

Petition in Equity.

No. .

In the District Court of the United States for the
Western District of Pennsylvania.

UNITED STATES OF AMERICA, PETITIONER,

v.

ALUMINUM COMPANY OF AMERICA, DEFENDANT.

JOHN H. JORDAN,
United States Attorney.

GEORGE W. WICKERSHAM,
Attorney General.

JAMES A. FOWLER,
Assistant to the Attorney General.

WILLIAM T. CHANTLAND,
Special Assistant to the Attorney General.

In the District Court of the United States for the
Western District of Pennsylvania.

UNITED STATES OF AMERICA, PETI-	} Petition in
tioner,	
v.	
ALUMINUM COMPANY OF AMERICA,	
defendant.	} equity. No —.

*To the honorable judges of the District Court of the
United States for the Western District of Pennsyl-
vania, sitting in equity:*

The United States of America, by John H. Jordan, its attorney for the Western District of Pennsylvania, acting under the direction of its Attorney General, brings this proceeding in equity against the Aluminum Company of America, a corporation formerly known as the Pittsburgh Reduction Company.

On information and belief your petitioner alleges and shows:

I.

That the Aluminum Company of America is a corporation organized under the laws of the State of

Pennsylvania, with its principal office at Pittsburgh, Pennsylvania, in the Oliver Building. Prior to November 12, 1906, its name was "The Pittsburgh Reduction Company." In this petition the term "defendant" will refer to it under either designation.

II.

OBJECT OF ACTION.

The defendant is now and for a long time past has been continuously engaged in interstate trade and commerce in crude and semifinished aluminum, and in the various manufactured products of aluminum, and in bauxite and alumina, raw materials necessary to the manufacture of crude aluminum.

Said defendant, so engaged, has been and is now violating the provisions of the act of Congress passed July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," in that said defendant has heretofore made, and its business has been and is now conducted under and in pursuance of certain contracts, combinations and conspiracies in restraint of trade and commerce among the several States of the United States and with foreign countries in bauxite, alumina, aluminum, both crude and semifinished, and the manufactured products of aluminum, including both stamped and spun cooking utensils, castings, and general manufactured novelties and products; and defendant is attempting to monopolize said trade and commerce, and has monopolized a part thereof, and this action is

brought to prevent and restrain defendant, and its officers and agents, from further violating said act in respect to said commerce. The character of said contracts, combinations, and conspiracies, and of said monopoly and attempts to monopolize, and wherein the same are unlawful, will appear from the facts hereinafter stated.

III.

DESCRIPTION OF INDUSTRY.

A. ALUMINUM.

Aluminum is a most useful metal. It is better adapted for many purposes in their respective spheres than either steel, nickel, tin, zinc, copper, or lead, its chief industrial competitors. The industrial welfare and progress of the United States demand that trade and commerce in such a useful metal shall be unrestrained, so that its use may become as general and extensive as possible.

The use of aluminum in commerce and the industries is a matter of comparatively recent development. Though the metal has been known since about 1722, yet prior to 1889 it was regarded as a precious metal, extracted only in small quantities, at great expense, and sold by the ounce, and at any price demanded. In 1886 Charles M. Hall applied for a patent on a process for the manufacture of aluminum, by which he was able, with the aid of the electric current, to produce aluminum cheaply in large and commercial quantities. A patent thereon was granted to Hall on April 2, 1889. In 1883 Charles S. Bradley

had applied for a patent, under which, also by using electricity, he was likewise able to make aluminum in large quantities and cheaply. A patent was granted to Bradley February 2, 1892. Simultaneously and independently, in France, a French inventor, Herroult, discovered and applied substantially the same processes. The Pittsburgh Reduction Company, under which name defendant was first incorporated, was chartered September 18, 1888, by the State of Pennsylvania, for the stated purpose of "reducing refractory ores and producing bronzes and commercial alloys, and manufacturing and dealing in the same," but, in reality, chiefly for the purpose of manufacturing the metal aluminum by the use of the Hall patent process, of which it had become the owner. The Cowles Electric Company, of Lockport, New York, as assignees, by litigation, established its title to the essentials of the Bradley process. Finally, on October 20, 1903, it was held by the Circuit Court of Appeals of the Second Circuit that the Bradley patent was infringed by the manufacture of aluminum as it was being practiced and carried on by the Pittsburgh Reduction Company, ostensibly under its Hall patent. In the meantime, from 1889 to 1903, the Pittsburgh Reduction Company had developed the aluminum industry in the United States until the production of the crude metal aluminum, in the shape of pigs or ingots and sheets, had become a large commercial industry with a resulting commodity moving extensively in interstate commerce. The total amount per annum of aluminum at that

time so made and moving was about 6,000,000 pounds. For a part of said time the Cowles Electric Company was also making aluminum under the process covered by the Bradley patent. About October, 1903, after the adverse decision against defendant, defendant acquired from the Cowles company the exclusive rights to make aluminum under the Bradley patent.

The price of aluminum had been reduced until in 1903 its general market price was about 33 cents per pound for the common aluminum pig or ingot. Under protection of its patents defendant made rapid strides in the development of the industry in the United States. Its basic patents have now expired, the Hall patent expiring April 2, 1906, and the Bradley patent February 2, 1909. Simultaneously, the industry grew in Europe. From 1903 until the present the production and demand for the metal aluminum in its various forms increased very rapidly until, in 1911, there was produced by defendant about 44,000,000 pounds. Likewise its cost of production has been greatly reduced, but its general market price in the United States has not been correspondingly lowered.

The demand for aluminum has increased chiefly along four general lines, as follows:

1st. For sheet and tube aluminum in the manufacture of stamped and spun cooking utensils, for which the metal is especially well adapted because of its lightness, non corrosive quality, and durability.

2nd. For castings, particularly in the automobile industry, for which it is so well adapted because of its lightness, combined with strength.

3rd. For wire and cable, and similar forms, because of its lightness coupled with strength and conductivity, it being a better conductor pound for pound than copper.

