SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Missouri Rate Cases

Missouri Rate Cases

SooperKanoon Citation : sooperkanoon.com/91464

Court : US Supreme Court

Decided On : Jun-16-1913

Appeal No. : 230 U.S. 474

Appellant : Missouri Rate Cases

Judgement :

Missouri Rate Cases - 230 U.S. 474 (1913)
U.S. Supreme Court Missouri Rate Cases, 230 U.S. 474 (1913)

Missouri Rate Cases *

Nos. 9, 12

Argued October 12, 13, 1910

Ordered for reargument April 10, 1911

Reargued April 1, 2, 3, 1912

Nos. 339, 340, 341, 342, 345, 346, 349, 350, 351, 352, 357, 358, 365, 366, 367, 368

Argued April 1, 2, 3, 1912

Decided June 16, 1913

230 U.S. 474

APPEALS AND CROSS APPEALS FROM THE CIRCUIT COURT OF THE

UNITED STATES FOR THE WESTERN DISTRICT OF MISSOURI

SYLLABUS

These suits were brought to restrain the enforcement of the freight rate and passenger fare acts of the Missouri, passed in 1907. The question of interference with interstate commerce is the same

Page 230 U. S. 475

as that presented in the *Minnesota Rate Cases, ante,* p. 230 U. S. 352 , and the decision is the same.

Where an act fixing rates and imposing penalties for violation is repealed by a subsequent act which saves the penalties and simply substitutes other rates, the essential features of a controversy involving the constitutionality of the statute are the same, and, under the circumstances of this case, a supplemental bill may be filed setting up the new and additional legislation and praying relief in regard thereto. Where the ends of justice are advanced and no substantial rights of

Page 230 U. S. 476

the objectors are violated, this Court will not interfere with the reasonable discretion of the trial judge in a matter of practice.

Where the federal court already has jurisdiction of an action to determine the constitutionality of a state statute fixing rates, that jurisdiction is not ousted by a substitution of rates by the legislature, because the state files a bill to enforce the new rates; the federal court retains jurisdiction under a supplemental bill.

Minnesota Rate cases, ante, p. 230 U. S. 352 , followed to effect that the legislative acts of Missouri establishing maximum rates for transportation wholly

intrastate are not unconstitutional as an unwarranted interference with interstate commerce.

Legislative acts of a state establishing maximum freight and passenger rates for wholly intrastate commerce will not be declared unconstitutional under the Fourteenth Amendment as confiscatory in the absence of clear and convincing proof as to the value of the property used by the carrier and on which returns are based. General evidence as to assessed valuations without showing the method of appraisement are insufficient either as to value of property or apportionment of expenses between interstate and intrastate business.

Minnesota Rate Cases, ante, p. 230 U. S. 352 , followed, disapproving the establishment of values of property used in interstate and intrastate business by apportionment based on the gross revenue received from each class of business.

Where a number of different carriers bring separate suits to enjoin the enforcement of railway rates established by a state statute on the ground that the rates are unconstitutional as confiscatory, the bills can be sustained as to those carriers which actually prove that the rates are confiscatory as not yielding a return on their property, although dismissed as to other carriers which fail to offer clear and convincing proof to that effect.

Where a statute is valid on its face, each person attacking it as depriving him of his property without due process of law must show it does so deprive him; he cannot rely on the fact that it deprives others of their property without due process of law.

168 F. 317 affirmed in certain cases and reversed in others.

Appeals and cross-appeals from decrees of the circuit court entered March 8, 1909, as amended April 17, 1909, adjudging the maximum freight rate acts passed by the Legislature of the State of Missouri in 1905 and 1907, and the maximum

passenger fare act passed in 1907, to be confiscatory, and enjoining their enforcement. 168 F. 317.

Eighteen suits, brought by as many railroad companies, were begun in June, 1905, assailing the Act of April 15, 1905 (effective June 16, 1905), which prescribed maximum rates for intrastate transportation of certain commodities in carload lots. The members of the Board of Railroad Commissioners, the Attorney General of the state, and representative shippers, were made defendants.

