

UNITED STATES v. AMERICAN COAL PRODUCTS CO.
IN THE DISTRICT COURT OF THE UNITED STATES FOR
THE SOUTHERN DISTRICT OF NEW YORK.

In Equity No. E 10/124.

THE UNITED STATES OF AMERICA, PETITIONER,

VS.

AMERICAN COAL PRODUCTS COMPANY, BARRETT MANU-
FACTURING COMPANY, ET AL., DEFENDANTS.

DECREE OF INJUNCTION.

This cause coming on to be heard before the Hon. George C. Holt, C. J., on motion of the complainant upon the petition herein for an injunction to restrain the defendants from violating the provisions of the act of Congress approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," as prayed for in said petition, and the complainant now appearing by Henry A. Wise and Clark McKercher, its counsel, and the defendants appearing by the entry of a formal appearance and by filing an answer by their counsel, Spooner & Cotton, and stating in

open court that, while by their joint and several answer herein they deny the violations of law set forth in the bill of the complainant, the United States of America, they, to prevent serious loss and injury in and to their said business and credit, consequent upon a long and expensive litigation with the complainant, as to the legality of their organization and methods, will not oppose the entry of the decree herein, requiring them to re-form their organization and the conduct of their business as herein provided, and the court finding upon the petition that the defendants are and have been engaged in unlawful agreements and combinations in restraint of interstate trade and commerce, such as the act of Congress approved July 2, 1890 (26 Stat., 209), entitled "An act to protect trade and commerce against unlawful restraints and monopolies," denounce as illegal; it is adjudged, ordered, and decreed as follows:

1. That the defendants, American Coal Products Company, of New Jersey; Barrett Manufacturing Company, of West Virginia; National Coal Tar Company, of Delaware; H. F. Watson Company, of Pennsylvania; United Roofing & Manufacturing Company, of Delaware; the Eastern Granite Roofing Company, of New Jersey; W. H. Rankin Company, of New Jersey; Warren Chemical & Manufacturing Company, of New Jersey; Commonwealth Roofing Company, of Delaware; Union Coal Tar & Chemical Company, of New Jersey; Duluth Tar Company, of Minnesota; M. Ehret, jr., & Company, of Pennsylvania; Warren-Ehret Company, of Pennsylvania; New York Coal Tar & Chemical Company, of New York; New York Roofing Company, of New York; H. W. Jayne Chemical Company, of Pennsylvania; Isaac D. Fletcher; William H. Childs; Samuel H. Bingham; Thomas M. Rianhard; John C. Runkle; W. N. McIlravy; Ernest J. Steer; Frank B. Foster; and Hugo Henning, have been and are in a combination in restraint of interstate trade and commerce and engaged in an attempt to monopolize said trade by securing control of a substantial part of the supply of coal tar in the United States, and by securing substantial control of large productions of coal tar from coke ovens,

and by purchasing and securing control of competing companies and firms doing the business of purchasing coal tar and manufacturing and marketing tarred felt, roofing and paving pitch, and other products of said coal tar.

2. That the American Coal Products Company, defendant herein, is adjudged to be an unlawful instrumentality created for the purpose of bringing together competing interest in the acquisition of coal tar and other by-products of coal, and to secure control of large productions of coal tar from coke ovens, and to hold the stocks of said competing companies, and maintained for the purpose of carrying into effect the intent to control the trade in said commodity; and that the said American Coal Products Company, and its officers and directors, and each of them, are enjoined and prohibited from acquiring, owning, controlling, and dealing in the capital stock or business of any company, firm, or individual doing business in coal tar and oil tar and their products in competition with any of the defendants herein.

3. That the Barrett Manufacturing Company, of West Virginia, is adjudged to be a combination in restraint of interstate trade and commerce and an attempt to monopolize said trade in the way of securing control of a substantial part of the supply of coal tar in the United States, and the operations of said Barrett Manufacturing Company and its subsidiaries are enjoined and restrained in the following particulars:

(a) That the contracts entered into between the said Barrett Manufacturing Company and the said Semet-Solvay Company are declared null and void, and said Barrett Company and its officers and directors are forever enjoined and prohibited from enforcing the same unless said contracts are re-formed and objectionable features are eliminated as follows:

(aa) The following clause:

This amount however, shall not exceed 33½ per cent of the total amount of tar produced at Syracuse.

The production of any further amount of pitch shall be at the option of Barrett, and they agree to make no

change in instructions as to the delivery of tar and pitch oftener than once in two months.

It is mutually understood and agreed that the distillation of the tar at Detroit shall be conducted by Solvay, according to the following plan and arrangements, to wit:

Tar will be distilled by it to furnish only the necessary tar product for its own purpose as set forth above, including tar products to be used in the village of Delray and also for the manufacture of the special grades of paint and the moulders' compound, as above specified. This amount, however, shall not exceed $33\frac{1}{3}$ per cent of the total amount produced at said Detroit plant: *Provided, however,* That if this amount at any time exceed 100,000 gallons per annum at Syracuse or 200,000 gallons per annum at Detroit the Solvay Company shall account to the Barrett Company for the excess over these amounts at the rate of 20 per cent of the price realized by Solvay on tar sold to Barrett under the contract during the same month.

(bb) And any provision in said contract for future control by purchase or option of productions of tar from ovens not yet in operation.