4th. In the manufacture of useful and novelty articles of every description, for which it is particularly well adapted because of its lightness, noncorrosiveness and malleability.

B. BAUXITE AND ALUMINA.

The metal aluminum is made from oxide of alumina, which is bauxite, refined and calcined. Bauxite is the crude ore or clay as it is found in extensive natural deposits, from which the metal aluminum is finally made. Because of varying degrees of impurity in which bauxite occurs, not all of it can be refined into alumina suitable for the manufacture of the metal aluminum, and large quantities of the inferior grades are also extensively used in the manufacture of commercial, or iron free alum. At the time when the Pittsburgh Reduction Company entered the field of making the metal aluminum in commercial quantities, and for some time thereafter, the bauxite deposits of America were owned and controlled by many independent and naturally competing individuals and companies. No one person, firm, or corporation then owned or controlled enough of the bauxite deposits to exercise any dominating influence over its supply, for the making either of metal aluminum or alum, in the United States.

IV.

HISTORY OF PURCHASES AND MONOPOLIES RELATING TO BAUXITE, ALUMINA, ALUMINUM, AND ALUMINUM WARES.

A. BAUXITE.

Defendant Aluminum Company of America, through its officers and agents, and through the American Bauxite Company, a corporation whose capital stock is owned by defendant, has acquired, by ownership or lease, and now owns and controls more than 90 per cent of all the known deposits of bauxite in the United States and Canada, that is of such character that the metal aluminum can be manufactured therefrom in commercial quantities and sold in competition with importations from abroad. Before 1905, while defendant owned extensive and valuable bauxite properties, yet they did not approach 50 per cent of the known available supply in the United States. In about said year 1905, through the friendly offices of the General Chemical Company, by squeezing out the minority stockholders who desired to continue independent, defendant acquired the ownership and possession of all the very extensive and valuable bauxite properties of the General Chemical Company, a corporation.

In 1911, defendant purchased the valuable aluminum bauxite properties of the Republic Mining and Manufacturing Company, from or through the Norton Company. At the time of said purchase, the said Republic Mining and Manufacturing Company possessed the largest portion of the then remaining outstanding bauxite supply in America, available for aluminum manufacture.

The only remaining independent producer of bauxite in the United States, in quantities sufficient to appreciably affect the market for bauxite to be used in the manufacture of aluminum, is the National Bauxite Company; but as yet it has never mined or sold bauxite for the purposes of making aluminum, its output having been used entirely in the manufacture of alum and chemicals.

The only other possible competitors handling bauxite in the United States, of sufficient quantity to justify any one in now entering upon the manufacture of aluminum, are the General Chemical Company, Norton Company, and Pennsylvania Salt Manufacturing Company, with each of whom defendant has now and for some time past has had in existence agreements and contracts, hereafter more fully referred to in divisions six, seven, and eight of this petition, by the terms of which the said three potential competitors are forbidden and restrained from selling bauxite to any person or company except defendant for use in making the metal aluminum and from so using it themselves. The purpose and effect of the acquisitions of bauxite properties by the defendant, as hereinbefore described, and of procuring the agreements and contracts herein mentioned were to monopolize the raw material in the United States used in the manufacture of aluminum, and thus to perpetuate defendant's monopoly of the manufacture of such metal in the United States, and unlawfully to restrain and monopolize the interstate and foreign trade and commerce therein.

B. ALUMINA.

The only refiners, in material quantities, of bauxite into alumina suitable for the making of the metal aluminum, in the United States, are the Aluminum Ore Company, the Pennsylvania Salt Manufacturing Company, and possibly the Merrimac Chemical Company. The Aluminum Ore Company is a corporation whose capital stock is owned and whose business policy is controlled by defendant. This company refines about 75 per cent of the total amount of bauxite converted into alumina in the United States. The amount of alumina produced by the Merrimac Chemical Company is negligible, not being sufficient to affect the market to any appreciable extent. For the refining of French bauxite into alumina for the manufacture of the metal aluminum the Beyer patent process was essential, and the Pennsylvania Salt Manufacturing Company had an agreement with the Merrimac Chemical Company by which the Pennsylvania Salt Manufacturing Company acquired sole rights to its use in the United States. Thereafter the defendant and Pennsylvania Salt Manufacturing Company entered into a contract, hereinafter more fully referred to in division eight of this petition, the purpose and effect of which was to restrain the Pennsylvania Salt Manufacturing Company from furnishing alumina for the manufacture of aluminum to any one except defendant. In addition thereto, contracts were made between the defendant and the General Chemical Company and

Norton Company, the only other possible producers of alumina in the United States in sufficient quantities to create competition in supplying alumina to prospective manufacturers of aluminum. Said contracts are hereinafter more fully referred to in divisions six and seven of this petition. Said agreements provided that neither said General Chemical Company nor Norton Company would use or sell alumina for manufacture into aluminum to any one but the defendant. The purpose and effect of the several contracts thus made by defendant and said parties were to illegally restrain interstate trade and commerce in alumina by preventing any of the parties except defendant from entering upon its manufacture for the purpose of producing aluminum except for defendant, and into trade and commerce therein except selling and shipping the same to defendant, and to maintain down to the present time the monopoly which defendant has in the manufacture of aluminum in the United States and a substantial monopoly of the interstate trade and commerce therein.

C. ALUMINUM.

1. Aluminum Cooking Utensils.

Several separate, independent, and competing companies have at various times engaged in the manufacture of stamped and spun cooking utensils from aluminum. (In this petition no reference is had to cast cooking utensils.) The history of the aluminum cooking-utensil business in the United States is a

history of shipwrecks—possibly in part caused by inefficiency, necessity of experiment, and lack of capital, but caused chiefly or contributed to by the arbitrary, discriminatory, and unfair dealings of the defendant Aluminum Company of America, to whom the several pioneers in this industry had to look as their sole available source of supply of the raw material in the shape of sheet metal and tubes.