Preliminary injunction was granted in each case, demurrers to the bills were overruled, answers were filed, and in March, 1906, the cases were referred to a master to take evidence and report. The master proceeded, by agreement, to take testimony in three of the cases.

While this reference was pending, the legislature, in 1907, passed the following acts:

(1) That of February 27, 1907, fixing a maximum passenger fare within the State of two cents a mile for railroads over forty-five miles in length.

(2) That of March 19, 1907, repealing the Act of April 15, 1905, and prescribing new maximum intrastate rates for specified commodities in carload lots, the rates being higher in certain instances than those of the former act. It also repealed an act passed April 14, 1905 (not mentioned in the original bills) relating to rates on stone, sand, and brick, and made new rates therefor. It was provided that the repeal should not relieve any railroad company from liabilities and penalties previously incurred.

(3) That of March 19, 1907, fixing maximum rates for fruit in carload lots.

(4) That of April 4, 1907, requiring carriers of livestock in carload lots to carry the shipper or his agent free of charge. (This statute was held unconstitutional by the state court, and needs no further notice. *McCully v. Railroad Co.,* 212 Mo. 1.)

Page 230 U. S. 478

These acts took effect on June 14, 1907.

On June 11, 1907, the complainant in each of the eighteen cases moved for leave to file an amended and supplemental bill, then presented to the court, which set forth the legislation of 1907, above-mentioned, and asked relief against its enforcement upon the grounds that these acts constituted an unwarrantable interference with interstate commerce and that they were confiscatory. On June 13, 1907, the court made an order setting down the applications for argument, and meanwhile restraining the enforcement of the new rates. On June 17, 1907, upon hearing, leave to file was granted and a temporary injunction was allowed as to the freight rate laws of 1907, but not as to the passenger fare law. The latter was permitted to go into effect for three months without prejudice, and was thereafter continued in force until the final decrees.

Meanwhile, on June 14, 1907, bills were filed in the name of the state in the state court against the railway companies, seeking an injunction requiring them to put in force both the freight and passenger rates as prescribed.

The supplemental bills in the federal courts were amended so as to show these proceedings. On demurrer to these bills, as amended, it was insisted that they were without equity; that the matters alleged were not germane to or supplementary of the original bills, and that the state court had jurisdiction of the proceedings therein instituted. The demurrers were overruled, and the defendants answered.

It was ordered (June 13, 1908) that the eighteen cases should be set down for hearing before the court upon the testimony theretofore taken before the master, and upon such further oral and documentary evidence as should then be offered in open court. And the cases were so heard.

With respect to eight of the suits, it was stipulated that they should abide the result in other suits named.

The case of the St. Louis, Kansas City & Colorado Railroad Company was consolidated with that of the Chicago, Rock Island & Pacific Railway Company, the latter having acquired the property of the former, and the court ordered that the "findings, statements, and figures" of the two companies should be combined. In the suit brought by the Chicago, Burlington & Quincy Railway Company, then the lessee of the property, the Chicago, Burlington & Quincy Railroad Company was substituted as complainant on the cancellation of the lease.

In the nine cases thus remaining, the court held that the rate acts, both of 1905 and 1907, were invalid, as confiscatory. The contention as to the invalidity of the acts by reason of interference with interstate commerce was not sustained. The costs were equally divided.

And from the final decrees entered in these nine suits, the above entitled appeals and cross-appeals were taken.

Page 230 U. S. 495

MR. JUSTICE HUGHES, after making the above statement, delivered the opinion of the Court.

