

**UNITED STATES OF AMERICA v. THE NATIONAL  
PEANUT CLEANERS & SHELLERS ASS'N. ET AL.,  
DEFENDANTS.**

IN THE DISTRICT COURT OF THE UNITED STATES FOR  
THE EASTERN DISTRICT OF VIRGINIA.

In Equity No. 109.

May Term, 1925.

UNITED STATES OF AMERICA, PETITIONER

*v.*

THE NATIONAL PEANUT CLEANERS AND SHELLERS Association, American Peanut Corporation, Bain Peanut Company, Dixie Peanut Company, Gwaltney-Runkley Peanut Co., The Suffolk Peanut Co., The Columbian Peanut Co., Lummis & Company, The Edenton Peanut Co., The Farmers Peanut Co., Inc., Fletcher-Wilson Coffee Co., Waverly Peanut Company, Barnhart Mercantile Co., of St. Louis, Barnhart Mercantile Co. (Petersburg Branch), Planters Nut & Chocolate Co., Clark Peanut Company, J. B. Worth Company, Norfolk Storage Company, Pond Bros. Peanut Co., Inc., Philip D. Bain, Frank B. Bain, and Frank R. Berryman, Julius P. Woodley, John B. Pinner, John F. Pinner, A. Thomas Holland, Robert A. Pretlow and John A. Pretlow, doing business as Pretlow Peanut Company, Roger I. Beale and James Chesley Beale, doing business as the Franklin Peanut Company, George O. Lummis, Charles F. Taylor, Thomas H. Shepard, Thomas Cheers, Alma Forehand, Woodson Barnhart, Edgar R. Skinner, Robert E. Barnhart, F. L. Minga, Minos L. Fletcher, Charles P. Wilson, John W. West, John E. Wilcox, William A. Harris, doing business as Wakefield Peanut Company, S. M. Lawrence, Thomas Maclin, doing business as John H. Maclin Peanut Company, Amedo Obici, Chas. H. Heinemann, Walter H. Clark, Chas. B. Pond, and Wayland T. Pond.

FINAL DECREE.

This cause came on to be heard at this term upon petition and answers before any testimony has been taken herein, all the defendants having duly appeared and answered by their attorneys, Tazewell Taylor, Thomas H. Willcox, J. Gordon Bohannon, R. H. Mann, F. S. Spruill, John H. Small, and James H. Corbitt, and was argued by counsel, and the petitioner, by Paul W. Kear, United States Attorney for the Eastern District of Virginia, its attorney, and William J. Donovan, Assistant to the Attorney General of the United States, and James A. Fowler, A. F. Meyers, and Thaddeus G. Benton, Special Assistants to the Attorney General of the United States, of counsel, having moved the court for relief in accordance with the prayer of the petition:

On consideration whereof, it appearing to the court that it has jurisdiction of the subject matter alleged in the bill, and it further appearing to the court that certain of the purposes and objects of the defendants, as set out in the Constitution and By-laws of the said Association and in the rules and regulations thereof, and as described in the said petition, if carried into effect by agreement among the members of the said Association, would operate as a combination and conspiracy in restraint of interstate trade and commerce, in violation of the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies," and it further appearing that certain of the defendants have been operating under the rules, regulations, agreements, contracts, understandings and practices adopted by said Association;

It is adjudged, ordered and decreed as follows;

(I) That the defendants and their officers, agents, servants, and employees, and all persons acting under, by or in behalf of them or any of them, or claiming so to act, be and they are hereby perpetually enjoined, restrained and prohibited from directly or indirectly entering into, engaging in, or carrying into effect said combination and conspiracy, or any act, rule, regulation,

resolution, agreement, contract, understanding or practice constituting a part thereof, or any similar combination or conspiracy having the same purpose or effect of restraining interstate trade and commerce in peanuts.