The United States Aluminum Company, the Aluminum Cooking Utensils Company, and the Northern Aluminum Company (Limited) own and control approximately seventy-eight per cent of the stamped and spun aluminum cooking-utensil business of the United States and Canada. Said companies are duly organized corporations, and practically all of the stock of the United States Aluminum Company and of the Northern Aluminum Company and a majority of the stock of the Cooking Utensils Company is owned by the defendant, the only American source of supply of aluminum sheets, plates, or tubes, out of which said aluminum cooking utensils are made; and as against all competitors they receive favorable discriminations in price, quality, and conditions. Through said subsidiary companies defendant is in control of practically the entire interstate trade and commerce in aluminum cooking utensils in the United States, and unlawfully, substantially, and unduly has restrained and monopolized such interstate trade and commerce and will continue so to do unless restrained by this court.

2. Aluminum Castings.

Prior to 1909 there were a number of independent manufacturers of aluminum castings throughout the United States. The patents on the processes of making aluminum, which, as to the United States, were controlled by defendant, were about to expire. With the declared purpose of "closing the only door remaining open to our complete control of the aluminum industry in America" the defendant, about May 29, 1909, caused to be formed a combination of the larger plants thus independently engaged in the manufacture of aluminum castings, said plants being situated at strategic positions for the furnishing of such castings to the automobile trade, which constitutes a very large per cent of the aluminum castings industry. At first there were united several companies engaged in the manufacture of aluminum castings, one at Cleveland, Ohio, one at Detroit, Michigan, and one at Buffalo, New York, under the name of the Allyne Brass Foundry Company. With this combination, so far as petitioner is informed, defendant had no connection. About May, 1909, the plants thus combined, together with the castings business of the United States Aluminum Company, of New Kensington, Pennsylvania, owned by the defendant, and the Syracuse Aluminum and Bronze Company, of Syracuse, New York, and the Eclipse Foundry Company, of Detroit, Michigan, were, by a process of stock exchange and certain payments in cash, combined into the Aluminum Castings Company; a corporation organized under the laws of Ohio; and the defendant

is the owner and holder of 1,625 out of the 4,000 shares of its common stock. This stock ownership, combined with the fact that defendant is the only profitable source of supply of aluminum ingot in the United States, enables defendant to control and dictate the policy of said Aluminum Castings Company; and, further, such stock ownership is an incentive for defendant to discriminate in the sale and supplying of aluminum metal to said Aluminum Castings Company as against its competitors. Moreover, it was the purpose and intent of the defendant, in the formation of said castings combination, as then declared, to then take in only such plants as were needed to do the castings business, and thereafter to so discriminate in their favor and to give them such preferential prices on their ingot, beginning with 2 cents and increasing same to 5 cents per pound, if necessary, as would either destroy their competitors or compel them to come into said combination.

Petitioner alleges that such declared intent has been and is being carried out, with the result that several competing castings companies have been compelled to sell their business at a loss to said Castings Company; and unless defendant be restrained and inhibited from unjustly and unlawfully discriminating as described in favor of said Aluminum Castings Company, said company will acquire a complete monopoly of the aluminum castings business in the United States and of the interstate and foreign trade and commerce therein.

3. Aluminum Goods and Novelties.

As heretofore stated, another branch of the aluminum industry is that of the manufacture of numerous kinds of wares for general use, and of aluminum novelties. Several large and competing plants in the United States have, through the efforts of the defendant, been united under the corporate name of the Aluminum Goods Manufacturing Company, a corporation organized under the laws of the State of New Jersey. The defendant owns 37 per cent of the capital stock of this corporation; and this ownership, coupled with the fact that defendant is the sole available source of supply of raw material at reasonable rates, places defendant in control of the policy of the said Aluminum Goods Manufacturing Company. Petitioner further alleges that, on account of its interest in said company, defendant furnishes crude and semifinished aluminum to said Aluminum Goods Manufacturing Company at preferential rates, thereby enabling the said Aluminum Goods Manufacturing Company to underbid its competitors to whatever extent desired, and that such preferentials are granted by defendant with the purpose either of compelling its competitors to lose their contracts and proposals or to do the work at little or no profit, thus finally compelling them either to sell to and combine with defendant or to abandon said field of manufacture entirely, leaving the Aluminum Goods Manufacturing Company in complete control thereof; and unless such unjust and unlawful discriminations be restrained the attempt to monopolize the said interstate and foreign trade and commerce

will materialize into a complete monopoly thereof in said Aluminum Goods Manufacturing Company, which monopoly will be dominated and controlled by defendant.

V.

THE A. J. A. G. AGREEMENT OF SEPTEMBER 25, 1908.

About September 25, 1908, the defendant Aluminum Company of America, acting through the Northern Aluminum Company, of Canada, which is entirely owned and controlled by defendant, entered into an agreement with the so-called Swiss or Neuhausen Company, of Europe, which is the largest of the European companies engaged in the aluminum industry and designated in this agreement as "A. J. A. G.," parts thereof material to this action being as follows:

2. The N. A. Co. agree not to knowingly sell aluminum, directly or indirectly, in the European market.

The A. J. A. G. agree not to knowingly sell aluminum, directly or indirectly, in the American market (defined as North and South America, with the exception of the United States, but including West Indies, Hawaiian and Philippine Islands).

4. The total deliveries to be made by the two companies shall be divided as follows:

European market, 75% to A. J. A. G., 25% to N. A. Co.

American market, 25% to A. J. A. G., 75% to N. A. Co.

Common market, 50% to A. J. A. G., 50% to N. A. Co.

The Government sales to Switzerland, Germany, and Austria-Hungary are understood to be reserved to the A. J. A. G.

The sales in the U. S. A. are understood to be reserved to the Aluminum Company of America.

Accordingly the A. J. A. G. will not knowingly sell aluminum, directly or indirectly, to the U. S. A., and the N. A. Co. will not knowingly sell, directly or indirectly, to the Swiss, German, and Austria-Hungarian Governments.