1. The contention of the appellants that the court erred in permitting the filing of the amended and supplemental bills is without merit. Although the commodity rate Act of 1907 repealed that of 1905, it saved the penalties and liabilities incurred under the repealed statute. Both the original and supplemental bills proceeded upon the broad ground that the returns of the companies from their intrastate business, prior to the Act of 1905, were unreasonably low, and that any reduction in rates would

Page 230 U. S. 496

only diminish the income, already inadequate. The additional legislation pending the suits, and the substitution of slightly higher rates on certain commodities embraced in the earlier act, did not alter the essential features of the controversy. There was identity of parties and subject matter, although nominally different acts were involved. To have required original bills would have involved double litigation,

double costs, and great delay. The ends of justice were advanced by allowing the amended and supplemental bills, and we are not inclined to interfere with the reasonable discretion of the trial judge in a matter of practice which in no way violated any of the substantial rights of the appellants.

Neither can it be said that the state court had prior jurisdiction. That the state filed in one of its courts bills for the enforcement of the Act of 1907 before the actual filing of the supplemental bills may be true, but the application for leave to file the supplemental bills was pending in the circuit court of the United States, and action was suspended, merely to give opportunity for hearing, the court meanwhile restraining the enforcement of the new rates. In view of the pending bills assailing the Act of 1905, the substantial identity of the question arising under the Acts of 1907, and the pendency of the motion for leave to file supplemental bills, we are clearly of opinion that priority of jurisdiction belonged to the United States, and the state court could not properly oust that jurisdiction.

2. It is insisted by the cross-appellants that the legislative acts, although relating exclusively to intrastate transportation, constituted an unwarrantable interference with interstate commerce, and that the decrees should have afforded relief upon this ground. We need not review the arguments addressed to conditions of transportation in Missouri and the relation of intrastate to interstate rates, for wile the case has its special facts by

Page 230 U. S. 497

reason of the location of the state, and the use of the Mississippi and Missouri Rivers as basing points in ratemaking, the controlling question thus presented with reference to the authority of the state to prescribe reasonable intrastate rates through its territory, unless limited by the exercise on the part of Congress of its constitutional power over interstate commerce and its instruments, is not to be distinguished in any material respect from that which was considered and decided in the *Minnesota Rate Cases, ante,* p. 230 U. S. 352 . For the reasons stated in the opinion in those cases, it must be held that the court below properly refused to sustain this objection to the Missouri statutes.

3. We are thus brought to the question whether the action of the state was confiscatory -- that is, whether, by the reduction in rates of which complaint is made, the carriers were denied the just compensation to which they were entitled for the use of their property in the public service. It is to be observed that the freight rate acts of 1907 applied only to a portion of freight transportation -- that is, to the transportation of specified commodities in carload lots. But, as we have said, it is contended that the return from the intrastate business was already inadequate, and that the scope of the state's action in the passage of the passenger fare act and the commodity rate acts was such as necessarily to preclude a fair return upon that business, taken as a whole. If it be assumed that the question of the profitableness of the entire intrastate operations is thus presented, the inquiry leads at once to a consideration of the fair value of the property devoted to the public use.

The findings of value made by the court below, in the case of seven [Footnote 1] of the nine companies were the same as

Page 230 U. S. 498

the valuations placed respectively upon the properties by the state assessing board, for the purpose of taxation, multiplied by three. [Footnote 2] The multiplication was made because the assessments were on the basis of one third of the value in the judgment of the state board. In the case of two of the companies, the St. Louis & Hannibal and the Kansas City, Clinton & Springfield, the value as found was equal to twice the assessed valuation -- that is, the value was taken to be two-thirds of the estimate of the assessing board.

None of the members of the state assessing board was examined. There is no satisfactory proof of the grounds of their judgment. Nor was it shown that these valuations, made by them for the purposes of taxation, were upon a basis which could properly be taken in determining the fair value where the sufficiency of prescribed rates is involved and the issue is one of confiscation.

