

UNITED STATES OF AMERICA, PETITIONER,

VS.

BRICKLAYERS', MASONS' & PLASTERERS' INTERNATIONAL UNION OF AMERICA; William J. Bowen, individually and as President of the Bricklayers', Masons' & Plasterers' International Union of America, and its members; Thomas R. Preece, individually and as Vice-President of the Bricklayers', Masons' & Plasterers' International Union of America and its members; William Dobson, individually and as Secretary of the Bricklayers', Masons' & Plasterers' International Union of America, and its members; Walter V. Price, individually and as Special Deputy of the Bricklayers', Masons' & Plasterers' International Union of America, and its members, et al., DEFENDANTS.

FINAL DECREE.

This cause having come on to be heard at this term before Hon. Learned Hand, Judge, and the petitioner having appeared by Hon. Harry M. Daugherty, Attorney General of the United States, by William Hayward, United States Attorney, and by David L. Podell, David A. L'Esperance, Leland B. Duer, Benjamin S. Kirsh, Raymond L. Wise, Nathan Probst, Jr., and Susan Brandeis, Special Assistants to the United States Attorney, and the defendants having appeared by their Solicitors, Keeling & Hugg, having personally and in open court consented to the entry of this decree. Charles M. Beattie appearing for Locals No. 34 and 37, Albert E. O'Brien, President of Local No. 4, appearing and both opposing. Now, therefore,

Upon reading and filing the petition herein, upon the consent of the several defendants, and upon motion of the petitioner for relief in accordance with the prayer of the petition.

IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. That the regulations, rules, orders, provisions, resolutions, agreements, contracts and understandings in re-

U. S. v. BRICKLAYERS' INTERNATIONAL UNION  
IN THE DISTRICT COURT OF THE UNITED STATES FOR  
THE SOUTHERN DISTRICT OF NEW YORK.

In Equity No. 23-152.

straint of trade and commerce and the restraint of such trade and commerce attained thereby as complained of in the petition be and hereby are declared illegal and in violation of the Act of Congress, approved July 2, 1890, entitled "An Act to Protect Trade and Commerce Against Unlawful Restraints and Monopolies," and the acts amendatory thereof and supplemental or additional thereto.

2. That the defendants

William J. Bowen, University Park Building, Indianapolis, Indiana, individually and as President and member of the executive board of the Bricklayers', Masons' & Plasterers' International Union of America and its members;

Thomas R. Preece, University Park Building, Indianapolis, Indiana, individually and as First Vice-President, and member of the executive board of the Bricklayers', Masons' & Plasterers' International Union of America and its members;

William Dobson, University Park Building, Indianapolis, Indiana, individually and as Secretary and member of the executive board of the Bricklayers', Masons' & Plasterers', International Union of America and its members;

Walter V. Price, individually and as Special Deputy of the Bricklayers', Masons' & Plasterers' International Union, 400 Manhattan Avenue, New York City, and its members;

L. Fiorito, individually and as President of Local No. 3, New York, and its members;

J. Trivelli, individually and as Secretary of Local No. 3, New York, and its members;

John Murray, individually and as President of Local No. 5, Newburgh, New York, and its members;

Alexander Munro, individually and as President of Local No. 14, Kingston, New York, and its members;

William Brundage, individually and as President of Local No. 20, Ossining, New York, and its members;

John Muir, individually and as President of Local No. 22, Yonkers, New York, and its members;

David Murphy, individually, and as President of Local No. 27, Tarrytown, New York, and its members;

William Dixon, individually and as President of Local No. 44, Poughkeepsie, New York, and its members;

John McLaughlin, individually and as President of Local 48, Port Chester, New York, and its members;

F. H. Hollenweger, individually and as President of Local No. 51, New Rochelle, New York, and its members;

R. J. Doyle, individually and as President of Local No. 52, New York, and its members;

P. A. Coby, individually and as Secretary of Local No. 52, New York, and its members;

Elias Conklin, individually and as President of Local No. 55, Peekskill, New York, and its members;

John Morrison, individually and as President of Local No. 59, Yonkers, New York, and its members;

Harry Reeder, individually and as President of Local No. 62, Highland Falls, New York, and its members;

Jas. FitzGerald, individually and as President of Local No. 71, Hudson, New York, and its members;

Louis Mazzola, individually and as President of Local No. 74, New York, and its members;

John J. Henry, individually and as President of Local No. 75, White Plains, New York, and its members;

James Aquilino, individually and as President of Local No. 83, Mt. Vernon, New York, and its members;

William Skinner, individually and as President of Local No. 84, New York, and its members;

Henry F. John, individually and as Secretary of Local No. 84, New York, and its members; their and each of their agents, servants, attorneys, confederates and all persons acting in aid of or in conjunction with them, or any of them, or under their authority, suggestion or direction, and all persons now members of the Bricklayers', Masons' & Plasterers' International Union of America, and all persons who though not now members do become members of the said Bricklayers', Masons' & Plasterers' International Union of America be perpetually enjoined and restrained, directly and indirectly, from carrying into

effect in the manner described in said petition the restraints of trade and commerce in building materials, or other like articles more fully in said petition described among the several states of the United States, or in the District of Columbia, and are likewise restrained and perpetually enjoined, either directly or indirectly, from making any express or implied agreements, rules, regulations, provisions, contracts or arrangements of any kind or character together, with one another, or amongst themselves, or with others like those hereby adjudged illegal or enjoined.

