

IN THE DISTRICT COURT OF THE UNITED STATES
IN AND FOR THE SOUTHERN DISTRICT OF NEW YORK

IN EQUITY No. E-25-215.

UNITED STATES OF AMERICA, PLAINTIFF

v.

GYPSUM INDUSTRIES ASSOCIATION ET AL., DEFENDANTS
SUPPLEMENTAL DECREE.

Heretofore, on January 3, 1923, a final decree was
entered in this cause, wherein this court reserved and

retained to itself jurisdiction for the purpose of enabling any of the parties to apply to the court for modification of said decree by reason of changes in the interpretation of the statute law of the United States or by reason of the fact that the provisions of said decree, or certain of them, have become inappropriate or unnecessary.

Now comes before the court American Gypsum Company, Empire Gypsum Company, Niagara Gypsum Company, Grand Rapids Plaster Company, F. J. Griswold, M. A. Reeb, and James Leenhauts, parties defendants in this cause, by their solicitors, Cutting, Moore & Sidley, and pray for a modification of the aforesaid decree, (1) because, according to decisions of the Supreme Court of the United States, made subsequent to the consent and entry of the aforesaid decree, namely, on June 1, 1925, in the cases of *Maple Flooring Manufacturers Association v. United States*, 268 U. S. 563, and *Cement Manufacturers Protective Association v. United States*, 268 U. S. 588, the gathering and distribution of facts relative to cost and volume of production, shipments, freight rates, existing stocks, past prices, credit information, etc., do not cause and do not constitute a restraint of trade or competition in violation of the Act of July 2, 1890, entitled "An Act to Protect Trade and Commerce against Unlawful Restraints and Monopolies," and the acts amendatory thereof and supplemental or additional thereto; and (2) because, in so far as the aforesaid decree may be understood to prohibit the gathering and distribution of such facts, such prohibitions have become inappropriate and unnecessary; and the court having considered the statement of counsel for the parties; and the United States of America, by its attorney, now and here consenting to the rendition and entry of the following decree because it deems the aforesaid decree either does not enjoin the doing of the acts and things herein-after described or its prohibitions have become inappropriate and unnecessary.

Now, therefore, it is ordered, adjudged, and decreed as follows:

That nothing contained in the aforesaid decree prohibits the defendants from associating themselves, by means of a corporation, unincorporated association, or otherwise, for the purpose of making, receiving or compiling, disseminating and publishing facts, statistics, and like information as to the cost and volume of production, shipments without names of customers, existing stocks, unfilled orders, and the past sales and prices of gypsum and gypsum products; provided that each of the defendants shall act with regard to such cost and volume of production, shipments, existing stocks, unfilled orders, past sales and prices, with entire independence; that is to say, free from any agreement with its or his associates.

That nothing contained in the aforesaid decree shall be construed to prohibit the defendants from doing any lawful acts to accomplish any lawful objects or purposes not described and prohibited in specific terms in said decree.

That the words "the charter or articles or incorporation of which shall be expressly limited to the following defined objects and purposes," in Paragraph 2 of said decree, be and they are hereby rescinded and stricken from said decree and in lieu thereof the following words are inserted therein, to wit: "or unincorporated association, for the following and other lawful purposes."

That the words "upon specific request" contained in Subdivision (d) of Paragraph 2, and the words "charged or" in Subdivision (d) of Paragraph 3 of said decree be and they are hereby rescinded and stricken from said decree.

JULIAN W. MACK,
United States Circuit Judge.

July 20, 1928.