It is urged that there was other evidence in support of the conclusions reached. The court below, while finding values equal to those estimated by the state assessing board, also found that, apart from the valuations of the state board, and upon the whole evidence, the property was at least worth the amounts mentioned in the findings. It was said that there had been considered

"the immense terminal values of most of the roads, the amount of stock and bonds outstanding, what it would cost to duplicate the properties both with and without terminals in the large cities, and all the evidence bearing on present values. "

Page 230 U. S. 499

On examining the evidence, however, we find it to be too general and inconclusive to be regarded as sufficient proof to sustain the values as found. Undoubtedly, the companies possessed valuable terminals, but what the values were was not suitably shown. There is an absence of evidence, appropriately specific, dealing with the lands, improvements, structures, equipment, and other property owned by each company and showing what the various items of property were worth. It would seem manifest from the character of the evidence which can be supposed to have relation to value that reliance was principally placed upon the estimates of the state assessing board. There was proof of the amount of stocks and bonds, of earnings, and also testimony as to the cost of certain recent construction; but while these matters could properly be considered in reaching a conclusion, we fail to find any adequate basis for the definite findings of value that have been made. We are referred to the testimony of two witnesses for the complainants, men of considerable experience in railroad affairs, but this consisted of broad estimates. Thus, one of these witnesses testified as follows:

"Q. I want to ask you a question as to the Rock Island, the St. Louis & Hannibal, the Kansas City Southern, the M. K. & T., the Kansas City, Clinton & Springfield, and the Chicago Great Western. In speaking of the Rock Island, I include the St. Louis, Kansas City and Colorado."

"The figures in those cases being based upon three times the valuation of said property, as shown by the state bards of equalization assessment for the year 1907, I think it is . . . and the Atchison, Topeka & Santa Fe Railway Company."

"One or two of these roads had the figures for 1908, and I want to see which those are. I think those I named are all for 1907, and the Burlington figures are for 1908."

"Now I want to ask you the general question as to each

Page 230 U. S. 500

and all of those roads, whether, in your opinion each of those roads is worth an amount equal to three times the valuation fixed by the state board of equalization in those years -- at least that much?"

"A. Yes, sir, in a general way I should say the value of those roads is at least three times the amount shown in the report of the State Board of Equalization of Missouri, for the years 1907 and 1908. I have examined both books, and substantially there is not very much difference."

"Q. I do not remember whether we gave the Frisco figures for 1907 or for 1908. But you make them applicable to all the roads you have testified to, as to both 1907 and 1908, do you?"

"A. Yes, sir, with the exception, possibly, of the St. Louis & Hannibal and of the Kansas City, Clinton & Springfield. I am not certain as to those roads being worth three times the assessed value, as shown in the printed report of the proceedings of the State Board of Equalization."

"Q. As to each of those roads, which are losing ventures anyway, according to the testimony here, about what would you say they are worth at least how much?"

"A. Well, I should say twice as much as the assessed valuation."

"Q. Your statement, with the exception you make as to the St. Louis & Hannibal, and the Kansas City, Clinton & Springfield Railroads, is applicable to all the roads

whose cases have been tried here?"

"A. Yes, sir."

Another witness testified with respect to the Rock Island road that the value was not less than three times the assessed valuation -- that is, not less than the amount taken on this basis as the valuation of the state board.

It is clear that testimony of this general character cannot be deemed sufficient to support a finding of confiscation

Page 230 U. S. 501

or to justify the annulment of the legislative acts of the state.

In the case of the Chicago, Burlington & Quincy Company, the value of the property in the State of Missouri was fixed at the amount of $53,172,907.83. This amount, as stated in the exhibit of computations submitted in Missouri was 1,136.34 miles, precisely three times "the assessment for 1908" ($17,724,302.61), the assessment being made upon the basis of one-third of the board's estimate. The court found that the mileage in Missouri was 1,136.34 miles, and that the value as fixed amounted to $46,793 a mile. If this valuation were extended to the mileage of the entire system, it would mean that, for the purpose of determining the validity of prescribed rates and the issue of confiscation, the Burlington property as a whole should be regarded as worth over $400,000,000. According to the evidence as stated in the brief of counsel for the company, the actual bonded indebtedness of the company at the time in question was $174,172,000, and its stock, $110,839,100, making a total of $285,011,100. In short, the contention would be, on this basis of valuation extended to the system, that, unless the Burlington were permitted to calculate its fair return upon an amount exceeding by more than $115,000,000 its total capitalization, it would be deprived of its property without due process of law.

