

UNITED STATES v. OTIS ELEVATOR CO.

IN THE CIRCUIT COURT OF THE UNITED STATES, NINTH
CIRCUIT, NORTHERN DISTRICT OF CALIFORNIA.

In Equity. No. 13884.

THE UNITED STATES OF AMERICA, COMPLAINANT,
VS.

OTIS ELEVATOR COMPANY, ET AL., DEFENDANTS.

This cause this day coming on to be heard, upon the motion of complainant for an injunction in accordance with the prayer of the bill of complaint heretofore filed herein, and the defendants, Otis Elevator Company, a corporation organized and existing under and by virtue of the laws of the State of New Jersey, Electrical Engineering Company, Cahill and Hall Elevator Company and A. J. McNicoll Elevator Company, each and all of which said corporations is and are organized under and by virtue of the laws of the State of California; Crane Elevator Company, a corporation organized and existing under and by virtue of the laws of the State of Illinois; Standard Elevator and Manufacturing Company, a corporation organized and existing under and by virtue of the laws of the State of Illinois; Eaton and Prince Elevator Company (also known as Eaton and Prince Company, a corporation) a corporation organized and existing under and by virtue of the laws of the State of Illinois; Smith-Hill Elevator Company, a corporation organized and existing under and by virtue of the laws of the State of Illinois; Whittier Machine Company, a corporation duly organized and existing under and by virtue of the laws of the State of Massachusetts; Stokes and Parish Elevator Company, a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania; Morse, Williams & Company, a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania; McAdams & Cartwright Elevator Company (also known as McAdams & Cartwright Elevator Company, a corporation) a corporation organized and existing under and by virtue of the laws of the State of

New York; Graves Elevator Company, a corporation organized and existing under and by virtue of the laws of the State of New York; Plunger Elevator Company, a corporation duly organized and existing under and by virtue of the laws of the State of Massachusetts; Sprague Elevator Company, a corporation organized and existing under and by virtue of the laws of the State of New York; Sulzer-Voght Machine Company (also known as Sulzer-Voght Machine Company, a corporation) a corporation organized and existing under and by virtue of the laws of the State of Kentucky; Central Iron Works Company (also known as Central Iron Works, a corporation) a corporation organized and existing under and by virtue of the laws of the State of Illinois; Moon Elevator Company, a corporation organized and existing under and by virtue of the laws of the State of Missouri; Warner Elevator Company, a corporation organized and existing under and by virtue of the laws of the State of Ohio; M. J. O'Donnell & Company, a corporation organized and existing under and by virtue of the laws of the State of Ohio; Gardner Elevator Company, a corporation organized and existing under and by virtue of the laws of the State of Michigan; Geiger, Fiske & Koop (also known as Geiger, Fisk & Koop, a corporation), a corporation organized and existing under and by virtue of the laws of the State of Kentucky; National Electric Elevator Company (also known as The National Company, a corporation) a corporation organized and existing under and by virtue of the laws of the State of Pennsylvania; Burdette and Rowntree Manufacturing Company (also known as Burdett-Rowntree Manufacturing Company, a corporation) a corporation organized and existing under and by virtue of the laws of the State of Illinois; Moline Elevator Company, a corporation organized and existing under and by virtue of the laws of the State of Illinois; D. H. Darrin Company, a corporation organized and existing under and by virtue of the laws of the State of Maryland, impleaded herein as John Doe; Electron Manufacturing Company, a corporation organized and existing

under and by virtue of the laws of the State of New York, impleaded herein as Richard Doe; and also the defendants Samuel Burger, W. D. Baldwin and C. G. Constock (also known as C. C. Comstock); appearing by their solicitors and the said defendants denying in open court that they are violating the provisions of the Act of Congress approved July 2, 1890 entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," or Section 73 of an Act of Congress in force August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the government and for other purposes," and stating in open court that it is not their desire or intention, nor the desire or intention of any or either of them so to do, but stating that it is their desire and intention, and the desire and intention of each of them to comply with each and all of the provisions of the statutes of the United States referring to agreements, combinations or conspiracies in restraint of trade, and the said defendants offering no objection to the entry of this decree, but consenting that this decree be entered,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. That said defendants, and each and all of them, and all and each of their respective directors, officers, agents, servants and employees, and all persons acting under or through them or in their behalf, or claiming so to act, be and they, each of them, are and is hereby perpetually enjoined, restrained and prohibited from violating any of the provisions of the Act of Congress approved July 2, 1890, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies," or of section 73 of an Act of Congress in force August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the government, and for other purposes" by doing any of the things hereinafter particularly enjoined; and particularly from agreeing or contracting together expressly or impliedly as to the trade or commerce in elevators, elevator machinery or appliances between the State of California, and other states of the United States and the

