether a prima facie case of fraud or fraudulent use of the mails had been made out. If there was such a case made out, the parties would be cited to appear and show cause why a fraud order should not be issued. They would have their hearing and a copy of the charges, and the result would be determined from the evidence that was adduced at the hearing. Now, we have had a number

of real-estate propositions that we have issued fraud orders against. We have had a number of people who have advertised lots for sale on Long Island. Probably you know that there is along the coast of Long Island some valuable property, while in the interior of Long Island there is much worthless property. A 50-foot lot in the interior there is practically worth nothing. There have been many firms advertising to sell that property, describing it as property a certain distance from New York, or a certain distance from some resort which probably was valuable. As I said, the property was worthless.

Mr. SLEMP. It has been suggested that you might have waited until you found a lot of criticisms of the treatment. Now, the same suggestion might be made in regard to this. Instead of waiting until these investments proved valueless to the people who purchased, would it not be well to act in time to prevent the valueless purchase?

Mr. GOODWIN. Yes, sir; provided I was satisfied that that would be the result. Of course, if we wait for the criticisms, the damage is already done.

The CHAIRMAN. This is all very interesting. Have we completed the hearing this morning? I think—unless we wish to inquire further from Dr. Goodwin—we will ask Dr. Morgan to take the stand.

Mr. SLEMP. I wish to ask permission—

Dr. GOODWIN. I am glad to give you all information; and I wish to say another thing now which I am afraid you will misunderstand, but I think it is worth while to say it, anyway. Testimony that is obtained in this way throughout the country is not of great value. I can go down here and take Potomac River water, and I may send it out to people everywhere and advertise its purity, and I can procure all the testimony needed as to what it has done.

Mr. AUSTIN. Mr. Chairman—

Dr. GOODWIN. You are getting ready for me, Mr. Chairman, and I anticipated you would when I made the statement. I had a case up in New York, that of Dr. Adkins. You have heard of him. He was operating a fraudulent medical concern in New York and he was claiming to cure people not only by medicine but by suggestion, throughout the country; and he was sending them a little pill that was of no earthly consequence, which was absolutely nothing, and it was absolutely proven that it was of no value, and he brought me a steamer trunk full of testimony of people who claimed that they had been cured.

Mr. AUSTIN. The most of that was made down in New Jersey.

Dr. GOODWIN. The stuff was no better than Potomac water.

Mr. SLEMP. I want a hearing before this testimony is over.

Dr. GOODWIN. And you can get testimonials by the score. You can get testimony just as you can get petitions signed, and you gentlemen know how that is.

Mr. SLEMP. I want to ask permission to place in the record at the end of Judge Goodwin's remarks the suggestions made by the Postmaster General in regard to the "crusade" in his annual report dated December 10, 1910. There is a suggestion made on pages 12 and 13 in which he recommends that the fraud order be presented to the Department of Justice, and investigation be made along that line, and that it be taken out of the Post Office Department. I think that would be fair to all parties interested.

That portion of the report of the Postmaster General submitted by Mr. Slemph is as follows:

CRUSADE AGAINST FRAUDULENT USE OF MAILS.

The crusade started by the Post Office Department early in the year against the fraudulent use of the mails has been pushed with great vigor. During the last few months the principal officers of 34 corporations, companies, and firms have been placed under arrest by post-office inspectors for swindling the public by this method. In 46 additional cases individuals have been arrested for conducting similar schemes to defraud. It is estimated that the 80 important cases recently brought to a head represent swindling operations that have filched from the American people in less than a decade fully \$100,000,000. As the work of investigation proceeded it became apparent that schemes for swindling through the mails were vastly more numerous and extensive than had been supposed. Many of these fraudulent enterprises proved to be as far-reaching in their ramifications as the postal service itself. Not only have they swindled many thousands of credulous people out of money foolishly invested, but to a large extent they have shaken confidence in legitimate enterprises. The stamping out of these frauds is therefore as important to capitalists engaged in lawful business undertakings as it is to investors. Their prevention will undoubtedly save to the American people millions of dollars annually.