Manifestly, a finding of confiscation could not be based on such a valuation in the absence of clear and convincing proof that the value actually existed, and that the

different items of property were estimated respectively by correct methods and in accordance with proper criteria of value. This proof was lacking. In the case of the other roads, although the special considerations which have been mentioned with respect to the Burlington property may not be applicable, still we are left in uncertainty as to the correctness of specific valuations which have been made.

Page 230 U. S. 502

It cannot be regarded as sufficient to introduce assessments, or valuations made for the purposes of taxation, and this is particularly true when the principles governing the assessments are not properly shown, and for all that appears, they may have rested upon methods of appraisement which would be inadmissible in ascertaining the reasonable value of the property as a basis for charges to the public. *Minnesota Rate Cases, ante,* p. 230 U. S. 352 .

There is a further question, and that is whether these estimates of value which the court below adopted in its findings were accepted by the defendants, and hence are not open to objection here. It is undoubtedly true that these estimates were used in the computations, on both sides, which were submitted to the court. The amounts assessed respectively were conceded, and it was also agreed that the assessments were made at one-third the value in the judgment of the board. Concessions of this sort were made at various times during the taking of evidence, and the following extracts from the record are sufficient, we think, to show their nature.

Thus, with respect to the Burlington road, on the original bill, the following stipulation was made before the master:

"It is agreed between the parties that the basis of one third of the value of the property, basis of the third of the value of the property, in the judgment of the board."

And later, on the hearing before the court on the amended and supplemental bills, the following took place:

"Mr. Hagerman: We have a stipulation in the other three cases that the State Board of Railroad & Warehouse Assessment was based upon one-third of what they regarded as a 33 1/3 percent valuation."

"General Hadley: Whatever the stipulation was, it would be equally applicable to the other fifteen roads as it was to the three. "

Page 230 U. S. 503

"The Court: If you are able to make an agreed statement now, better do so."

"Mr. Hagerman: I would like to get the fact, whatever it may be."

"The Court: Who assesses the railroads?"

"Mr. Hagerman: The state officers."

"Mr. Lehmann: We do not accept that as indicating the real value, because, under the law, the state board is required to take into account a great many things -- the amount of the bonds and the stock, the franchises, the income of the property, and the income might be unduly high, and upon that basis give an unduly high valuation to the property."

"Mr. Hagerman: I did not ask you to admit that is the value of itself, but that the state board valuation is fixed by them upon three times the amount of the returns."

"Mr. Lehmann: We object to that as immaterial and irrelevant."

"Mr. Hagerman: Will you admit it subject to the objection?"

"General Hadley: My recollection is that the stipulation or understanding was that the state board assessment was one-third of what they regarded as the value of the property, including the franchise."

"Mr. Hagerman: One-third of the value as listed in the statement. I shall follow it by the introduction of a statement."

"General Hadley: That is all right."

Our conclusion is that the stipulation extended only to the fact that the judgment of the board was as stated. While the evidence on the question of value, considering the character of the issue involved, was extremely unsatisfactory, and these estimates based upon the assessments were used by both parties in the calculations which were submitted to the court, still it cannot be said that there was an agreement as to the values. Nor did the

Page 230 U. S. 504

court, in making its findings, proceed upon the view that the values had been stipulated. We can entertain no doubt upon this record that the defendants are free to urge, as they do urge, that the values as found are not supported by the proof.

It is not necessary to consider the merits of the contention based on the assumption that, in the item of the assessment entitled "All Other Property," the state assessors included franchises of the companies. There is no clear showing as to what they did include in this item. As we have said, they were not called as witnesses, and in many essential particulars we are unable to judge upon what basis they made their specific appraisements.

