

THE UNITED STATES OF AMERICA, COMPLAINANT,
VS.
THE TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS ET AL.,
DEFENDANTS.

This cause came on to be heard at this term, and it appearing that the United States of America, complainant, heretofore appealed to the Supreme Court of the United States from the final decree of the Circuit Court of the United States in and for the Eastern Division of the Eastern Judicial District of Missouri, dismissing this cause on June 4, 1910; and the Supreme Court of the United States at its October Term, 1911, having duly heard said appeal upon the Transcript of the Record, and having thereupon on the 22nd day of April, 1912, ordered, adjudged and decreed that the said decree of the United States Circuit Court in and for the Eastern Division of the Eastern Judicial District of Missouri in this cause be and the same is hereby reversed, and that said cause is remanded to this Court for further proceedings in accordance with the mandate of the Supreme Court of the United States in this cause, bearing date the twenty-third day of May, 1912.

And afterwards, to wit, it appearing that on the 16th day of June, 1913, a preliminary decree was entered in accordance with the mandate of the Supreme Court, now, therefore, it is ordered, adjudged and decreed by the Court as follows:

1. The Terminal Railroad Association of St. Louis is an unlawful combination contrary to the Anti-Trust Act of July 2, 1890 (26 Stat. 209), when it and the various bridge and terminal companies composing it are operated as railroad transportation companies. The combination may, however, exist and continue as a lawful unification of terminal facilities upon abandoning all operating methods and charges as and for railroad transportation and confining itself to the transaction of a terminal business such as supplying and operating facilities for the interchange of traffic between railroads and to assist in the collecting and distributing of traffic for the carrier

companies, switching, storage and the like, and modifying its contracts as herein specified.

An election having been made to continue the combination for terminal purposes the defendants are therefore perpetually enjoined from in any wise managing or conducting the said Terminal Railroad Association or any of its constituent companies and from operating any of the properties belonging to it or its constituents otherwise than as terminal facilities for the railroad companies using the same, and from making charges otherwise than for and according to the nature of the services so lawfully authorized to be rendered.

2. The Agreement of October 1, 1889, between the Terminal Railroad Association and various other defendants, known in the record as Exhibit "A," shall be reformed in the following manner:

(a) The provision thereof reading as follows shall be eliminated:

"III. In consideration of the foregoing each of the proprietary companies, for itself only and not for others, accepts the right of joint use hereinbefore granted by the first party and hereby covenants and agrees that it will forever make use of the bridge and terminal properties of the first party, as above described, for all passenger and freight traffic within its control through, to and from St. Louis and destined to cross the Mississippi River at St. Louis, and pay therefor as herein provided."

(b) The provision thereof reading as follows shall be eliminated:

"XVII. Neither party shall sell, assign, transfer or underlet the rights and privileges hereby granted, or any of them, to any other company or companies without the unanimous consent of the Board of Directors of the first party."

In lieu thereof the following may be inserted: "No proprietary or using company shall sublet its rights and privileges in the use of the terminal facilities to any other company or companies."

(c) The provision thereof reading as follows shall be eliminated:

"XIX. This agreement may be executed in counterparts, and any railroad company not named as second party hereto, may be admitted to joint use of said terminal system on unanimous consent, but not otherwise, of the directors of the first party, and on payment of such a consideration as they may determine, and on signing this agreement or any counterpart thereof thereby indicating its rights and duties in respect to use of said terminal system to be the same and none other than the said proprietary companies named as second party hereto."

In lieu thereof the following shall be inserted:

(1) In case any other railroad company, not named as second party hereto, shall hereafter desire to become a member of the Terminal Railroad Association of St. Louis, it may become a member thereof, with equal rights of joint ownership and control of the combined terminal properties of said Association, upon such just and reasonable terms as shall place such applying company upon a plane of equality in respect of benefits and burdens of the parties hereto of the second part.

(2) Any other railroad company not electing to become a joint owner as above provided, but desiring the use of the terminal facilities of the Terminal Railroad Association of St. Louis may enjoy the use thereof upon such just and reasonable terms and regulations, as will in respect of use, character and cost of service, place it upon as nearly an equal plane as may be, with respect to expenses and charges, as that occupied by the proprietary companies.

(3) Any dispute or controversy which shall hereafter arise between any railroad company applying for joint ownership or use of the said terminal properties and the owning, proprietary companies shall be submitted to the United States District Court for the Eastern Division of the Eastern Dis-

trict of Missouri by filing a petition in this cause setting out specifically the facts upon which the said parties have disagreed and the party so filing said petition shall at least fifteen (15) days before so doing so serve the other party to the controversy with a copy of the petition proposed to be filed, together with a notice that said petition will be filed on a certain designated day. Thereupon the matter shall be placed upon the docket of the United States District Court for the Eastern Division of the Eastern District of Missouri, and shall be heard when called in its regular order on said docket and the proceedings shall be subject to review by appeal as in any other cases. Upon being advised by the filing of a petition of such dispute or controversy the Court may at once admit the applying company to ownership or use of the terminal facilities during the pendency of the proceeding upon the giving of security in amount and form as it may direct.

(d) All provisions of the purport or effect of those eliminated from the Agreement of October 1, 1889, shall also be removed from all other contracts affecting the ownership or use of the terminal facilities to which the Terminal Railroad Association and the proprietary companies or any of them are parties. The benefits and burdens of the amended agreement shall inure to and rest upon all future proprietary and using railroad companies respectively.

3. Hereafter traffic destined to St. Louis, Missouri, or to points west of the Mississippi River and to be transported through the St. Louis gateway or traffic from St. Louis, Missouri, destined to points east of said river, shall not be billed to East St. Louis, Illinois, or other junction points or termini of the railroads of any of the said railroad companies east of the river and then rebilled to destination, but for all such traffic each railroad company shall issue through bills of lading unless otherwise directed by the person controlling the same. The defendants

are perpetually enjoined from violating the above provisions.

4. The defendants are perpetually enjoined from making any special or so-called arbitrary charge for the use of the terminal facilities in respect of traffic originating within the so-called one hundred mile area, that is not equally and in like manner applied in respect of all other traffic of a like character originating outside of that area.

5. The provisions of this decree shall extend to and embrace all railroad companies now or hereafter admitted to joint ownership or use of the facilities of the Terminal Railroad Association and to all its facilities present and future acquired.

6. Nothing in this decree shall be taken to affect in any wise or at any time the power of the Interstate Commerce Commission over the rates to be charged by the Terminal Railroad Association, or the mode of billing traffic passing over its lines, or the establishing of joint through rates or routes over its lines, or any other power conferred by law upon such commission.

7. This cause is reserved for such further orders and decrees as may be deemed necessary.

WALTER H. SANBORN,
WILLIAM C. HOOK,
WALTER I. SMITH,
Circuit Judges.

ST. LOUIS, JANUARY 29, 1914.
Filed March 2, 1914.

W. W. NALL, *Clerk.*