(b) That all contracts between said Barrett Manufacturing Company and any producer of coal tar or oil tar whereby the producers of coal tar agree to burn any part of said production or agree not to enter into competition with said Barrett Manufacturing Company or its subsidiaries or with said Products Company are decreed to be null and void, and said Barrett Manufacturing Company and said Products Company are forever enjoined from operating under or enforcing the same unless said contracts shall be modified and re-formed by eliminating those provisions or similar provisions to the same effect, and said Barrett Manufacturing Company and its subsidiaries and said Products Company are forever enjoined and prohibited from entering into contracts containing those provisions or similar provisions to the same effect.

(c) That all contracts between said Barrett Manufacturing Company or said Products Company on one hand and any dealers in or producers of coal tar and oil tar on the other hand providing for the sale of said coal tar or oil tar, and wherein it is provided that the contract shall be terminated upon notice, shall be re-formed and changed to provide for certain termination of said contract at a fixed date not to exceed ten years from the date thereof.

(d) That said defendants and each and all of them are forever enjoined and prohibited from selling coal tar or oil tar to one or more competitors of said Barrett Manufacturing Company, competing with said company in any line, for a less price f. o. b. the same point of shipment than said Barrett Company sells the same products to any other competitor in the same line.

(e) That said defendant companies and defendant individuals of said companies and each of them are forever enjoined and prohibited from burning for fuel or exporting any coal tar or oil tar or briquetting pitch owned by them, when such burning or exporting is done at a net loss, taking into consideration all resulting by-products, without first advertising for 30 days for bids for such coal tar, or oil tar, or pitch, and without thereby being able to sell same to competitors at higher prices; except that nothing in this clause shall prevent the defendant companies from using coal tar or oil tar as fuel when it is economical to do so or when obliged to burn liquid fuel on account of public ordinances. By the use of the word "economical" herein is meant that when the fuel value of oil tar or coal tar is greater to said Barrett Manufacturing Company than the fuel value of coal or other usable fuels, then coal tar or oil tar may be burned for fuel.

(f) That said defendants and each of them are forever enjoined and prohibited from entering into any contract, scheme, or arrangement with any competitor in the purchase of coal tar or in the manufacture or sale of coal-tar roofing materials whereby any producer of coal tar shall be restricted with respect to the person or persons to whom such producer shall sell such product, or respect-

ing the territory wherein or the price at which such product shall be sold.

(g) That said defendants and each of them are forever enjoined and prohibited from making or enforcing any contract whereby a purchaser of one line of material, such as tarred felt, shall be compelled to purchase from defendants or any allied interest any proportion of other material.

(h) That the National Coal Tar Company shall be dissolved, its charter surrendered, and its business entirely wound up.

(i) That the use of the name of any one time independent company or of any company acquired by said Barrett Manufacturing Company or the said Products Company that manufactures and markets pitch, tarred felts, or other coal-tar roofing materials, or uses the same in construction work is forever enjoined and prohibited on the part of defendant companies or defendant individuals herein, except as departments of said Barrett Manufacturing Company, as for example, Warren Chemical & Manufacturing Company, department of Barrett Manufacturing Company, and the Eastern Granite Roofing Company, department of Barrett Manufacturing Company, and except for the use of any registered trade-mark which is to be permitted; and such ownership by departments in the manner stated herein shall be made public by printing the same on letterheads, billheads, and in advertising.

(j) That the Union Coal Tar & Chemical Company shall be dissolved, its charter surrendered, and its business discontinued.

(k) That the W. H. Rankin Company shall be dissolved, its charter surrendered, and its business be discontinued.

(l) That the ownership of the stock of the H. F. Watson Company by said Barrett Company is adjudged a combination in restraint of trade and an attempt to monopolize interstate trade and commerce, and said Barrett Manufacturing Company is ordered to dispose of all stock of

the said H. F. Watson Company held by said Barrett Manufacturing Company in excess of 45 per cent of the stock of said H. F. Watson Company, so held by said Barrett Manufacturing Company; and that said Barrett Manufacturing Company and said Products Company, their officers and directors, are enjoined and prohibited from exercising any control over or management of the business affairs of said H. F. Watson Company; that said defendants are also enjoined and prohibited from entering into any contract, agreement, or arrangement with the said H. F. Watson Company relating to the joint purchase of coal or oil tar or to the joint manufacture or sale of coal-tar products; and that in disposing of the stock of said Watson Company as herein provided for, it is ordered and decreed that the said Barrett Manufacturing Company shall offer the same for sale to the minority stockholders of said H. F. Watson Company, but said Barrett Manufacturing Company is privileged to accept any other more favorable offer for said stock, or any part of same, than that made by the minority stockholders of said H. F. Watson Company; and it is ordered and decreed that none of the officers or directors of said Products Company or of said Barrett Manufacturing Company or any of its subsidiaries, or of any of the defendant companies herein, shall serve as officers or directors of said H. F. Watson Company.

(m) That said defendants herein and each of them are forever enjoined and prohibited from offering for sale and from selling coal tar and oil tar and roofing material at a less price to customers of competitors of said defendants than said defendants sell such products to their own customers when and where such offers and sales described in his paragraph are made by said defendants with a purpose so to injure the business of such competitor of said Barrett Manufacturing Company and said Products Company as to drive such competitor out of such business in any particular section of the United States.

(n) That the New York Coal Tar and Chemical Company shall be dissolved, its charter surrendered, and its business discontinued.

4. That it is further ordered and decreed that compliance with each and every order heretofore made in this decree, pertaining to the re-formation of contracts, the sale of stock, and dissolution of companies shall be complete within six months from the date of the entry of this decree, and that a showing by said defendants as to compliance with this order shall be made within said period.

GEORGE C. HOLT,
District Judge.

NEW YORK CITY, *March 4, 1913.*