

Civil Action No. 4551

In the District Court of the United States  
for the District of Columbia

UNITED STATES OF AMERICA, PLAINTIFF

vs.

THE ASSOCIATION OF AMERICAN RAILROADS, ET AL.  
DEFENDANTS

CONSIST DECREE

ENTERED JULY 18, 1941

In the District Court of the United States  
for the District of Columbia

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Civil Action No. 4551

UNITED STATES OF AMERICA, PLAINTIFF

v.

THE ASSOCIATION OF AMERICAN RAILROADS,

John J. Pelley,  
Augustus F. Cleveland,  
Edward H. Bunnell,  
Robert V. Fletcher,  
Ralph Budd,  
Martin W. Clement,  
Charles E. Denney,  
Edward M. Durham,  
George B. Elliott,  
Edward J. Engel,  
Edward S. French,  
William M. Jeffers,  
Duncan J. Kerr,  
James N. Kurn,  
Ernest E. Norris,  
Legh R. Powell, Jr.,  
Henry A. Scandrett,  
Daniel Upthegrove,  
Daniel Willard,  
Frederick E. Williamson,

George E. Hagenbuch and Harry B. Stewart, Trustees,  
 Akron, Canton & Youngstown Railroad Company,  
 Alton & Southern Railroad Company,  
 Alton Railroad Company,  
 Norman B. Pitcairn and Franck C. Nicodemus, Jr., Re-  
 ceivers, Ann Arbor Railroad Company,  
 Manistique & Lake Superior Railroad Company,  
 Atchison, Topeka & Santa Fe Railway Company,  
 Gulf, Colorado & Santa Fe Railway Company,  
 Panhandle & Santa Fe Railway Company,  
 Atlanta, Birmingham & Coast Railroad Company,  
 Atlantic & Yadkin Railway Company,  
 Atlantic Coast Line Railroad Company,  
 Baltimore & Ohio Chicago Terminal Railroad Com-  
 pany,  
 Baltimore & Ohio Railroad Company,  
 Staten Island Rapid Transit Railway Company,  
 Bessemer & Lake Erie Railroad Company,  
 Boston & Maine Railroad Company,  
 Buffalo Creek Railroad Company,  
 Burlington-Rock Island Railroad Company,  
 Butte, Anaconda & Pacific Railway Company,  
 Canadian National Railway Company,  
 Duluth, Winnipeg & Pacific Railway Company,  
 Central Vermont Railway Company,  
 Grand Trunk Western Railroad Company,  
 Muskegon Railway & Navigation Company,  
 International Bridge Company,  
 St. Clair Tunnel Company,  
 Canadian Pacific Railway Company,

Henry D. Pollard, Receiver, Central of Georgia Rail-  
 way Company,  
 Louisville & Wadley Railroad Company,  
 Wadley Southern Railway Company,  
 Wrightsville & Tennille Railroad Company,  
 Central Railroad Company of New Jersey,  
 Wharton & Northern Railroad Company,  
 Charleston & Western Carolina Railway Company,  
 Chesapeake & Ohio Railway Company,  
 Benjamin Wham, Trustee, Chicago & Eastern Illi-  
 nois Railway Company,  
 Chicago & Illinois Midland Railway Company,  
 Charles P. Megan and Charles M. Thomson, Trustees,  
 Chicago & Northwestern Railway Company,  
 Chicago, St. Paul, Minneapolis & Omaha Railway  
 Company,  
 Chicago & Western Indiana Railroad Company,  
 Charles F. Propst, Receiver, Chicago, Attica & South-  
 ern Railroad Company,  
 Chicago, Burlington & Quincy Railroad Company,  
 Holman D. Pettibone, Trustee, Chicago, Indianapolis  
 & Louisville Railway Company,  
 Henry A. Scandrett, Walter J. Cummings, and George  
 I. Haight, Trustees, Chicago, Milwaukee, St. Paul  
 & Pacific Railroad Company,  
 Frank O. Lowden, James E. Gorman, and Joseph B.  
 Fleming, Trustees, Chicago, Rock Island & Pacific  
 Railway Company,  
 Peoria Terminal Company,  
 Louis H. Phettiplace,  
 Colorado & Southern Railway Company,