Territories of Alaska, Hawaii and the other territories of the United States, and the District of Columbia, or between the various states and territories of the United States to do any of the things herein particularly enjoined; and also from hindering, restraining or destroying the trade in elevators, elevator machinery or appliances, and commerce therein between said divers states, territories and the District of Columbia by doing any of the things herein particularly enjoined; and also that all and each of them, and all and each of their respective directors, officers, agents, servants and employees, and all persons acting under or through them or in their behalf, or claiming so to act, be, and they and each of them are and is hereby perpetually enjoined, restrained and prohibited from entering into, making, executing or performing, directly or indirectly, expressly or impliedly any agreement, contract, or understanding to deprive the people of the city of San Francisco, or of the State of California, or any state or territory of the United States or the District of Columbia, of such facilities, rates and prices for elevators, elevator machinery or appliances produced, manufactured, installed, sold or shipped between the divers states, territories and District of Columbia as will be afforded by free and unrestricted competition between the defendant corporations in elevators, elevator machinery and appliances manufactured, sold, installed and used within the divers states and territories of the United States and the District of Columbia; and also from agreeing, contracting, combining or acting together, expressly or impliedly to monopolize or attempt to monopolize the trade and commerce in elevators, elevator machinery and appliances between the State of California and the other states and territories of the United States, and the District of Alaska, by doing any of the things herein particularly enjoined, and also from agreeing, contracting, combining, conspiring or acting together, expressly or impliedly to prevent, or hinder each other or one another from importing, dealing in, producing, manufacturing, installing or selling or offering

for sale elevators, elevator machinery or appliances in the trade and commerce between the divers states and territories and the District of Columbia except at such rates or prices as shall be fixed, determined or suggested by the said Otis Elevator Company, or by any person acting for or claiming to act for said Otis Elevator Company.

2. That said defendants and each of them, and all and each of their respective directors, officers, agents, servants and employees, and all persons acting under or through them or either of them, or claiming so to act, are and is hereby perpetually enjoined and restrained from making, performing or carrying out any contract, agreement or understanding with or between any of the defendants herein, now existing as to the selling price, sale, offering for sale or for installation, or marketing of elevators, elevator machinery or appliances, and all such contracts, agreements and understandings are hereby cancelled, annulled and set aside, and they and each of them are and is hereby enjoined and restrained from making, executing or carrying out any such contract, agreement or understanding in the future.

3. The said defendants and each of them and all and each of their respective directors, officers, agents, servants and employees and all persons acting under or through them, or either of them, or claiming so to act, are and is hereby perpetually enjoined and restrained from making, executing, or carrying into effect any contract, agreement, or understanding as to division of territory, or territories, place or places, or district in which any of said defendants shall or shall not do business, or shall or shall not bid or refrain from bidding for or execute or perform any contract or contracts for the sale, manufacture, or installation of any elevator, elevator machinery or appliances, and all such contracts, agreements or understandings are hereby annulled, cancelled and set aside, and they and each of them are and is also hereby enjoined and restrained from making, executing or carrying out any such contract, agreement or understanding in the future.

4. The said Otis Elevator Company, and each and all of its officers, managers, directors, agents, or any other person exercising authority as to prices, sale, offering for sale, or for installation or marketing is and are hereby perpetually enjoined, restrained and prohibited from acting as director, manager, officer, or agent of any of said other corporation defendants or of fixing, determining, counselling, or suggesting directly or indirectly, the price or rate at which any of said other defendant corporations shall sell or offer to sell, install, market or dispose of any elevator, elevator machinery or appliance, and also from preventing or hindering any of the other said companies defendant from free, open and unrestrained competition with the said Otis Elevator Company.

All the other defendant corporations and all and each of their respective officers, managers, directors, agents or any other person exercising authority as to prices, sale, offering for sale, or for installation, or marketing is and are hereby perpetually enjoined, restrained and prohibited from acting as director, manager, officer or agent of any other corporation defendant herein, or of fixing, determining, counselling, or suggesting directly or indirectly, the price or rate at which any of the other defendant corporations shall sell or offer to sell, install, market or dispose of any elevator, elevator machinery or appliance, and also from preventing or hindering any of the other said companies defendant from free, open and unrestrained competition with each other or one another, and all and each of said defendant corporations shall in all matters connected with or relating to the sale, offering for sale, or for installation of elevators, elevator machinery or appliances be managed, controlled and directed as separate, distinct corporations without interference, control, direction one by the other or by any officer, manager, director or agent of one with the affairs or business of the other so far as the same relates as aforesaid to the sale, offering for sale, marketing or installation of elevators.

5. It is hereby ordered, adjudged and decreed that the bill herein be amended by substituting as defendants D. H. Darrin Company, a corporation organized and existing under and by virtue of the laws of the State of Maryland, in the place of John Doe, and the Electron Manufacturing Company, a corporation organized and existing under and by virtue of the laws of the State of New York, in the place of Richard Doe; and that the bill be dismissed without prejudice as to the defendants Frazer Electric Elevator Company, a corporation, Houghton Elevator Company, a corporation, and the Bloomsberg Elevator and Machine Company, a corporation, and also as to the defendants Thomas Doe, William Doe, Henry Doe, George Doe, Charles Doe, Adam Doe, Hugh Doe and Edward Doe.

IT IS ALSO ORDERED, ADJUDGED AND DECREED that this decree shall bind all the defendants herein named as to any act herein enjoined in which the parties to this decree may participate with any other persons, firms or corporations in any way connected with any of the defendants herein and performing any of the acts complained of in said bill or in this decree enjoined, although said persons, firms or corporations may not be parties to this suit; and that the complainant may at any time it be so minded move the court to bring in additional parties.

IT IS FURTHER ADJUDGED AND DECREED that the court shall retain jurisdiction of this suit to make any further or additional decree or order or to modify or enlarge this decree from time to time as to equity may seem proper upon such reasonable notice by either party as the court, when application is made therefore, may prescribe.

WM. W. MORROW,
U. S. Circuit Judge.

Dated June 1st, 1906.