

**THE POWDER  
TRUST, 1872-1912**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649260157

The Powder Trust, 1872-1912 by William S. Stevens

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.  
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

[www.triestepublishing.com](http://www.triestepublishing.com)

**WILLIAM S. STEVENS**

**THE POWDER  
TRUST, 1872-1912**



6 27 1912  
EXCHANGE

322

S 846

# The Powder Trust, 1872-1912

THESIS

PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL OF THE UNIVERSITY  
OF PENNSYLVANIA IN PARTIAL FULFILLMENT OF THE REQUIRE-  
MENTS FOR THE DEGREE OF DOCTOR OF PHILOSOPHY

BY

WILLIAM S. STEVENS



PHILADELPHIA, PENNSYLVANIA

1912

## THE POWDER TRUST, 1872-1912

## SUMMARY

Introduction, 444. — Period I. Organization of the first combination in the explosives trade, 445. — The Council, 446. — Compacts with the California Powder Works, 447. — Amendment of the Articles of Association, 448. — The Agreement of 1886, 450. — Fundamental Agreement of 1889, 452. — Period II. Competition between 1890 and 1894, 454. — Revision of the Fundamental Agreement, 456. — The "Understanding" of 1896, 456. — Advance in the prices of powder subsequent to 1896, 457. — Contests against new competitors, 459. — Miscellaneous agreements looking to more complete control, 460. — Early combination in the Dynamite Trade, 462. — Acquisitions of the Eastern Dynamite Company, 465. — Origin of the European Agreement, 465. — Its terms, 466. — The Mexican Agreement, 467. — Period III. The organization of E. I. du Pont de Nemours and Company, Delaware Corporation of 1902, 470. — Relation of E. I. du Pont de Nemours and Company and Lafin and Rand to subsidiaries, 471. — Option upon Lafin and Rand, 472. — The Delaware Securities Company, 472. — The Delaware Investment Company, 473. — Relations of the Companies outside of the combination, 474. — E. I. du Pont de Nemours and Company of Pennsylvania, 475. — The California Investment Company, 476. — International Smokeless Powder and Chemical Company, 477. — Percentage of control exercised, 478. — Prices, 478. — Dissolution of subsidiaries, 479. — Decision of the Circuit Court, 480.

AMONG the numerous combinations in restraint of trade that have been attacked in recent years by the government under the Sherman Act, the so-called "Powder Trust" is probably the most interesting; and this for several reasons. In the first place the Powder Trust has had perhaps the longest continuous existence of any combination, the Standard Oil Company alone excepted. Secondly, the combination has demonstrated that, contrary to the general experience, it is possible for a pool to maintain itself through a long period of years without either breaking

down or to any great extent losing its effectiveness. Finally, peculiar interest attaches to the Powder Trust in its later history because of the unique scheme employed by E. I. du Pont de Nemours and Company, to be considered in the latter part of this article, for dissolving subsidiaries.

The history of the Powder Trust falls naturally into three periods, as follows:—

- I. From April 23, 1872, to July 2, 1890, the date of the passage of the Sherman Act.
- II. From July 2, 1890, to March, 1902, when Thomas, Pierre, and Alfred du Pont incorporated the E. I. du Pont de Nemours and Company, the Delaware corporation of 1902.
- III. From the incorporation of March, 1902, to the present day.

#### PERIOD I

At 10 o'clock on April 23, 1872, certain persons representing six gunpowder manufacturers<sup>1</sup> held a meeting in New York City at the office of F. L. Kneeland, 70 Wall Street. A seventh concern, tho not represented, expressed in a letter its entire agreement with the purposes and objects of the assemblage.<sup>2</sup> The secretary of the meeting, Mr. A. E. Douglass, representing the Hazard Powder Company, read a proposed scheme of association, which was amended in some respects to conform to the opinions

<sup>1</sup> The concerns represented were as follows: E. I. du Pont de Nemours and Co., the Ludin and Rand Powder Co., the Oriental Powder Mills, the American Powder Co., Miami Powder Co., and the Hazard Powder Co. All citations are from the Testimony, Exhibits, Briefs, and documents in the suit of the United States of America v. E. I. du Pont de Nemours and Co. et. al. U. S. C. C., for the District of Delaware, No. 280. In Equity.