The department's former practice of issuing fraud orders in such cases proved ineffective. While by that method the offending concern was deprived of the use of the mails, it was a simple matter for its promoters to organize under a new name and thus evade the law. In the present crusade the department's plan has been to secure the arrest, conviction, and imprisonment of the swindlers themselves. This method, which is proving to be most effective, will be continued until the fraudulent use of the mails is brought to an end.

Swindling through the mails has become so extensive as to require the constant employment of numerous inspectors in the work of suppression. While the Post Office Department has by far the largest corps of agents engaged in fraud cases, other departments have forces of men similarly employed. It is believed that this work could be centralized to advantage in one department, thus preventing duplication of effort and conflict of plans. As the results of all investigations of the kind are finally turned over to the Department of Justice to determine the question of prosecution, it would seem logical to transfer to that department a full control of the investigations. Such action would relieve the post-office inspectors of a heavy burden and enable them to devote their time to inquiries having in view the improvement of the postal service.

Mr. MORGAN. I want to ask that the record be changed. It appears, I think, in a number of places that I was the complainant in this case, and I want the record to clearly show that I collected the sample in the case as an employee of the Department of Agriculture, at the direction of my superior officers in the department.

The CHAIRMAN. We now want to inquire about that very thing.

TESTIMONY OF DR. F. P. MORGAN.

(The witness was duly sworn by the chairman.)

The CHAIRMAN. Dr. Morgan, please inform the committee as to your connection with the Department of Agriculture.

Dr. MORGAN. I am a scientific assistant in the Department of Agriculture.

The CHAIRMAN. How long have you been with that department, Doctor?

Dr. MORGAN. Since October 15, 1907.

The CHAIRMAN. What colleges are you a graduate of?

Dr. MORGAN. I graduated from Harvard College in 1890 and from the College of Physicians and Surgeons of New York in 1893.

The CHAIRMAN. What experience as a physician had you had before you accepted this position as scientific assistant?

Dr. MORGAN. As a practicing physician for 14 years.

The CHAIRMAN. Where?

Dr. MORGAN. In Washington, D. C.

The CHAIRMAN. Doctor, tell the committee, if you can, who inspired this investigation of Dr. Mixer's cure, and who made the complaint to the Assistant Attorney General for the Post Office Department and the citation which has been read into the record?

Dr. MORGAN. The Department of Agriculture has investigated a number of cancer cures, of which this is one—so-called cancer cures. This was merely one of a number. There was nothing whatever personal or specific about this case except that it was a part of a general investigation by the Department of Agriculture of so-called cancer cures which were advertised extensively throughout the country. Of course, that investigation was under the Federal food and drugs act, and those cases which were thought to be of interest to the Post Office Department were brought to the attention of that department, and this was one of them.

The CHAIRMAN. You said this investigation was made by order of your superior. To whom do you refer?

Dr. MORGAN. Dr. Kebler, Chief of the Drug Division, Bureau of Chemistry.

The CHAIRMAN. Is he present here to-day?

Dr. MORGAN. Yes, sir; he is present.

The CHAIRMAN. I think that is all I wish to ask Dr. Morgan. I think I shall desire to ask Dr. Kebler a few questions. So, if any members of the committee wish to interrogate Dr. Morgan they may do so now.

Mr. AUSTIN. Mr. Slemp has been trying to ask some questions, and I suggest he ought to go ahead.

Mr. GOODWIN. I think Dr. Morgan should take up the correspondence from the beginning and submit to the committee all correspondence between him and the doctor, the matter which he received from the Drs. Mixer—the medicines that he received, and so on.

Dr. MORGAN. If we are going to follow Mr. Austin's motion in this matter, I suggest that this be deferred and Dr. Mixer notified that he has another opportunity. What is the use of going into that at this present time?

Mr. ALEXANDER. Mr. Austin suggested an amendment which I agree to.

Mr. AUSTIN. Judge Alexander's original motion was to notify Dr. Mixer to come on if he wanted to go on with the hearing, and I wanted to avoid staying here all summer.

The CHAIRMAN. If the committee desires to dispose of this case in that way, I think it is a waste of time, perhaps, to further inquire of these witnesses.

Mr. McCoy. As Judge Alexander has said, we can not act as prosecuting attorneys for Dr. Mixer. I do not want to and I will not.

Mr. ALEXANDER. If Judge Baldwin will not give him another hearing, why, then, if he will come here with his counsel, we will.