4. The value of the entire property within the state, as found, was apportioned between the interstate and intrastate business, passenger and freight, according to the gross revenue derived from each.

The reasons for disapproving this method were stated in *Minnesota Rate Cases, ante,* p. 230 U. S. 352 , and the ruling there made is controlling here.

5. A large part of the controversy relates to the division of expenses between the interstate and intrastate traffic. It is contended by the defendants that the division should have been made with respect to freight according to the relation of ton-miles, and that the passenger expense should have been divided according to the relation of passenger-miles, or, to include another factor upon which the defendants insist, according to passenger-miles and "service rendered" -- meaning

by the latter that the quality of the service should be taken into account.

The court made the division in each case upon the basis of gross revenue, with an addition for the extra cost of intrastate traffic, this being estimated at not less than fifty percent in the case of freight, and not less than twenty-five percent in the case of passengers.

It is evident that, in an apportionment of expenses

either upon the revenue method or upon the ton-mile and passenger-mile method, relations may be assumed which do not in fact exist. Thus, a division of expenses according to gross revenue assumes that the cost in relation to revenue is the same with respect both to intrastate and interstate traffic; in fact, it may by very different. A greater average sum may be charged for intrastate than for interstate hauls, and this greater sum may or may not be equal to the difference in cost. In the Minnesota cases, the master found that the revenue per ton per mile derived from intrastate business, as compared with interstate business, was, with respect to the Northern Pacific Company, as 1.4387 to 1.0000, and with respect to the Great Northern Company, as 2.02894 to 1.00000. And there is further illustration in the present case, it appearing, for example, that in the case of the St. Louis & San Francisco Company, the revenue per ton per mile from the intrastate business, as compared with the interstate business, was as 1.7286 to 1.0000, and in that of the Chicago, Burlington & Quincy Company, approximately as 2 to 1. An apportionment of expenses on the basis of revenue which did not take into consideration the differences in revenue in relation to cost in the two classes of traffic would be plainly inaccurate.

On the other hand, a division according to ton-miles assumes that the cost of moving a ton of intrastate freight one mile is the same on the average as the cost of moving a ton of interstate freight one mile. If the average cost differs in the two classes of traffic, the difference must be allowed for in order to make a correct apportionment of the total expense.

When the apportionment is on the revenue basis, with an allowance such as was made by the court below for the assumed extra cost of intrastate traffic, it is manifest that the purpose is to express in a given percentage the additional cost of intrastate traffic in proportion to revenue.

Page 230 U. S. 506

This was clearly illustrated in the computations made by the master in the *Minnesota Rate Cases, ante,* p. 230 U. S. 352 . The master concluded that the cost per ton-mile of doing intrastate freight business was two and one half times that of doing interstate freight business. The division of expenses was then made according to ton-miles after increasing the intrastate ton-miles two and one half times. To reach the same result on the revenue basis, it was necessary to ascertain the relation of cost per ton-mile in proportion to revenue, and for this purpose, for example, in the Northern Pacific case, the relation of cost per ton-mile (2.5 to 1.0) was divided by the relation of revenue per ton-mile (1.4387 to 1.0000), and the relation of cost in proportion to revenue was thus found to be as 1.7377 to 1.0000. The division of expenses was then made upon the revenue basis after multiplying the intrastate revenue by 1.7377, and the result, of course, was identical with that obtained upon the ton-mile basis, as already stated.