(II) That the defendants, their officers, agents, servants and employees, and all persons acting under, through, or in behalf of them or any of them, or claiming so to act, be and they are hereby perpetually enjoined, restrained and prohibited from combining, conspiring or agreeing, expressly or impliedly, directly or indirectly, except as hereinafter provided, to do any of the following acts:

(a) To adopt or use a uniform sales contract, and/or acceptance or confirmation blank.

(b) To adopt or observe a uniform or maximum rate of commission allowed brokers or jobbers.

(c) To establish, use, or maintain rules, regulations, practices or conditions of any character concerning the acceptance of orders, or sale by defendants of peanuts of any description, the effect of which may lessen competition between any of the defendants, and specifically the following, or any similar thereto:

1. That sales of peanuts shall be made on terms of net cash ten days (no discount) from date of invoice, which shall be the actual date of shipment; or, on terms of net cash demand draft with bill of lading attached.

2. That the purchase and sale shall be positive and not subject to countermand, and that all prices shall be f. o. b. shipping point and not delivered at destination.

3. That prices shall not be guaranteed against declines of any character.

4. That prices shall not be guaranteed against inclines of any character.

5. That orders for future shipment shall not be booked for shipment later than sixty days from date of booking and that all bookings shall be made at the

actual time of sale, whether made by home office or through representatives, brokers, or traveling salesmen.

(d) To sell peanuts f. o. b. factory with freight equalized with other factories by making rebates or allowances of differentials to purchasers, or otherwise.

(e) To refuse to sell to, or to discriminate in making terms and/or conditions to, any persons, co-partnerships, or corporations for any reason whatsoever.

(f) To address intimidating letters to purchasers for the purpose and/or effect of inducing said purchasers to submit to their demands.

(g) To establish, maintain or circulate a name or list of names or other description of a purchaser or purchasers with whom any of the defendants have had a dispute or disputes, who for any reason has or have not fulfilled his or their contract or contracts or against whom discriminations of any character whatsoever are practiced.

(h) To adopt, establish, or maintain any rule or practice in relation to the arbitration of disputes between them and purchasers from them.

(i) To report to any person, or collective agency, the condition, including quantity and quality, of their respective stocks on hand for the purpose and effect of bringing any of the defendants together to buy from and sell to each other, or to sell for the account of another, and/or of equalizing the stocks of any of the defendants.

(j) To interfere in any manner whatsoever with the free operation and conduct of the business of any individual, co-partnership, corporation, or association of individuals, engaged in the business of buying, cleaning and shelling, and selling, or marketing, peanuts, such as refusing to clean and shell peanuts on contract for any such individual, co-partnership, corporation or association.

(k) To refuse to sell to, or discriminate against in any manner, any person, co-partnership, or corporation which has sold or whose purpose it is to sell peanuts at

auction; or to incite, persuade or obligate others to refuse to sell to or to discriminate against in any manner any such person, co-partnership, or corporation.

(III) That the defendants and their officers, agents, servants, and employees, and all persons acting under, by or in behalf of them or any of them, or claiming so to act, be and they are hereby perpetually enjoined, restrained and prohibited, except as hereinafter provided, from committing any of the following acts:

(a) To issue or circulate so-called credit warnings, or blacklists, or maintain or circulate so-called "cash in advance" lists, concerning purchasers who, because of past transactions with defendants, have been, or are, considered illegitimate dealers, or dealers against whom discrimination should be made.

(b) To give to each other in any manner information concerning, or to discuss with each other, by telephone or in person, by correspondence, or by telegraph (a) the condition and quantities of crops or farmers' stocks on hand, quantities of farmers' stocks sold, prevailing prices for farmers' stocks, past or prospective prices for farmers' stocks, past, present, or prospective supplies of farmers' stocks, and (b) the quality of cleaned and shelled stocks, the quantities of cleaned and shelled stocks on hand, actual sales, the demand, price lists, prices actually obtained, prevailing prices, past and/or prospective prices, or analyses of future conditions.

(c) To make statements or arguments to each other, written or oral, directly or indirectly, inciting, or having the effect of inciting, the defendants to maintain or decrease their price offerings for farmers' stocks, or to maintain or increase their prices for cleaned and/or shelled goods.