5. The N. A. Co. engages that the Aluminum Company of America will respect the prohibitions hereby laid upon the N. A. Co.

Said agreement became effective October 1, 1908, and provided that it should "last until terminated by a six months' written notice," and petitioner avers that said agreement became effective and has been continuously since said date, and is now, in full force and effect, unless terminated by notice.

The purpose and effect of this agreement was an illegal restraint upon the trade and commerce in aluminum among the several States and with foreign countries and to continue defendant's monopoly of the same in the United States.

VI.

THE GENERAL CHEMICAL COMPANY CONTRACT.

On or about the 25th day of July, 1905, defendant entered into a contract with the General Chemical Company for the purpose of acquiring through said General Chemical Company all the capital stock of the General Bauxite Company, and, as a part of the

consideration of said contract, it agreed to cause the General Bauxite Company, when so acquired by the defendant, to execute back to the General Chemical Company a contract relating to bauxite for aluminum, which contract was shortly thereafter consummated as agreed and became effective, and the fourth and eighth sections thereof, the sections material to this controversy, are as follows:

FOURTH. Said chemical company further expressly covenants and agrees that it will not use or knowingly sell any of the bauxite sold to it by the said bauxite company hereunder, or any other bauxite, or the products thereof for the purpose of conversion into the metal aluminum, and that upon proof that any of said bauxite or products thereof have been put to any such use it will not make any further sales or deliveries to the purchaser thereof.

EIGHTH. It is understood and agreed that the bauxite sold hereunder by the said bauxite company to the said chemical company shall be used by the said chemical company and by companies under its control or whose stock is largely held by it, and by no other person or party, and only for the manufacture of alum, alum salts, alumina sulphate, or alumina hydrate for alum and its compounds, and for no other purpose whatsoever.

The fifth section of the contract between defendant and the General Chemical Company, material to this controversy, is as follows:

FIFTH. The said reduction company agrees to use its good offices in the interest of said

chemical company so far as relates to promoting the trade of the latter in alum and alum products in the United States and in foreign countries; and said chemical company reciprocally undertakes and agrees to use its good offices in the interest of said reduction company so far as relates to promoting the metal business of the latter in the United States and in foreign countries.

The purpose and effect of said agreements were illegally to restrain interstate trade and commerce in bauxite, alumina for the manufacture of aluminum, and aluminum, by preventing any producer or prospective producer of aluminum, except the defendant, from acquiring bauxite or alumina for the manufacture of aluminum from the General Chemical Company, and it tended illegally to preserve and maintain defendant's monopoly in bauxite, and alumina for the manufacture of aluminum, and in the trade and commerce therein in the United States.

VII.

THE NORTON COMPANY CONTRACT AND ACQUISITION OF THE REPUBLIC MINING AND MANUFACTURING COMPANY.

About April 20, 1909, defendant entered into a contract with the Norton Company by which defendant agreed to and did purchase from the said Norton Company the bauxite properties of the Republic Mining and Manufacturing Company, whose capital stock was owned by the Norton Company, with one reservation. The parts of said contract which are

here specially material are sections ten and eighteen, which are as follows:

TENTH. Norton Company may mine and use bauxite from the said forty-acre tract of bauxite land referred to in paragraph D above, which shall be used for the purpose of manufacturing alundum, and may mine and sell from the said property bauxite or other mineral taken therefrom for any purpose except for the manufacture of aluminum, and Norton Company shall not sell or otherwise dispose of said forty-acre tract except subject to the above restrictions.

EIGHTEENTH. Norton Company shall not at any time during the continuance of this agreement use or sell any of the bauxite contained on the said forty-acre tract described in paragraph D above, or any other bauxite, or the products thereof, hereafter acquired by Norton Company, in the United States of America or the Dominion of Canada, for the purpose of conversion into aluminum.

The purpose and effect of this agreement was illegally to restrain the trade and commerce in bauxite for the manufacture of aluminum, by preventing any other producer or prospective producer of aluminum except the defendant from acquiring bauxite for aluminum from said Norton Company; and it tended to strengthen the defendant in its monopoly of the aluminum industry and of the interstate and foreign trade and commerce therein.

VIII.

THE PENNSYLVANIA SALT COMPANY CONTRACT.

About January 1, 1907, defendant and the Pennsylvania Salt Manufacturing Company entered into an agreement, which among other things provided :

The Pennsylvania Salt Manufacturing Company agrees not to enter into the manufacture of aluminum as long as this agreement is in force.

This agreement was ratified, explained, and enlarged by the Pennsylvania Salt Manufacturing Company in a letter dated January 1, 1907, as follows:

Referring to the clause in the contract of this same date between our companies, for the sale and purchase of alumina, wherein we agree not to engage in the manufacture of aluminum during the term of the contract, or the extension thereof in case you avail yourselves of the option contained in the contract for its extension, we wish to assure you that this clause will be carried out to the full extent of the spirit and intent as expressed in our verbal conversations; that is, we will not manufacture aluminum ourselves, nor allow any company in which we own a controlling interest to do so, nor will we invest any of our capital in any way, through the stock of any corporation or otherwise, in the manufacture of aluminum. Furthermore, we will not sell, directly or indirectly, any hydrate or anhydrate of alumina, while the contract or any extension of it may be in effect, to any person or persons for use in the manufacture of aluminum; and in case

it should be discovered that any persons to whom we have sold alumina have resold it so that it is being used in the manufacture of aluminum, we will take such steps as to future sales to such persons as will prevent any alumina which has been manufactured by us being used in the manufacture of aluminum.

The purpose and effect of this agreement and ratification was illegally to restrain the interstate and foreign trade and commerce in aluminum by preventing the Pennsylvania Salt Manufacturing Company from entering into the field of the manufacture of and trade and commerce in aluminum, and it tended illegally to maintain defendant's existing monopoly in said trade and commerce.

IX.