3. The said defendants, and each of them individually, and in their representative capacities, their and each of their agents, servants, attorneys, confederates and all persons acting in aid of or in conjunction with them, or any of them, under their authority, suggestion or direction, and all persons now members of the Bricklayers', Masons' & Plasterers' International Union of America, and all persons who though not now members, do become members of the said Bricklayers', Masons' & Plasterers' International Union of America, be perpetually enjoined and restrained directly and indirectly from:

(a) Entering into, making, adopting, or enforcing any contracts, understandings, agreements, rules, regulations, provisions or resolutions which in anywise, directly or indirectly prescribe, determine, limit or curtail the productive capacity of any defendant member within any given time. This decree recognizes the principle that labor is not a commodity, and that different human beings are capable of different productive capacities within the same time, and nothing herein contained shall be construed as preventing the defendants from regulating the hours of labor or the conditions of labor as to wages, health, sanitation, safety, or advancement of the defendant members, save and except that each individual defendant is to be entirely at liberty to render such services in kind, quality or quantity as he may be capable of performing within the hours of labor that may be determined upon, or under

the conditions as to wages, health, sanitation and the like that may be prescribed.

(b) Entering into, making, adopting or enforcing any contracts, understandings, agreements, rules, regulations, provisions, or resolutions of any kind or character of a mutually exclusive character, i.e. whereunder any trade or employers' or contractors' society or association agree that its members engage the services exclusively of the defendant members, and where the defendant members in turn agree that they will confine their services exclusively to the members of such trade or employers' or contractors' society or association.

(c) Entering into, making, adopting or enforcing any contracts, understandings, agreements, rules, regulations, provisions, or resolutions of any kind or character which restrain, prohibit, hinder or otherwise prevent any of its members from engaging their services to any employer by reason of the fact that such employer is utilizing stone, brick or any other building material which has been dressed or finished or purchased at the source of its production, or at any other point or place, that is to say, that is in so far as the services of the defendant members are concerned, the employer shall be at liberty to utilize any building materials wherever the same may have been dressed, cut, carved, finished, manufactured, produced or purchased from whatever source except that nothing herein contained shall be construed to apply to materials produced or manufactured by convict labor.

(d) Entering into, making, adopting or enforcing any contracts, understandings, agreements, rules, regulations, provisions, or resolutions of any kind or character in anywise restraining, hindering, prohibiting or otherwise preventing any of its members from engaging their respective services to any individual, firm, copartnership or corporation engaged in the various industries mentioned by reason of the fact that such individual, firm, copartnership or corporation is not a member of any trade or employers' or contractors' society, association or organization.

(e) Entering into, making, adopting or enforcing any

contracts, understandings, agreements, rules, regulations, provisions or resolutions of any kind or character, respecting the services of the defendant members which in anywise accords or grants a preference respecting such services to any individual, firm, copartnership or corporation by virtue of the fact that such individual, firm, copartnership or corporation is a member of or belongs to any trade, employers' or contractors' society, association, or organization.

(f) Entering into, making, adopting or enforcing any contracts, understandings, agreements, rules, regulations, provisions or resolutions whereby or whereunder the defendant members or any portion of them agree or are obliged to confine their respective services exclusively to any group of individuals who constitute or belong to a trade or employers' or contractors' society, association or organization.

(g) Entering into, making, adopting or enforcing any contracts, understandings, agreements, rules, regulations, provisions, or resolutions of any kind or character whereby and whereunder the defendant members are restrained, prohibited, hindered, or otherwise prevented from engaging their services upon any structure, or building in order to aid or assist or enforce the collection of a debt, or an alleged indebtedness due from the owner, architect or builder to any individual, firm, copartnership or corporation, or any other third person, save and except that nothing herein contained shall be deemed as restraining or enjoining the defendant members from refusing to continue their services for or in behalf of any person, firm, or corporation, which has, or which is alleged to have defaulted in the payment to the defendant members for services rendered by them.

And it is FURTHER ORDERED, ADJUDGED AND DECREED that the defendants cause copies of this decree to be printed and published and that each Local Union be furnished with 3 copies thereof, and that the same be read at open meeting among all Local Unions at the next regular meetings of such Local Unions, and that a copy

of the Decree be printed and appended to the Constitution and By-Laws of the Bricklayers', Masons' & Plasterers' International Union of America and to all constitutions hereafter adopted, printed or promulgated. This decree shall in nowise affect or relate to or be in any respect enforced against Local Union No. 4 (N. Y.), No. 34 (N. Y.) and No. 37 (N. Y.), or the members thereof both present and future.

LEARNED HAND,  
*United States District Judge.*

February 28, 1922.