(IV) That the defendant association may,

1. Maintain an office under control and direction of its officers or board of directors, with a Secretary, and keep a record of all proceedings of any and all meetings, which record shall be open to the inspection of any of the departments, or their agents, of the United States

Government, and to the inspection of any and all members of the Association.

2. Maintain a tariff bureau or committee and a traffic bureau or committee for the purpose of appearing before and communicating with any Federal body, legislative, executive or administrative, to assist or protect the American industry from disadvantages by foreign importations, and assisting the peanut industry in transportation and tariff matters before Federal, state and other bodies concerned in questions of tariff and transportation, and furnishing upon request of any member any information relating to rates upon peanuts and regulations of transportation that may be contained in any public schedule or tariff.

3. Adopt and use a common insignia.

4. Advance or promote the use of peanuts by research, publicity, advertisement and similar activities.

5. Handle the insurance of its members, including fire, industrial, indemnity or group insurance.

6. Maintain a credit bureau for the sole purpose of furnishing upon specific request information as to the financial standing and the credit rating of persons and corporations purchasing or attempting to purchase peanuts, but not to create directly or by inference a list or class of so-called legitimate or preferred dealers or purchasers, or illegitimate or undesirable dealers or purchasers. The gathering of information, solely for the purpose of providing credit information on special request, shall not be considered a violation of any part of this decree.

7. Provide for the adjustment and arbitration of disputes of any character between sellers and purchasers by reference to a board of arbitration empowered to promulgate rules of procedure and to render final awards, one of said arbitrators to be selected by the seller and one by the purchaser, and the third, or umpire, to be selected by the two so selected, the decision of the said arbitrators, or the majority of them, to be binding upon the parties to said arbitration, provided that any such

provision, if made, shall not obligate any purchaser, in any manner, to refer any such dispute to arbitration, unless at the time said dispute arises such purchaser willingly agrees so to do.

8. Openly and fairly gather and disseminate information as to costs, volume of past production, prices in past transactions, stocks on hand, and freight rates; and to meet and discuss such information and statistics so long as no attempt is made to reach any agreement or any concerted action with respect to prices or production or restraining competition.

9. Adopt, establish and maintain specifications defining the minimum sizes and minimum degree of quality that shall constitute the various grades of peanuts, provided such specifications do not result in the lessening of competition among defendants.

(V) That nothing contained in this decree shall be construed as prohibiting any defendant from doing or performing any of the acts prohibited by Part II hereof if done individually and without combining, conspiring or agreeing with any other cleaner and sheller of peanuts.

(VI) That jurisdiction of this case is retained for the purpose of enforcing this decree and of enabling the United States to apply to the court for a modification or enlargement of its provisions on the ground that they are inadequate, and the defendants or either of them to apply for its modification on the ground that its provisions have become inappropriate or unnecessary, or by reason of changed conditions, of law or fact, or by reason of any new or different activities other than those hereby enjoined or authorized to be maintained and deemed necessary or desirable by the defendants for the welfare of the peanut industry, or if for any other reason the injunction hereby signed has become inadequate or its provisions inappropriate or unnecessary to maintain competitive conditions in interstate trade and commerce in peanuts, or unduly oppressive to the defendants.

This decree does not apply to the non-member defendants, Planters Nut & Chocolate Co., Clark Peanut Co.,

J. B. Worth Co., Thomas Maclin, doing business as John H. Maclin Peanut Co., Norfolk Storage Co., and Pond Bros. Peanut Co., Inc., and Amedo Obici, Chas. H. Heinemann, Walter H. Clark, Chas. B. Pond and Wayland T. Pond, as their officers, agents, servants and employees, but jurisdiction of the case is retained for further proceedings as to them if it should develop that their course of conduct should interfere with the proper enforcement and carrying out of this decree.

That petitioner shall recover from the defendants, other than the non-member defendants above named, the costs of this proceeding.

D. LAWRENCE GRONER,  
*United States District Judge.*

June 15, 1925.