THE KRUTTSCHNITT-COLEMAN AGREEMENT.

About November 16, 1910, an agreement was entered into between defendant and Gustav A. Kruttschnitt, of Newark, New Jersey, and James C. Coleman, of Newark, New Jersey, by which there was sold to the defendant 724 shares of the capital stock of the New Jersey Aluminum Company, an independent and competing company engaged in the manufacture of general aluminum goods and novelties, and by the terms of this agreement it was provided that—

As part consideration for the execution of this agreement by Aluminum Company, Kruttschnitt and Coleman hereby severally agree that for the period of twenty years from the

date hereof, in that part of the United States of America east of a north and south line through Denver, Colorado, neither Kruttschnitt nor Coleman will directly or indirectly engage or become interested in the manufacture or fabrication or sale of aluminum or any article made substantially of aluminum, provided that either or both the said Kruttschnitt and Coleman may be employed by or become interested in Aluminum Company or said Aluminum Goods Manufacturing Company without committing a breach of this contract.

The purpose and effect of this provision was to eliminate said Kruttschnitt and Coleman from the aluminum industry for a period of twenty years, and thus illegally to restrain the trade and commerce among the States therein, and to enable defendant to further monopolize the same.

X.

ACTS IN UNFAIR COMPETITION.

From 1889 until the present, whenever any independent aluminum industry of any kind gave promise either of being valuable to defendant if acquired, or of becoming a possible competitor of defendant or of any company in which it had an interest, defendant undertook, by unfair discriminations and other means, either to force such concern to sell its properties and business to or combine them with defendant itself or a company in which it was interested, or entirely to abandon the aluminum business, and in but very few instances did defendant fail of its purpose. Not all

the methods used by defendant are known to petitioner, but those known are as follows:

Defendant would suggest to the competing company a sale to defendant of its plants, and at the same time would threaten the establishment of a large competing plant of its own in such line of manufacture, and if the suggestion was not heeded, the independent would be harassed as to material and prices, to impress fully upon the said independent how completely it was at the mercy of defendant for its supply of raw material. Among other methods of harassing such independents defendant used the following: It would delay forwarding bills of lading, and would refuse to supply independents further with metal, sometimes abruptly ceasing entirely to ship metal without warning or statement of excuse of any kind, or causing its controlled companies to do so, so that the concern affected was unable to fill its orders.

It discriminated against independents as to price for the crude aluminum needed, so that they were unable successfully to bid against or compete with the favored industries and obtain a living margin of profit.

It frequently refused to sell aluminum metal to those desiring to enter the business of manufacturing aluminum goods, thereby preventing an expansion of the industry and restraining trade therein.

It refused to sell to others desiring to enter said field any aluminum metal unless they would agree not to engage in any line in any manner competing with the lines of the defendant and its allied companies.

It refused to guarantee quality, and at times delivered to competing plants metal which was known to be worthless and which had been rejected by plants allied to defendant.

It demanded to know the prices at which independent competitors had bid on or taken contracts for work to be done before it would furnish them the metal required to fill the contract or even quote prices of same, and it would impart the knowledge thus obtained to an allied company competing with such purchaser.

It represented and intimated to independent concerns and customers that, unless they dealt with defendant or its allied companies as to crude aluminum, their supply thereof would be cut off, or they would be unable to get their entire supply at reasonable prices.

It represented and intimated to dealers in and consumers of aluminum wares that, unless they dealt with defendant or its allied companies, their supply of the manufactured product would be cut off.

It represented and intimated to consumers that, if they did not buy of the defendant or of its allied companies, they would be buying of manufacturers who would be without the metal to complete their contracts, and intimated to consumers that a new international agreement, such as had been in effect, would be put into effect again, thereby leaving defendant the only source of supply within the United States at any price; and it was especially by this

conduct that big consumers were driven away from competing manufacturers.

One competitor who was preparing to enlarge his plant was threatened by defendant that if he did so he would be put out of business (the defendant being at said time the sole available source of supply for the raw material needed).

It, either directly or through its controlled companies, bid on supplies for the best customers of the independent competing companies at such prices that it was impossible for such companies, who were compelled to purchase their raw material from defendant, to successfully compete therewith.

Defendant claimed to have gone into the cooking-utensils business for the purpose of increasing the market for its aluminum sheets faster than it was being developed. Yet, when it entered upon this branch of the industry it purposely was subjecting the then makers of such utensils to delays on shipments; and petitioner alleges that having seen that such manufacture was growing into a profitable business, it entered therein for the purpose of monopolizing it, along with the other branches of the aluminum industry.

Certain large customers of defendant for a time made only novelties of aluminum, in which business neither defendant nor an allied company was engaged. During said period they had no trouble about getting from defendant a sufficient supply of aluminum of any desired kind and specifications. Later some of these

firms entered into the business of making cooking utensils of aluminum. Thereupon delays and harassments in obtaining metal from defendants were begun and continued. At or about the time some of such manufacturers entered into said competitive business, defendant threatened that if they engaged therein they might expect loss. Such threats were consummated by the refusal to furnish metal in such a manner and in such quantities and of such quality as to enable such firms to take or properly complete orders, and thus some were compelled to abandon said business.

It required some customers to make contracts not to engage in competitive lines of manufacture, and also at times required an agreement to maintain certain fixed prices, or prices above a designated minimum, on manufactured articles in sale and resale, as a condition precedent to receiving metal.

XI.

EFFECTS OF CONTRACTS, COMBINATIONS, AND ACTS DESCRIBED.