Mr. McCoy. Here we have the recommendation of the Postmaster General that those matters be turned over to the Attorney General's

office, and I think I should concur in that suggestion; and if so, it brings us to the point to which this committee might come anyhow—that we recommend that very thing ourselves.

Mr. ALEXANDER. I would like to see the case tried once on the record.

Dr. KEBLER. May I say a word?

The CHAIRMAN. Yes, sir.

Dr. KEBLER. Judge Alexander seems to think Dr. Mixer has not had a chance to be heard. Now, we gave him a full chance to be heard in the courts of Michigan, under the food and drugs act, and when that opportunity was extended he plead guilty. I do not see how we can give him a better chance. That was right in his own bailiwick.

Mr. ALEXANDER. The Supreme Court since then has held to the contrary. In other words, if that opinion had been rendered then you could not have convicted him.

Dr. KEBLER. He made statements that were not true.

Mr. ALEXANDER. You would have no right to prosecute him under the pure-food act if he labels his medicines correctly.

Dr. KEBLER. I do not claim I would.

Mr. McCoy. Judge Goodwin claims it is admitted to be a violation of the pure-food order, and has nothing to do with the fraud order.

Mr. GOODWIN. Of course; they are not the same thing. A man may commit a fraud which will render him amenable to what we call the fraud-order statute, and he may at the same time not be amenable to the criminal statute, which is section 5480. Now, section 5218 is for fraudulent use of the mails. They are two separate and distinct statutes. A man may be guilty under the criminal and not be guilty under the fraud-order statute; or, he may be guilty under both. It does not follow necessarily that because he is guilty under one he is not guilty under the other, or that because he is not guilty under one he is guilty under the other; and it is the same way with the pure-food act.

Mr. McCoy. In other words, the mere fact that he pleaded guilty to an indictment under the pure-food act, so far as we are concerned, makes no difference; and it is not an admission on his part that he was amenable to the fraud order.

Mr. GOODWIN. It is not conclusive. It is evidential, perhaps, but not conclusive.

Dr. KEBLER. The suggestion has been made that he has not been given a chance in toto to defend himself. My point was this: He was given a chance subsequently under another act, and he did not avail himself of the opportunity.

Mr. GOODWIN. He was given a chance. Through his attorney he had a perfectly fair and proper hearing.

Mr. ALEXANDER. I want it understood that, as far as I am concerned, I do not want to appear here as representing Dr. Mixer, and I do not want to take up this record and present his case to the committee. If he has an attorney and wants a hearing and he can not get a rehearing before the Post Office Department, I am perfectly willing that he may have it before this committee, and I will give my time and attention to it. In the absence of interest in the case, I do not care to consume further time in pursuing this investigation.

The CHAIRMAN. You understand that this inquiry was had not at the instigation of Dr. Mixer, that he did not request that we proceed in this particular way, but it was by our own initiative that we decided this was the proper thing to do—to make some preliminary inquiry before we determined whether we would take the case up or not; he has had no opportunity to come before the committee in person or by attorney, and he, therefore, should not be criticized because he is not represented here this morning.

Mr. ALEXANDER. I do not criticize him at all.

Mr. GOODWIN. I want to make another suggestion, so that you can understand the situation. We have practically an invariable rule in the department not to revoke a fraud order which stands against a firm, corporate, or business name. Where the order stands against a man's personal name we do, on a sufficient showing and after sufficient lapse of time so that the fraud has died out, revoke the order, because it is, of course, a hardship on a man not to be allowed to receive mail addressed to him personally, and we do under those circumstances revoke the order; but where it stands against a corporate or business name we do not.

Mr. SLEMP. Is this a corporation?

Mr. GOODWIN. It is Drs. Mixer; it is not his name.

Mr. MCCOY. In other words, not his name, Charles Mixer?

Mr. GOODWIN. He can receive mail addressed to Dr. Mixer, but not to the Drs. Mixer; simply the business name. We take the position that if the scheme was a fraud, the only value there is in that name, the only value is that which obtains to it because of the fraud, and because there is no equity in revoking the order and allowing him again to use that name.

The CHAIRMAN. I suggest that a motion be made.

Mr. ALEXANDER. I wish the Judge would read that fraud order.