The allowance of 50 percent (which was made below) for the extra cost corresponds in its nature to the 73.77 percent allowed in the *Minnesota* case on the "equated revenue basis." If, for example, it were assumed that it cost three times as much per ton-mile to do the intrastate freight business as the interstate, and the revenue per ton-mile of the former was twice that of the latter, the cost in proportion to revenue would be 50 percent more. Or, if the assumption were that the intrastate freight business cost two and one half times as much per ton-mile as the interstate, and the revenue per ton-mile of the former, as compared with the latter, was as 1.66 to 1.00 (as it is said to be in the case of the Atchison, Topeka & Santa Fe Company), the extra cost in proportion to revenue would be substantially 50 percent

As the counsel for the railroad companies says in his brief, the court below

"took the estimates of two to four

Page 230 U. S. 507

times extra cost, given by witnesses, and because of extra state or short-haul revenue per mile and other considerations, reduced them to 50 percent, saying that this as a minimum, added to the equal division upon the revenue basis, brought to each road a result that was fair, just, and representative."

We have, then, in substance, the same question that was presented in the *Minnesota* cases with respect to the evidence of the additional cost of transacting the intrastate business. There are numerous expressions of judgment on the part of the witnesses as to the amount of the intrastate cost, some estimating it on the revenue basis and others on the ton-mile basis. The estimates took a similarly wide range, making the cost of the intrastate or short-haul business from two to eight or more times that of the interstate or long haul business. There was also testimony on each side as to certain tests, but these covered only a few days. We can reach no different conclusion from that stated in the decision to which we have referred, that, in an issue of this character, involving the constitutional validity of state action, general estimates of the sort here submitted with respect to a subject so intricate and important should not be accepted as adequate proof to sustain a finding of confiscation. *Minnesota Rate Cases, ante,* p. 230 U. S. 352 .

For the reasons that have been set forth, we must conclude that, save in the cases mentioned below, the complainants failed to sustain their bills.

The exceptions are these: in the case of the St. Louis & Hannibal Company, operating, as found by the court below, 120.61 miles within the state, the net revenue from the entire Missouri business, interstate and intrastate, for the fiscal year ending June 30, 1908, appears to have been $15,687.18. In the case of the Kansas City, Clinton & Springfield Company, operating 151.01 miles within the state, the net revenue from the entire business therein,

Page 230 U. S. 508

interstate and intrastate, for the same year, amounted to $32,500.72. In each of these cases, the experts employed by the parties unite in the statement that it is apparent from the results shown that "upon neither the revenue nor ton-mile nor passenger-mile theory of expenses can any adequate return on the investment be earned."

In the case of the Chicago Great Western Company, operating 84.43 miles of road within the state, the entire net revenue from the Missouri business, interstate and intrastate, for the six months ending December 31, 1907, being the period taken by both parties for the purpose of calculation, amounted to $41,839.06. From our examination of the evidence and the various computations, we are satisfied in this case, as in the two others above mentioned, that errors attributable either to valuation or to apportionments cannot be regarded as sufficiently great to change the result.

The decrees in these three cases will accordingly be affirmed, with the modification that the Railroad and Warehouse Commissioners and the Attorney General of the state may apply at any time to the Court, by bill or otherwise, as they may be advised for a further order or decree whenever it shall appear that, by reason of a change in circumstances, the rates fixed by the state's acts are sufficient to yield to these companies reasonable compensation for the services rendered.

The contention raised by the complainants that these legislative acts cannot be enforced against one company unless enforced against all cannot be sustained. The argument in effect is that, although the charges of carriers may be clearly exorbitant, the state is powerless to compel them to put into effect reasonable rates because, as to another carrier differently situated, the rates thus prescribed might be unreasonably low. The acts are valid upon their face as a proper exercise of governmental authority in the establishment of reasonable rates, and

each complainant, in order to succeed in assailing them, must show that as to it the rates are confiscatory.

The decrees in Numbers 9, 12, 339, 340, 341, 342, 345, 346, 349, 350, 357, and 358 are reversed and the cases remanded, with directions to dismiss the bills respectively without prejudice.

The decrees in Numbers 351, 352, 365, 366, 367, and 368 are modified as stated in the opinion, and, as modified, are affirmed.

* Docket titles of these cases arc as follows:

No. 9. Knott *et al.,* Railroad and Warehouse Commissioners v. Chicago, Burlington & Quincy R. Co.