By virtue of the contracts and combinations and acts of defendant above described, defendant has eliminated nearly all competitors of consequence from the various branches of the aluminum industry, and has acquired and maintains substantial control of the various products of the aluminum industry in the United States moving in interstate trade and commerce. It owns and produces more than 90 per cent of the raw material bauxite suitable for the manufac-

ture of aluminum. It produces practically 80 per cent and consumes substantially 100 per cent of the alumina used in the manufacture of aluminum. It manufactures substantially 100 per cent of the crude and semifinished aluminum manufactured in the United States and Canada. It manufactures and sells more than 70 per cent of the aluminum cooking utensils in the United States. It controls the manufacture and sale of more than 50 per cent of all the aluminum castings manufactured and sold in the United States. It controls the manufacture and sale of over 70 per cent of all aluminum goods and novelties of general make manufactured and sold in the United States. By reason of the contracts and combinations aforesaid, and defendant's ownership of the raw material and the metal aluminum manufactured therefrom, defendant can at will exclude practically all competitors, actual and prospective, from the interstate and foreign trade and commerce in aluminum goods, and can itself continue to monopolize the same.

XII.

THE PURPOSE PERMEATING SAID CONTRACTS, COMBINATIONS, AND ACTS.

The contracts and agreements and various acts above described were made with the intent and purpose upon the part of defendant to destroy all real and substantial competition in every branch of the aluminum industry in the United States, and thus to restrain the interstate and foreign trade and

commerce therein and to completely monopolize the same.

This intent of the defendant was present when it, under its then name Pittsburgh Reduction Company, acquired the rights under the Bradley patent from the Cowles Company, coupled with a contract preventing them from engaging in the manufacture of aluminum, and preventing the assignee from making partial assignments of said rights, although it is not insisted that said agreement was within itself unlawful. This intent of defendant was also present when it acquired its various bauxite deposits in America subsequent to its first holdings therein, and it also inspired the formation of the United States Aluminum Company, the Aluminum Cooking Utensils Company, Aluminum Castings Company, and the Aluminum Goods Manufacturing Company, and was the motive which prompted defendant to seek and obtain the various contracts above mentioned for obtaining alumina and preventing alimuna and bauxite from being furnished for the manufacture of aluminum to any prospective aluminum makers, and said intent has permeated defendant's business policies and shaped its business methods from its organization down to the present time.

XIII.

GROWTH AND PROFITS.

Under date of September 18, 1888, the Aluminum Company of America, under its original name, the Pittsburgh Reduction Company, obtained its charter

as a corporation from the State of Pennsylvania. It was capitalized at \$20,000. Its capital stock was increased on September 27, 1889, to \$1,000,000, of which an additional \$10,000 was paid for in cash, \$250,000 was to be paid as called for, and the entire balance of \$720,000 was estimated as the value of certain letters patent issued to Chas. M. Hall covering a process for making aluminum. Under these patents (April 2, 1889) said company at once proceeded to make aluminum in commercial quantities. The corporation has grown rapidly in size and financial strength, until now it and its subsidiary corporations own assets estimated at \$27,000,000. With the possible exception of \$1,000,000, this represents solely earnings derived from its aluminum business, and includes one recent stock dividend of 500 per cent, or \$16,000,000, declared on December 15, 1909. Besides this, substantial dividends were paid from earnings from time to time to its stockholders in cash.

Besides its interest in the Aluminum Castings Company, as elsewhere stated, the defendant owns all of the capital stock of the following corporations, to wit, Northern Aluminum Company (Limited) of Canada, Bauxite and Northern Railway Company, United States Aluminum Company, Aluminum Ore Company, American Bauxite Company, Aluminum Cooking Utensils Company, the St. Lawrence Securities Company, and Electric Carbon Company.

The Aluminum Cooking Utensils Company owns no property, and is simply a selling company for the

disposal of the products of the United States Aluminum Company.

Defendant in its reports admits a profit on all its claimed investment of \$27,000,000 for 1910 of 17 per cent. Petitioner alleges that the earnings on the capital engaged in the aluminum business proper in the United States is a much larger percentage than that, and that said profits, which the consuming public of the United States must pay, are unreasonable; but the exact percentage thereof is to the petitioner unknown. A large part of defendant's capital which is invested elsewhere than in the United States has not earned as large a percentage of profit as that invested here. So, also, it carries on a large export trade at a profit much lower than that realized from its trade in the United States. While these facts bring down the average earnings of its entire business to the figures shown by defendant in its statement, they offer no relief to the domestic public against the unreasonable profits exacted from them on aluminum goods proper.

In view of the vast increase in the production and uses and general need of the public, the prices now charged by defendant for aluminum and its products are unreasonable in proportion to its cost. Likewise, defendant, through its controlled branches of the industry, continues frequently to charge unreasonably high prices and profits.

In certain industries defendant also frequently compels customers to agree to resell at fixed prices which are unreasonably high.

XIV.

WHEREIN THE ANTITRUST LAW HAS BEEN AND IS BEING VIOLATED.

Defendant has violated and continues to violate the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," in this:

It is not claimed by petitioner that it was unlawful for defendant to exclude all others from the manufacture of aluminum while it was operating under the Hall and Bradley patents, and hence it is not insisted that the monopoly held by defendant in the manufacture of aluminum in the United States when said patents expired in 1909 was an unlawful one.

Furthermore, petitioner does not now insist that it was unlawful *within itself* for defendant by the various purchases above described to acquire and hold so large a per cent of the bauxite known to exist in the United States suitable for the manufacture of aluminum. What other deposits of bauxite there may be in the United States, and the character and extent thereof, it is impossible now to state; but petitioner is advised that there are practically inexhaustible quantities abroad, which may be mined and shipped into the United States at such prices as would enable independent companies to successfully compete with defendant were all other restraints removed from the aluminum industry. Hence, petitioner does not attack defendant's ownership of the various deposits of bauxite to which it now has title. But it insists

that the fact that it possesses a practical monopoly in said raw material must be considered in connection with all the other facts herein alleged in determining whether the interstate and foreign trade and commerce in aluminum metal and wares have been and are being unlawfully restrained and monopolized by defendant.