Mr. GOODWIN. I gave it to the stenographer last night for him to copy in the record.

Mr. MCCOY. I second Judge Alexander's motion, which was amended by Mr. Austin, which amendment Judge Alexander accepted.

The CHAIRMAN. I do not know that it is possible to have the fraud order read, and it went into the record yesterday and the transcript has not yet been returned.

Mr. GOODWIN. Would you care to have me read the fraud order?

The CHAIRMAN. It has gone into the record?

Mr. GOODWIN. Yes; I gave it to the stenographer to copy into the record.

Mr. AUSTIN. Judge Alexander's original motion was to notify Dr. Mixer that if he desired this hearing to proceed he should appear here in person or by attorney and present his case, and my own motion was to suspend a hearing and give Dr. Mixer an opportunity to present his case to the department for reopening.

The CHAIRMAN. With the understanding on the part of Judge Goodwin that that opportunity would be given to him?

Mr. AUSTIN. Yes; he stated there was nothing in the way of doing that in his examination yesterday.

The CHAIRMAN. I believe, Judge, you said you would give them that opportunity?

Mr. GOODWIN. I am willing to hear them.

The CHAIRMAN. But your mind is made up?

Mr. GOODWIN. Yes, sir; so far as their name is concerned, my mind is made up.

The CHAIRMAN. Then it would be a waste of time for him or his attorney to appear before you?

Mr. GOODWIN. As I said, if he will advertise his medicine for what it is, he does not need a rehearing for that. Then, if you give a rehearing in this case, you will have every other man that has had an order issued against him apply for rehearing, and we will simply be overrun with it.

The CHAIRMAN. It strikes me, then, that the amendment by Mr. Austin should not properly be made. Mr. Austin, do you insist on your amendment?

Mr. AUSTIN. It is either that or being kept here all summer on this case.

The CHAIRMAN. But the committee decides when we will hold the hearing—

Mr. AUSTIN. Then I withdraw the amendment.

Mr. McCoy. Has not the situation gotten down to this point? Judge Goodwin says that the fraud order stands against Drs. Mixer; that there is no fraud order against Dr. Mixer, nor against John Mixer, or whatever the man's name is—Charles W. Mixer. Now, then, if this man is notified to that effect, he could resume business under his own name; and, then, if he is violating the law, in the opinion of the department, then that case will be brought up as it exists on those facts. I think that the use of "Drs. Mixer," which is intended to make people believe, perhaps, that his father is still alive, is a misstatement, and that he has no right to make it; but if he can go ahead under the head of Dr. Mixer, or if he can go ahead under the title of the "Mixer Chemical Co." or whatever other name, the matter will come up de novo, when he can get his chance to be heard.

The CHAIRMAN. Allow me to just suggest this: That I know very many firms in different lines of business that are carried on in the name of, for example, John Smith & Sons, and the father has been dead for years, and the sons retain the old firm name. Now, that seems to be just what Dr. Mixer did.

Mr. McCoy. I think that there is a difference between a business concern which is selling flour or cheese or milk or something of that kind and a concern where they are rendering personal services, although it is a common practice in New York for lawyers to do that; for instance, Evarts, Choate & Beeman was the firm name of one of our leading firms there after Mr. Evarts had died.

The CHAIRMAN. Or had retired from the firm?

Mr. McCoy. Or had retired from the firm.

Mr. AUSTIN. Let me call your attention to this name.

Mr. GOODWIN. When a firm is employed the man gets the services of a member of it, knowing who he is and what his qualifications are.

Mr. AUSTIN. In answer to your statement about the retention of the firm name I want to read from this little advertisement here; referring to the cure of his father, he said: "This was over 40 years ago, and he has never suffered a day since." The natural inference is that his father is living.

The CHAIRMAN. Does anyone know when his father died? Does anyone know that his father is dead?

Mr. GOODWIN. The record shows he died many years ago. That was in the memorandum which I read, which stated his father died many years ago.

Mr. MCCOY. Would you say that a man was not suffering after he died? [Laughter.]

The CHAIRMAN. I certainly hope he is not.

Mr. ALEXANDER. Presumably not from cancer. [Laughter.]

