

No. 1180.

HENRY E. MEEKER AND CAROLINE H. MEEKER, CO-
PARTNERS, TRADING AS MEEKER & COMPANY,
v.
LEHIGH VALLEY RAILROAD COMPANY.

No. 3235.

HENRY E. MEEKER
v.
SAME.

Submitted February 27, 1912. Decided May 7, 1912.

Reparation awarded on account of unreasonable and discriminatory rates charged for the transportation of anthracite coal from the Wyoming region in Pennsylvania to Perth Amboy, N. J., in accordance with the conclusions announced in *Meeker v. L. V. R. R. Co.*, 21 I. C. C., 129.

William A. Glasgow, jr., for complainants.

Frank H. Platt, George W. Field, and E. H. Boles for defendant.

SUPPLEMENTAL REPORT OF THE COMMISSION.

McCHORD, *Commissioner*:

The original report in No. 1180, 21 I. C. C., 129, disposed of all the questions at issue except the claim for reparation, and the case was held open for the purpose of securing further information regarding that feature. A further hearing has been held, and complainant has presented exhibits showing the total number of tons of each variety of coal shipped and the amount of reparation due on such shipments. These exhibits have been examined by defendant and admitted to be correct.

In our original report we found that the rates charged complainant for the transportation of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., during the period from November 1, 1900, to August 1, 1901, were unjustly discriminatory in violation of section 2 of the act to the extent that they exceeded the rates contemporaneously charged the Lehigh Valley Coal Company under the contract then in effect between that company and

defendant; and we further found that the rates in effect from August 1, 1901, to July 17, 1907, were unreasonable to the extent that they exceeded rates of \$1.40 per gross ton on prepared sizes, \$1.30 on pea, and \$1.15 on buckwheat.

On basis of our conclusions in the former report, and upon consideration of the evidence adduced at the hearing upon the question of reparation, we now find that during the period from November 1, 1900, to August 1, 1901, complainant shipped from the Wyoming coal region of Pennsylvania to Perth Amboy, N. J., 55,257.75 tons of coal of prepared sizes, 16,689.76 tons of pea coal, 11,448.93 tons of buckwheat coal, and 4,926.77 tons of rice coal, and paid charges thereon, amounting to \$129,989.18, at the rates found to have been unjustly discriminatory; that complainant has been damaged to the extent of the difference between the amount which he did pay and \$118,979.85, the amount which he would have paid had he been given the benefit of the rates applied by defendant to similar shipments of the Lehigh Valley Coal Company; and that he is, therefore, entitled to an award of reparation in the sum of \$11,009.33, with interest thereon from August 1, 1901. We find further that from August 1, 1901, to July 17, 1907, complainant shipped from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., 246,870.15 tons of coal of prepared sizes, 106,051.09 tons of pea coal, and 87,250 tons of buckwheat coal, and paid charges thereon amounting to \$685,375.27, at the rates found to have been unreasonable; that complainant has been damaged to the extent of the difference between the amount which he did pay and \$626,945.62, the amount which he would have paid at the rates found reasonable, less \$193.20 deducted by stipulation of all parties on account of certain claims already paid; and that he is, therefore, entitled to an additional award of reparation in the sum of \$58,236.45, with interest, amounting to \$27,750.64, on the individual charges comprising said sum from the dates of payment thereof to September 1, 1911, together with interest on said sum of \$58,236.45 from September 1, 1911.

With the exception of the reparation features, the issues involved in No. 3235 have been passed upon by the Commission in No. 1180. The latter case covered the period from November 1, 1900, to July 17, 1907, while the instant case is designed to secure reparation upon shipments which moved between July 17, 1907, and April 13, 1910. The petition in the present case, therefore, resolves itself into a prayer for reparation on shipments moving subsequent to the period covered by the original report, on basis of the conclusions announced in that report.

In No. 1180 the complaint attacked the reasonableness of rates charged by defendant for the transportation of various sizes of

anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., and asked reparation. On June 8, 1911, the Commission rendered its decision in that case. The petition in the present case was filed on April 13, 1910, or about a year prior to our decision in No. 1180. As before stated, it attacks the same rates that were found unreasonable in No. 1180, and asks reparation on shipments moving from July 17, 1907, to April 13, 1910.

The former case was filed with the Commission within one year from the passage of the law of June 29, 1906, and consequently was not limited to causes of action that accrued within two years prior to the filing of the complaint. The present proceeding, however, was instituted more than one year subsequent to the passage of that law, and is, therefore, subject to the two-year limitation of the statute. Complainant's prayer for reparation on shipments moving more than two years prior to the filing of the complaint in this case must be denied.

On basis of our decision in No. 1180, and upon consideration of the evidence submitted at the hearing of the present case regarding the amount of reparation due complainant, we now find that the rates exacted by defendant for the transportation of anthracite coal from the Wyoming coal region in Pennsylvania to Perth Amboy, N. J., during the period from April 13, 1908, to April 13, 1910, were unreasonable to the extent that they exceeded rates of \$1.40 per gross ton on prepared sizes, \$1.30 on pea, and \$1.15 on buckwheat; that complainant shipped from said point of origin to said destination during the period above set forth, 46,772.02 tons of coal of prepared sizes, 26,972.06 tons of pea coal, and 22,004.09 tons of buckwheat coal; that complainant paid charges thereon, amounting to \$136,663.41, at the rates herein found to have been unreasonable, and was damaged to the extent of the difference between the amount which he did pay and \$125,849.81, the amount which he would have paid at the rates above found reasonable; and that he is, therefore, entitled to an award of reparation in the sum of \$10,813.60, with interest amounting to \$1,526.53 upon the individual charges comprising said sum from the dates of payment thereof to September 1, 1911, together with interest on said sum of \$10,813.60 from the 1st day of September, 1911.

The exhibits showing details respecting the shipments upon which reparation is asked are too extensive to be set forth in this report. But inasmuch as the accuracy of the figures in said exhibits respecting the shipments made, freight charges paid, and reparation due, is conceded of record by defendant, we deem it unnecessary to make detailed findings respecting the numerous shipments involved.

Orders will be issued in accordance with the findings herein announced.

23 I. C. C.