Therefore, while petitioner concedes that defendant's practical monopoly in both bauxite and the manufacture of aluminum in the United States which it held at the expiration of said patents was lawful, yet petitioner alleges that the means above described by which defendant has sought to and actually has maintained that monopoly were and are unlawful, in this: the provisions of the contracts with the General Chemical Company, the Norton Company, and the Pennsylvania Salt Company, which have heretofore been copied in full, were and are unlawful, because their purpose and effect were to prevent said companies from entering upon the manufacture of aluminum for the general trade when their financial strength was such that they were able to become active and effective competitors of defendants, and also from furnishing raw material to any other person or company who might desire to become a competitor of defendants in the manufacture of aluminum. These provisions in said contract were especially effective on account of defendant's monopoly of bauxite in the United States.

The A. J. A. G. agreement, whereby the Aluminum Company of America, through its owned company, the Northern Aluminum Company, prevents importations and exportations and divides territory and trade in aluminum, is unlawful because made with the intent and purpose of restraining the foreign trade and commerce of the United States in aluminum, and tends unlawfully to preserve defendant's monopoly in said trade and commerce.

Likewise, that provision in the contract between defendant and Kruttschnitt and Coleman, whereby Kruttschnitt and Coleman agreed not to engage in the business of manufacturing aluminum goods, and also the various acts and devices alleged in division ten hereof, whereby those who contemplated entering upon the business of manufacturing various lines of aluminum goods were prevented from so doing, and those who were engaged independently in such manufacture were harassed and impeded in the prosecution of their business, some being induced thereby to sell their business to or enter into combination with defendant or one of its allied companies, and also the various combinations above described of those who were engaged independently in the various lines of manufacture of aluminum goods with companies whose policies are dominated by defendant and in which it has a very material financial interest, were and are all unlawful because each and every one of said acts were committed, and said contracts were made, with the intent and purpose of preventing independent concerns from entering upon, acquiring, or

continuing to hold any material part of any branch of the aluminum industry, and with the further intent unlawfully to preserve and maintain defendant's monopoly in the interstate and foreign trade and commerce in aluminum and aluminum goods. And in order that the entire aluminum industry may be open to all who may desire to enter therein, and that competition may arise and the benefits may accrue to the public which naturally flow from competition, and that the interstate and foreign trade and commerce in aluminum metal, and the raw materials from which it is produced, and the goods into which it is manufactured, may be wholly unrestrained and the monopoly therein be destroyed, the above described provisions of said contracts should be canceled, and defendant restrained from enforcing the same, and it should be enjoined and inhibited from entering into any further contracts of a like or similar character, and from purchasing or combining with any other independent concerns engaged in the aluminum industry, and from committing each and every one of the acts heretofore particularly described, or any other like or similar act with like intent or effect.

XV.

JURISDICTION.

Petitioner avers that the contracts, combinations, and conspiracies unlawfully to restrain the interstate and foreign trade in crude and semi-finished aluminum and its raw materials and its

manufactured products, and to monopolize the said trade, still exist, and that the defendant is engaged in carrying out the same within the western district of the State of Pennsylvania, and that some of the acts complained of have been committed in said State and district, and are now being there committed, and that the defendant, Aluminum Company of America, has its principal place of business in said State and district.

PRAYER.

In consideration whereof, and inasmuch as your orator can only have adequate relief in the premises in this honorable court, where matters of this nature are properly cognizable and relieviable, your orator prays:

1. That it be adjudged that the defendant, Aluminum Company of America, has entered into contracts, combinations, and conspiracies, and is now engaged in combinations and conspiracies, and is doing, in pursuance of such contracts, combinations, and conspiracies, acts such as are denounced as illegal by the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies"; and that defendant be perpetually enjoined from either directly or indirectly, by any scheme or artifice whatsoever, through its officers, agents, employees, or otherwise, doing or causing to be done anything in pursuance or furtherance of such contracts, combinations, and conspiracies within the jurisdiction of the United States.

2. That it be adjudged that the defendant, in violation of said act of July 2, 1890, has attempted and is now attempting unlawfully to monopolize, and has unlawfully monopolized, a part of interstate and foreign trade and commerce in aluminum in its various forms, crude, semifinished, or fabricated, including the raw materials necessary in its manufacture, to wit, bauxite and alumina, and that such attempted monopoly, and monopoly, have been accomplished by means or in pursuance of the various acts, contracts, combinations, and conspiracies in this petition alleged; and that defendant be enjoined from, either directly or indirectly, by any scheme or device, through its officers, agents or employees, or successors in interest, continuing said unlawful attempts to monopolize and the monopolizing of any part of said trade and commerce.

3. That the provisions of the so-called A. J. A. G. agreement, of September 25, 1908, as set out in division V of the petition, be declared null and void, and that defendant be perpetually enjoined from entering into, either directly or indirectly, or through the Northern Aluminum Company, or through any other person or corporation, or in causing, or aiding in the making of, any similar agreement, or any agreement the purpose and effect of which would be to restrain the importation from any part of the world of bauxite, alumina, or aluminum, in any form, into the United States, and at a normal price, or its free exportation therefrom.

4. That the provisions of the General Chemical Company contract, as set forth in division VI of the petition, be declared a nullity and stricken from said contract, and that defendant be prohibited from entering into, or acting in pursuance of, any contract or agreement whereby any restraint whatever shall be placed upon the General Chemical Company with reference to the sale, or disposal, or use by it of any bauxite of which it may become the owner, or of any alumina or aluminum produced therefrom.

5. That the provisions of the Norton Company contract, as set forth in division VII of the petition, and all other parts of said contract in so far as they restrain the Norton Company from exercising its free and independent will in disposing of any bauxite which it may receive under the provisions of said contract, or any other bauxite which it may obtain, or any alumina made from such bauxite, be declared null and void and be abrogated, and that defendant be inhibited and restrained from hereafter entering into any contract whereby the said Norton Company may in any respect be restrained in the disposition of any bauxite which may be obtained by it from any source, or of any alumina or aluminum which it may manufacture therefrom, or may otherwise obtain.