No. 12. Chicago, Burlington & Quincy R. Co. v. Knott &c.;

No. 339. Knott &c.; v. St. Louis & San Francisco Railroad Co.

No. 340. St. Louis & San Francisco Railroad Co. v. Knott.

No. 341. Knott v. Atchison, Topeka & Santa Fe Railway Co.

No. 342. Atchison, Topeka & Santa Fe Railway Co. v. Knott.

No. 345. Knott v. Chicago, Rock Island & Pacific Railway Co.

No. 346. Chicago, Rock Island & Pacific Railway Co. v. Knott.

No. 349. Knott v. Kansas City Southern Railway Co.

No. 350. Kansas City Southern Railway Co. v. Knott.

No. 351. Knott v. St. Louis & Hannibal Railway Co.

No. 352. St. Louis & Hannibal Railway Co. v. Knott.

No. 357. Knott v. Missouri, Kansas & Texas Railway Co.

No. 358. Missouri, Kansas & Texas Railway Co. v. Knott.

No. 365. Knott v. Kansas City, Clinton & Springfield Railway Co.

No. 366. Kansas City, Clinton & Springfield Railway Co. v. Knott.

No. 367. Knott v. Chicago Great Western Railway Co.

No. 368. Chicago Great Western Railway Co. v. Knott.

There were altogether thirty-six Missouri Rate Cases, of which eighteen were disposed of by this opinion. In eight of the last mentioned suits, it was stipulated in the court below that they should abide by the decision reached in other cases. Of the remaining ten, two were consolidated into one for purposes of trial, *see* p. 230 U. S. 512 , *post,* leaving nine suits which were submitted to the court below upon the proofs. The court below enjoined the rates as being confiscatory.

On the appeals in these nine suits (there being an appeal and cross-appeal in each case), this Court sustains the rates as to six companies, to-wit: the Chicago, Burlington & Quincy, the Atchison, Topeka & Santa Fe, the Kansas City Southern, the Missouri, Kansas & Texas, the Chicago, Rock Island & Pacific (including the St. Louis, Kansas City & Colorado), and the St. Louis & San Francisco.

In the cases of these companies, the decrees are reversed and the cases remanded with instructions to dismiss the bills, respectively, without prejudice.

The court holds the rates to be confiscatory in three of the nine cases whose appeals were heard, to-wit: the St. Louis & Hannibal, the Kansas City, Clinton & Springfield, and the Chicago Great Western.

In these three cases, the decrees are affirmed, with the modification that the Railroad Commissioners and the Attorney General of the state, may apply to the court whenever it shall appear that, by reason of a change in circumstances the rates fixed.by the state's acts are sufficient to yield reasonable compensation.

Under the stipulations made in the court below, the decision sustaining the rates as to the six companies above-mentioned will also apply to six other companies, to-wit, the St. Louis Southwestern, the Missouri Pacific, the St. Louis, Iron Mountain & Southern, the Wabash, the Chicago, Milwaukee & St. Paul, and the Chicago & Alton, *see* p. 230 U. S. 509 , *post.*

The decision in the case of the Chicago Great Western Company, holding the rates to be confiscatory, will also apply by virtue of the stipulations made below to the Quincy, Omaha & Kansas City Railroad Company and the St. Joseph & Grand Island Railway Company. For other cases involving Missouri rates, *see* pp. 230 U. S. 509 , 230 U. S. 512 , *post.*

[Footnote 1]

These companies were the Chicago, Burlington & Quincy, St. Louis & San Francisco, Atchison, Topeka & Santa Fe, Chicago, Rock Island & Pacific, Kansas City Southern, Missouri, Kansas & Texas, and Chicago Great Western.

[Footnote 2]

In certain instances, there are slight differences which appear to be accounted for by additions to the state assessments of certain local assessments. But in every instance, the value as found corresponds to what was assumed to be three times the assessed valuation in the statements of computations submitted to the court.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com