Columbus & Greenville Railway Company,  
 Delaware & Hudson Railroad Corporation,  
     Greenwich & Johnsonville Railway Company,  
     Schoharie Valley Railway Company,  
 Delaware, Lackawanna & Western Railroad Company,  
 Wilson McCarthy and Henry Swan, Trustees, Denver  
     & Rio Grande Western Railroad Company,  
 Denver & Salt Lake Railway Company,  
 Detroit & Mackinac Railway Company,  
 Detroit, Toledo Shore Line Railroad Company,  
 Detroit, Toledo & Ironton Railroad Company,  
 Duluth, Missabe & Iron Range Railway Company,  
 Edward A. Whitman and James L. Homire, Trustees,  
     Duluth, South Shore & Atlantic Railway Company,  
     Mineral Range Railroad Company,  
 Durham & Southern Railway Company,  
 Elgin, Joliet & Eastern Railway Company,  
 Charles E. Denney and John A. Hadden, Trustees,  
     Erie Railroad Company,  
     Chicago & Erie Railroad Company,  
     New Jersey & New York Railroad Company,  
     New York, Susquehanna & Western Railroad  
     Company,  
 William R. Kenan, Jr., and Scott M. Loftin, Receivers,  
     Florida East Coast Railway Company,  
 Clyde H. Crooks, Receiver, Fort Dodge, Des Moines  
     & Southern Railroad Company,  
 Fort Worth & Denver City Railway Company,  
 Galveston, Houston & Henderson Railroad Company,  
 Charles A. Wickersham, General Manager, Georgia  
     Railroad Company,

William V. Griffin and Hugh W. Purvis, Receivers,  
     Georgia & Florida Railroad Company,  
 Great Northern Railway Company,  
     Farmers Grain & Shipping Company's Railroad,  
     Spokane, Coeur d'Alene & Palouse Railway Com-  
     pany,  
 Gulf, Mobile & Northern Railroad Company,  
 Huntingdon & Broad Top Mountain Railroad & Coal  
     Company,  
 Illinois Central Railroad Company,  
     Yazoo & Mississippi Valley Railroad Company,  
     Gulf & Ship Island Railroad Company,  
 Illinois Terminal Railroad Company,  
 Indianapolis Union Railway Company,  
 Kansas City Southern Railway,  
     Arkansas Western Railway Company,  
 Kentucky & Indiana Terminal Railroad Company,  
 Lake Superior & Ishpeming Railroad Company,  
 Lehigh & Hudson River Railway Company,  
 Lehigh & New England Railroad Company,  
 Lehigh Valley Railroad Company,  
 Louisiana & Arkansas Railway Company,  
 Louisville & Nashville Railroad Company,  
 McCloud River Railroad Company,  
 Maine Central Railroad Company,  
 Midland Valley Railroad Company,  
     Kansas, Oklahoma & Gulf Railway Company,  
     Oklahoma City-Ada-Atoka Railway Company,  
 Lucian C. Sprague, Receiver, Minneapolis & St. Louis  
     Railroad Company,  
 George W. Webster and Joseph Chapman, Trustees,  
     Minneapolis, St. Paul & Sault Ste. Marie Railway,

Mississippi Central Railroad Company,  
 Missouri-Kansas-Texas Railroad Company,  
 Missouri-Kansas-Texas Railroad Company of Texas,  
     Beaver, Meade & Englewood Railroad Company,  
 Guy A. Thompson, Trustee, Missouri Pacific Railroad  
     Company,  
     Doniphan, Kensett & Searcy Railway Company,  
     New Orleans & Lower Coast Railroad Company,  
     Natchez & Southern Railway Company,  
     New Orleans, Texas & Mexico Railway Company,  
     St. Louis, Brownsville & Mexico Railway Com-  
         pany,  
     San Antonio, Uvalde & Gulf Railroad Company,  
     Beaumont, Sour Lake & Western Railway Com-  
         pany,  
 International-Great Northern Railroad Company,  
 Missouri-Illinois Railroad Company,  
 Missouri & Arkansas Railway Company,  
 Charles E. Ervin and Thomas M. Stevens, Receivers,  
     Mobile & Ohio Railroad Company,  
 Montour Railroad Company,  
 Nashville, Chattanooga & St. Louis Railway Company,  
 Nevada Northern Railway Company,  
 New York Central Railroad Company,  
     Owasco River Railway Company,  
     Chicago River & Indiana Railroad Company,  
     Indiana Harbor Belt Railroad Company,  
     Pittsburgh & Lake Erie Railroad Company,  
     Lake Erie & Eastern Railroad Company,  
 New York, Chicago & St. Louis Railroad Company,