The CHAIRMAN. Just one further inquiry, Judge Goodwin. Do I understand that C. W. Mixer has the right to use the mails?

Mr. GOODWIN. Oh, yes, sir; and he does use the mails.

The CHAIRMAN. But can he use the mails in advertising this remedy as the Mixer cancer cure?

Mr. GOODWIN. That would be a different proposition. That would be a question to be determined if he undertook it. If he undertook to do that there would be a question to be determined.

Mr. TOWNER. Certainly, Mr. Chairman, the case under which the department would be required to act will have to be governed by the nature and the character of the advertisements that he puts forth. If he wants to go into business and put out his advertisements, he will have to take his chances as to whether or not they constitute a misstatement of facts which would bring him within the fraud act.

Just let me put on record right here my idea regarding this situation. I think that the whole scheme as developed by this testimony here shows upon several distinct grounds that this thing was an apparent fraud, based upon misstatements that were intended to justify, and doubtless did justify, and I think the department was entirely justified in issuing the fraud order; and I think they ought to, in the performance of their duties, issue just such orders in every such case. I think that it is a great service that they are performing in the interest of the people of this country, trying to protect them against frauds and charlatans such as this man evidently was, judging from his advertisements and the evidence before this committee at this time. I want to make that just as emphatic as I can.

Mr. GOODWIN. For the information of the committee, in regard to doing business under another name, I want to make this statement: It is the practice of the department—for instance, we issue a fraud order against a certain scheme and the party operating the scheme adopts a new name and operates the same scheme under the new name; we issue what we call a special order against the new name without a hearing. That has happened with us quite frequently—that we would issue a fraud order against a man and the moment the order was issued he would simply adopt a new name, as is mentioned in the Postmaster General's recommendation.

Mr. AUSTIN. And continue the old methods?

Mr. BALDWIN. And continue the old methods, exactly the same thing, except under a new name, and we said, "Why, the man has had his hearing and there is no necessity for another hearing," and we extended the fraud order, covering the new name.

I will say this much here to the committee in regard to this particular case: If you desire that if Dr. Mixer starts a business—

Mr. AUSTIN. Do not call him "doctor." He is no doctor.

Mr. GOODWIN. He is not a doctor; I will take that back. If Mr. Mixer starts a new business under a new name and uses the names in

regard to it, I will agree, for my part, that so long as I am in my present position he shall be judged on his new scheme on the merits of that scheme and not on the old scheme.

Mr. McCoy. What more do we want?

The CHAIRMAN. I do not think we want anything more, but, just to make one fact clear, do I understand, and would you not recommend, and do you not think this committee should recommend to him that he make application to you and say that he desires to continue this business; that he proposes to continue it along certain lines, which he will submit to you? As to what his advertisement will be in the future, that is to be determined by the Post Office Department. Should he violate the law, as you believe that he has, in the future, why, then, to restore the fraud order would be proper; but that if he intends to continue this business, for instance, not as Dr. Mixer, but as "C. W. Mixer cancer cure," and continue selling his remedies and using new advertisements, eliminating those things that are objectionable to the department, is there any reason why he should not then have the fraud order removed, at least temporarily?

Mr. GOODWIN. There would be no necessity for the removal of the fraud order. The fraud order, as it now stands, would not affect that business at all.

The CHAIRMAN. It is against the "Drs. Mixer"?

Mr. GOODWIN. That is all that it touches—"Drs. Mixer."

The CHAIRMAN. If he would resume business as C. W. Mixer, then he would have to take his chances as to the future.

Mr. GOODWIN. He would have to take his chances.

Dr. MORGAN. If I were going to make any suggestion to Dr. Mixer, I would make a suggestion that overstatement always weakens a man's case, and if I was going to advertise, I would say, "We have cured many cases; I believe we can cure yours." I might buy a man's medicine if he said, "I think we can cure yours"; but if he said he could cure every case, I do not think I would.

Mr. GOODWIN. It is only by deceiving the people that they can make any money.

The CHAIRMAN. You have heard the motion of Judge Alexander, seconded by Mr. Austin. Are there any remarks? If not, those in favor will signify by saying "aye," those opposed "no." It is carried.

(At this point, at 12 o'clock m., the committee adjourned until Monday, August 7, 1911, at 10 o'clock a. m.)