6. That the provisions of the Pennsylvania Salt Manufacturing Company agreement and contract, together with its ratification and extension, as referred to and set forth in division VIII of the peti-

tion, be declared null and void, and that defendant be enjoined from hereafter entering into any contract which shall in any respect restrain the said Pennsylvania Salt Manufacturing Company from freely using for any purpose, or from making any disposition it may desire in the open market of any bauxite, alumina, or aluminum, the ownership of which it may acquire from any source.

7. That the provisions of the so-called Kruttschnitt Coleman agreement, referred to in division IX of the petition, be decreed to be in undue restraint of interstate trade and commerce in aluminum, and null and void, and that the provisions thereof, so far as they seek to or do in any manner restrain the free flow in interstate commerce of aluminum, or any of the manufactured products thereof, or restrain any person from entering into or engaging in said industry, be declared null and void and abrogated, and that defendant be forever restrained from again either directly or indirectly entering into a like or similar agreement.

8. That the defendant and its officers, agents, and representatives be perpetually enjoined from entering into any contract, with any other individual, firm, or corporation, of a character similar to or which contains provisions like those above quoted in the contracts between the Northern Aluminum Company and the A. J. A. G., between the Aluminum Company of America and the General Chemical Company, between said defendant company and the Norton Company, be-

tween said defendant company and the Pennsylvania Salt Manufacturing Company, and between said defendant company and Kruttschnitt and Coleman, and that defendant be enjoined from directly or indirectly entering into or participating in any combination or agreement the purpose or effect of which is to restrict the output or control the markets and prices of aluminum, or any material from which aluminum is directly or indirectly manufactured, and from making any contract or agreement for the purpose of or the effect of which would be to restrain commerce in bauxite, alumina, or aluminum, or to prevent any other person, firm, or corporation from, or to hinder him or it in obtaining an ample supply of either bauxite for aluminum, alumina, or aluminum, of a good quality, in the open market in free, fair, and open competition at reasonable prices, and from itself entering into or compelling or inducing, under any pretext or in any manner whatsoever, the making of any contract between any persons, firms, or corporations engaged in any branch of the business of manufacturing aluminum goods the purpose or effect of which would be to fix or maintain the sale or resale prices of any of their crude, semifinished, or manufactured products.

9. That to prevent all undue discriminations upon the part of defendant and its officers and agents, or upon the part of any firm or corporation in whose business defendant owns or hereafter may acquire a financial interest by stock ownership or otherwise, against any competitor of defendant, and thus to

prevent the unlawful acquisition by defendant of a monopoly in any branch of manufacturing from crude or semifinished aluminum, defendant and its officers, agents, and representatives, be perpetually enjoined from either directly or indirectly committing any of the following acts, to wit:

(a) Combining either by stock ownership or otherwise with any one or more manufacturers for the purpose or with the effect of controlling or restraining the output of any product manufactured from aluminum, or fixing or controlling the price thereof.

(b) Delaying shipments of material to any competitor without reasonable notice and cause, or refusing to ship or ceasing to continue shipments of crude or semifinished aluminum to a competitor on contracts or orders placed, and particularly on partially filled orders, without any reasonable cause and without giving notice of same, or purposely delaying bills of lading on material shipped to any competitor, or in any other manner making it impossible or difficult for such competitor promptly to obtain the material upon its arrival, or from furnishing known defective material.

(c) Charging higher prices for crude or semifinished aluminum from any competitor than are charged at the same time under like or similar conditions from any of the companies in which defendant is financially interested, or charging or demanding higher prices for any kind of crude or semifinished aluminum from any competitor for the purpose or which under like or

similar conditions will have the effect of discriminating against such manufacturers in bidding on proposals or contracts to the advantage of said defendant or any company in which it is financially interested.

(d) Refusing to sell crude or semifinished aluminum to prospective competitors in any branch of the manufacturing aluminum goods industry on like terms and conditions of sale, under like or similar circumstances, as defendant sells such crude or semifinished aluminum to any firm or corporation engaged in similar business in which defendant is financially interested.

(e) Requiring, as a condition precedent to selling crude or semifinished aluminum to a competitor, that such competitor divulge to defendant the terms which such competitor proposes to make in order to secure the work in which the desired aluminum is to be used, and from imparting to anyone the purpose or purposes for which said competitor is intending to use said metal.

(f) Requiring or compelling the making of agreements by competitors not to engage in any line of business, nor to supply any special order in competition with defendant or with any company in which it is financially interested, as a condition precedent to the procurement of aluminum metal.

(g) Representing or intimating to competitors that unless they dealt with defendant or with companies in which defendant has a financial interest for their supply of metal, such competitors will not be able to obtain a sufficient supply of metal, or obtain

it at a price that will permit them to engage in competition with defendant or with companies in which defendant is financially interested; or in like manner representing or intimating to consumers of aluminum, in any stage of manufacture, that unless they deal with defendant or with a company in which it is financially interested, their supply of material or manufactured products will be cut off for that reason.

(h) Taking the position with persons, firms, or corporations engaged in the manufacture of any kind of aluminum goods that if they attempt to enlarge or increase any of their industries, or engage in enterprises that are or will be competitive with defendant, or with the business of any firm or corporation in which defendant is financially interested, such persons, firms, or corporations will for that reason be unable to procure their supply of material from defendant or any of the companies in which it is financially interested.

10. That the United States may have such other and further equitable relief as the nature of the case may require and this honorable court may deem proper in the premises.

To the end, therefore, that the United States may obtain the relief to which it is justly entitled in the premises, may it please your honors to grant unto it a writ of subpoena, directed to said defendant, Aluminum Company of America, commanding it to appear herein and answer the allegations contained

in the foregoing petition, but not under oath (answer under oath being expressly waived), and abide by and perform such orders and decree as the court may make in the premises.

JOHN H. JORDAN,
*United States Attorney for the
Western District of Pennsylvania.*

GEORGE W. WICKERSHAM,
Attorney General.

JAMES A. FOWLER,
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