Howard S. Palmer, James Lee Loomis, and Henry B.  
     Sawyer, Trustees, New York, New Haven, and Hart-  
     ford Railroad Company,  
 New York, Ontario & Western Railway Company,  
 Norfolk & Western Railroad Company,  
 Morris S. Hawkins and Louis H. Windholz, Receivers,  
     Norfolk Southern Railroad Company,  
 Northern Pacific Railway Company,  
     Minnesota & International Railway Company,  
 Northwestern Pacific Railroad Company,  
 Pennsylvania Railroad Company,  
     Pennsylvania & Atlantic Railroad Company,  
     Rosslyn Connecting Railroad Company,  
     Waynesburg & Washington Railroad Company,  
     Baltimore & Eastern Railroad Company,  
     Long Island Railroad Company,  
 Pennsylvania-Reading Seashore Lines,  
 Peoria & Pekin Union Railway Company,  
 Pere Marquette Railway Company,  
     Manistee & Northeastern Railway Company,  
 Pittsburgh & Shawmut Railroad Company,  
 Pittsburgh, Lisbon & Western Railroad Company,  
 John D. Dickson, Receiver, Pittsburgh, Shawmut &  
     Northern Railroad Company,  
 Prescott & Northwestern Railroad Company,  
 Railway Express Agency, Inc.,  
 Raritan River Railroad Company,  
 Reading Company,  
 Richmond, Fredericksburg & Potomac Railroad Com-  
     pany,  
 Cass M. Herrington, Receiver, Rio Grande Southern  
     Railroad Company,

Luis G. Morphy, Receiver, Rutland Railroad Com-  
 pany,  
 St. Louis & Hannibal Railroad Company,  
 James M. Kurn and John G. Lonsdale, Trustees, St.  
 Louis-San Francisco Railway Company,  
 Birmingham Belt Railroad Company,  
 St. Louis, San Francisco & Texas Railway Com-  
 pany,  
 Berryman Henwood, Trustee, St. Louis Southwestern  
 Railway Company,  
 Dallas Terminal Railway & Union Depot Com-  
 pany,  
 San Diego & Arizona Eastern Railway Company,  
 Legh R. Powell, Jr., and Henry W. Anderson, Receiv-  
 ers, Seaboard Air Line Railway Company,  
 Skaneateles Railroad Company,  
 Southern Pacific Company,  
 Texas & New Orleans Railroad Company,  
 Southern Railway Company,  
 Alabama Great Southern Railroad Company,  
 Asheville & Craggy Mountain Railway Company,  
 Blue Ridge Railway Company,  
 Carolina & Northwestern Railway Company,  
 Carolina & Tennessee Southern Railway Com-  
 pany,  
 Cincinnati, Burnside & Cumberland River Rail-  
 way Company,  
 Cincinnati, New Orleans & Texas Pacific Railway  
 Company,  
 Danville & Western Railway Company,

Georgia Southern & Florida Railway Company,  
 Harriman & Northeastern Railroad Company,  
 High Point, Randleman, Asheboro & Southern  
 Railroad Company,  
 New Orleans & Northeastern Railroad Company,  
 New Orleans Terminal Company,  
 Northern Alabama Railway Company,  
 St. Johns River Terminal Company,  
 State University Railroad Company,  
 Woodstock & Blockton Railway Company,  
 Yadkin Railroad Company,  
 Edgar S. McPherson, Trustee, Spokane International  
 Railway Company,  
 Spokane, Portland & Seattle Railway Company,  
 Gales Creek & Wilson River Railroad Company,  
 Tennessee, Alabama & Georgia Railway Company,  
 Tennessee Central Railway Company,  
 Terminal Railroad Association of St. Louis,  
 St. Louis Southwestern Railway Company of  
 Texas,  
 Savannah & Atlanta Railway Company,  
 Texas & Pacific Railway Company,  
 Texas Mexican Railway Company,  
 Tremont & Gulf Railway Company,  
 Union Pacific Railroad Company,  
 Union Railway Company,  
 Union Railroad Company,  
 Virginian Railway Company,  
 Norman B. Pitcairn and Frank C. Nicodemus, Jr., Re-  
 ceivers, Wabash Railway Company,  
 Western Maryland Railway Company,

