

**UNITED STATES OF AMERICA v. UTAH-IDAHO  
GROCERS' ASSOCIATION ET AL., DEFENDANTS.**

IN THE DISTRICT COURT OF THE UNITED STATES  
IN AND FOR THE DISTRICT OF UTAH,  
CENTRAL DIVISION.

In Equity No. 8158.

UNITED STATES OF AMERICA, COMPLAINANT

v.

UTAH-IDAHO WHOLESALE GROCERS' ASSOCIATION ET AL.,  
DEFENDANTS.

The United States of America having filed its petition herein on the 9th day of April, 1924, and the defendants Utah-Idaho Wholesale Grocers' Association, Zions Co-operative Mercantile Institution, Syms Utah Grocer Co., Kahn Bros. Co., Utah Wholesale Grocery Company, Anderson-Taylor Company, John Scowcroft & Sons Co., Ogden Wholesale Grocery Company, and Idaho Wholesale Grocery Company having duly appeared by and through their attorneys, Messrs. Dey, Hoppaugh & Mark; the defendants C. A. Orlob and Fred G. Taylor, copartners, doing business under the firm name and style of C. A. Orlob Company in the City of Salt Lake, State of Utah, Rudolph Geoghegan and John Doe Geoghegan, copartners, doing business under the firm name and style of Geoghegan Brokerage Company, and C. A. Orlob and Fred G. Taylor, copartners, doing business under the firm name and style of Fred G. Taylor Company, in the city of Ogden, State of Utah, and F. J. Fabian, doing business under the firm name and style of F. J. Fabian Co., having duly appeared by and through their attorneys, Messrs. Fabian & Clendennin; the defendant, Geo. B. Lockhart, having duly appeared by and through his attorney, Roy Thatcher, Esq.; and the defendants, Lester Remers, and John H. Spohn and G. W. Clark, copartners, doing business under the firm name and style of Spohn & Clark, having duly appeared by and through their attorney, Chas. A. Rice, Esq., and all of said defendants having

answered, and the cause being now at issue on the petition and answers.

Now comes the United States of America, by Charles M. Morris, its attorney for the District of Utah; C. Stanley Thompson, special assistant to the Attorney General, and H. H. Atkinson, United States attorney for the District of Nevada, and come also all of the defendants herein by their solicitors as aforesaid; and

It appearing to the court that the court has jurisdiction of the subject matter alleged in the petition, and that the petition states a cause of action; and the petitioner having moved the court for an injunction against the defendants, as hereinafter decreed, and the court having fully considered the statements of counsel for the respective parties, and all of the defendants, through their said solicitors, now and here consenting to the rendition of the following decree:

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

I

That the combination and conspiracy in restraint of interstate trade and commerce, and the acts, agreements, and understandings in restraint of interstate trade and commerce, as such combination, conspiracy, acts, agreements, and understandings are described in subparagraph "(a)," in so far as the name pertains to prices to be charged on sales in interstate commerce for groceries and other like articles, and to the terms, conditions, and policies which should obtain with respect to the sale and delivery in interstate commerce of said groceries and other like articles, and subparagraphs "(c)," "(d)," "(e)," and "(h)," all of paragraph IV of of the petition herein and the restraint of such trade and commerce obtained thereby are violative of the act of Congress of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," known as the "Sherman Antitrust Act."

## II

That the defendants, and each of them, and their members, officers, agents, servants, and employees, and all persons acting under, by, through, or on behalf of them, or claiming so to act, be, and they hereby are, perpetually enjoined, restrained, and prohibited from agreeing, combining, or conspiring, directly or indirectly, among themselves, or any of them, or with others, and from continuing any such agreements, combination, or conspiracy.

(a) To fix, establish, or maintain (1) the prices to be charged on sales in interstate commerce for said groceries and other like articles; and (2) the terms, conditions, and policies which should obtain with respect to the sale and delivery in interstate commerce of said groceries and other like articles in so far as such terms, conditions, and policies substantially or unreasonably restrain interstate commerce.

(b) To exclude, or to use any means to exclude, competitors from engaging in the business of buying and selling said groceries and other like articles.

(c) To coerce or compel manufacturers of said groceries and other like articles to sell the same exclusively to wholesale grocers.

(d) To refuse to buy from or to prevent others from buying from any manufacturer who sells groceries and other like articles to other than the wholesale grocers who are members of defendant, Utah-Idaho Wholesale Grocers' Association.

(e) To prevent retailers from buying direct from manufacturers.

(f) To aid, abet, or assist, directly or indirectly, each other or others to do any or all of the matters and things hereinbefore set forth and enjoined.

*Provided, however,* That nothing contained in this decree shall be construed as preventing any defendant from fixing any price for his or its groceries, or other like

articles, or from adopting any policy as to the purchase, sale, or delivery of said groceries and other like articles, if done individually and not as the result of any combination, conspiracy, or agreement with any other person or persons: *And provided further,* That nothing herein contained shall be construed as enjoining the defendants, or any of them, from doing any of the acts herein enjoined, unless such sale, price fixing, or policy shall involve or substantially affect interstate commerce as distinguished from intrastate commerce.

## III

That each of the remaining prayers of the petition filed herein is hereby denied, in view of the statement of Government counsel that the evidence at hand does not show restraint of interstate trade and commerce by the other means alleged.

## IV

That neither the complainant nor the defendants have or recover costs in this cause expended.

Dated at Salt Lake City, Utah, September 27, 1926.

TILLMAN D. JOHNSON,  
*Judge of the United States District Court.*