<sup>2</sup> This seventh concern was the Austin Powder Company, a corporation of Ohio.

of those present and was then ordered to be printed and distributed for further consideration and action to the participating firms and companies. It was resolved that a committee of four should be appointed by the chairman who should arrange a price schedule for the prominent markets of the United States and report at the next meeting.<sup>1</sup>

On April 29th, at an adjourned meeting, the committee of four reported back a price schedule which was unanimously adopted as were also, substantially unchanged, the articles drafted at the prior session. The name of the pool was to be the "Gunpowder Trade Association of the United States." Its declared purpose was to ensure "an equitable adjustment of prices and terms for sales of powder throughout the United States."<sup>2</sup> The seven concerns composed its original membership, it was provided that any manufacturer might signify in writing to the President his desire to become a member and might be admitted to the combination. Representation was based largely upon the size of the concern. E. I. du Pont de Nemours and Company, and the Hazard and the Laffin and Rand Powder Companies were allotted ten votes each. The Oriental Powder Mills received six votes and each of the other concerns four votes. The Association was to fix and regulate the minimum prices for powder, for which purpose, presumably, it was provided that the association should meet quarterly.

A "Council" of five persons was to be elected by the associates. It was to meet weekly or at the call of the chairman, and three members were to constitute

<sup>1</sup> Confidential Minutes of the Meeting of the Manufacturers of Gunpowder, April 23, 1872. Gov't Exhibit No. 96, Pet. Rec. Exhibits, vol. 1, pp. 471-472.

<sup>2</sup> Articles of Association, Gov't Exhibit No. 96-b, Pet. Rec. Exhibits, vol. 1, pp. 476-477.



a quorum. To it all questions of price discrepancies and discriminations were to be referred, as well as all complaints of infractions of the agreement. The "Council" was to give a final adjudication upon these questions, by a majority vote, subject to the right of an aggrieved member to appeal to the next quarterly meeting of the association.<sup>1</sup> The object of the Council, as alleged by the government in its Brief was solely to secure the maintenance of the price schedules established by the Association.<sup>2</sup>

At the time of the formation of the Association there was in existence and doing business, in the western part of the United States, a company known as the California Powder Works. In 1875 the combination began a campaign of under-selling for the purpose of eliminating that concern from the field. The outcome of the contest was the sale by the California Powder Works of 43½ per cent of its stock to E. I. du Pont de Nemours and Company.<sup>3</sup> In the same year an agreement was entered into between the Association and the western concern. Rules were adopted by which the prices of powder in the states and territories of Utah, Wyoming, Montana, Colorado, and New Mexico (territory known as the "Neutral Belt") were to be named by the "Representative Agents" of the Association, but not to be less than certain minimum prices fixed by that Association. Members engaged not to sell below prices and terms thus established, upon penalty of one dollar per keg for such sales, payable in gold.<sup>4</sup> In 1880 this agreement was renewed for a term of five years. The latter compact provided that the Association should neither

<sup>1</sup> *Op. cit.*, Articles of Association, p. 478.

<sup>2</sup> Brief for the United States, vol. 2, p. 8.

<sup>3</sup> *Ct. Amended Pet.*, Filings, pp. 18-19.