Thomas M. Schumacher and Sidney N. Ehrman, Trustees,  
 Western Pacific Railroad Company,  
 Western Railway Company of Alabama,  
 Atlanta & West Point Railroad Company,  
 Wichita Falls & Southern Railroad Company,  
 Wichita Valley Railway Company,  
 Winston-Salem Southbound Railway Company,

DEFENDANTS

FINAL DECREE

The United States of America filed its complaint herein on October 25, 1939. This Court has held that the rescission by the Board of Directors of defendant Association, as alleged in defendants' Motion for summary judgment and admitted by plaintiff, of the two resolutions of September 20, 1935, and the one of June 25, 1937, as set forth respectively in paragraphs 22, 23, and 24 of the complaint, did not and has not rendered this cause moot. Defendants have appeared and filed their joint Answer. The complaint has been amended as to the parties defendant by stipulation filed herein as of this day. Each of the defendants has consented to the entrance of this decree without the taking of any testimony and without findings of fact;

And it appearing to the Court that this judgment will provide suitable relief concerning the matters alleged in the complaint herein; and it further appearing that by reason of the aforesaid consent of the parties, it is unnecessary to proceed with the trial of the cause

or to take testimony therein or to make any adjudication of the facts;

NOW THEREFORE, upon motion of complainant and upon the consent of all parties hereto and without taking any testimony or evidence, it is hereby

ORDERED, ADJUDGED, AND DECREED:

I. That this Court has jurisdiction of the subject matter as set forth in the complaint, and all parties hereto, with full power and authority to enter this decree.

II. That the complaint states a cause of action against the defendants under the Act of Congress of July 2, 1890, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies," commonly known as the Sherman Antitrust Act.

III. That the defendants, and each of them, and each and all of their respective agents, representatives, employees, officers, directors and members, and all persons acting or claiming to act on behalf of the defendants, or any of them, are hereby perpetually enjoined and restrained from according any force or effect to the aforesaid resolutions of the Board of Directors of defendant Association, or to any agreement, concert, or understanding, existing by virtue of, growing out of, or in any way attributable to, said resolutions, and from soliciting, encouraging, or coercing by any manner or means any of the defendants, or the officers, directors, agents, servants, or employees thereof, to abide by such resolutions, agreements, concerts or understandings, or to accord them any force or effect.

IV. That the defendants, and other parties described in paragraph III above, be perpetually enjoined and restrained from entering into any agreement, concert or understanding with the defendant Association, its officers, directors or its membership, the effect of which is to restrain, or tend to restrain, the freedom and independence of each of the defendant railroads in accordance with its own individual managerial discretion in the matter of the establishment of through routes, joint rates, joint billing arrangements, the advancing of charges, and other mutual practices, in connection with interchange of persons and property between such defendant railroads and motor carriers.

V. For the purpose of securing compliance with this decree, and for no other purpose, duly authorized representatives of the Department of Justice shall, on the written request of the Attorney General, or an Assistant Attorney General, and on reasonable notice, be permitted (1) access, during the office hours of said defendants, to all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of said defendants, relating to any of the matters enjoined by this decree, (2) subject to the reasonable convenience of said defendants, and without restraint or interference from them, to interview officers or employees of said defendants, in the presence of counsel, regarding any such matters; and said defendants, on such request, shall submit such reports in respect of any such matters as may from time to time be reasonably necessary for the proper enforcement of this decree; provided, however,

that information obtained by the means permitted in this paragraph shall not be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Department of Justice except in the course of legal proceedings in which the United States is a party or as otherwise required by law.

VI. Jurisdiction of this cause is hereby retained for the purpose of enabling any of the parties to this decree to apply to the Court at any time (upon due and reasonable notice to the adverse party or parties) for such further orders and directions as may be necessary or appropriate for the construction of or the carrying out of this decree, for the modification thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof.

Dated July 18, 1941.

BOLITHA J. LAWS,  
*United States District Judge.*

We hereby consent to the entry of the foregoing decree:

For the United States of America:

THURMAN ARNOLD,  
*Assistant Attorney General.*

FRANK COLEMAN,  
*Special Assistant to the Attorney General.*

For the defendants:

R. V. FLETCHER.  
J. CARTER FORT.  
J. M. SOUBY.  
GREGORY S. PRINCE.