<sup>4</sup> Gov't Exhibit No. 96-4 *Pet. Rec. Exhibits*, vol. 1, pp. 521 ff.

sell in nor ship into the states of California, Oregon, and Nevada and the territories of Arizona, Idaho, Washington, and Alaska, British possessions or colonies west of the Rockies.<sup>1</sup> The Neutral Belt was preserved subject to the same kind of an agreement in regard to prices as was utilized in the arrangement of 1875. The California Powder Works upon its part agreed to refrain from any shipments into the territory east of the Neutral Belt, which was to belong exclusively to the Association.<sup>2</sup>

In May, 1876, an agreement was secured from the Sycamore Powder Company to maintain the rate schedules of the Association.<sup>3</sup> Presumably this was not a difficult task, for as early as 1873 the du Pont interests had purchased 500 shares in this concern.<sup>4</sup> About the same time another agreement was made, this time with the Lake Superior Powder Company, whereby that concern agreed to confine its sales to a certain definite territory. The Association had earlier agreed that such of its members as were not at that time in enjoyment of the Lake Superior trade would not attempt to enter that district.<sup>5</sup>

Prior to this, in 1876, the articles of association were so amended that, in case of an infraction of

<sup>1</sup> Except that du Pont de Nemours, the Hazard, and Leflin and Rand Companies were given rights to make shipments up to certain amounts. Gov't Exhibit No. 4, Pet. Rec. Exhibits, vol. i, p. 45.

<sup>2</sup> *Ibid.*, Agreement, pp. 49 ff.

<sup>3</sup> Gov't Exhibit No. 96-s, Pet. Rec. Exhibits, vol. i, p. 534.

<sup>4</sup> Testimony of E. C. Lewis, Def. Rec. Testimony, vol. i, pp. 403-409. The remainder of the stock was purchased by the same parties a few years later.

<sup>5</sup> Compendium of Rules, June 1, 1881. Gov't Exhibit No. 97, Pet. Rec. Exhibits, vol. II, Secs. 37-38, p. 334. About 1877 or 1878 a majority of the stock of the Lake Superior Powder Company was acquired for cash by the du Ponts and other interests. Cf. Testimony of J. G. Reynolds, Def. Rec. vol. II, pp. 589-590. Amended Pet. of Gov't asserts that both of these concerns were forced into the agreements by ruinous competition. Cf. Amended Pet. Pleadings, p. 33. Assertions are rebutted in defendant's testimony. Def. Rec. Testimony of E. C. Lewis, vol. i, pp. 412-413; testimony of J. G. Reynolds, *ibid.*, vol. II, p. 590.

prices, charges thereof should be preferred by a written notice twenty days previous to the quarterly meeting. The notice was required to state definitely the place at which the goods in which the cut was claimed to have been made were sold and delivered. At the quarterly meeting the associates, each having one vote, would hear the evidence and determine its value. Their decision was to be final and the penalty was to be paid in cash to the Association. This, of course, eliminated the necessity of the council of five members, originally provided for in the agreement of 1872, and that paragraph was in consequence repealed on August 2, 1876.<sup>1</sup> The various "triers" appointed under the new provision, to secure the maintenance of prices soon found plenty of work for them to perform. In the first place three new independent companies entered the gunpowder trade between 1878 and 1881 in competition with the Association. The result was a decided and general demoralization of prices and the conditions of the trade.<sup>2</sup> These circumstances subjected the Association to the most severe test of its career. Between 1881 and 1883 the minutes show that 230 cases of violations of price agreements were tried by the Association.<sup>3</sup> There is evidence to prove that it was a practical impossibility to maintain the schedule of prices, and that each member looked out for his own interest.

There is also abundant testimony to show that a part of this demoralization in prices was caused by a campaign of under-selling inaugurated against the above mentioned independent companies in the period

<sup>1</sup> Amended Articles of Ass'n, Gov't Exhibit No. 95-a. Fet. Rec. vol. i, pp. 558-561. For repeal of the section regarding the Council see Gov't Exhibit No. 95-bb. Fet. Rec. Exhibits, vol. i, pp. 548-547.

<sup>2</sup> Cf. Ass. of the King Powder Co., Findings, p. 410. Also Testimony of Gershon M. Peters, Def. Rec. Testimony, vol. ii, pp. 689-692.

<sup>3</sup> Cf. Brief, vol. 2, p. 14.