

Opinion of the Court.

CHESAPEAKE & OHIO RAILWAY CO. ET AL. v.  
UNITED STATES ET AL.\*

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA.

No. 549. Argued November 13, 1935.—Decided November 25, 1935.

Order of the Interstate Commerce Commission fixing rates on coal  
is sustained by findings of the Commission adequately supported  
by evidence.

11 F. Supp. 588, affirmed.

*Messrs. M. Carter Hall and Robert E. Quirk*, with  
whom *Messrs. E. L. Beach and Harry S. Elkins* were on  
the brief, for the Chesapeake & Ohio Ry. Co. et al.

*Mr. Nelson Thomas*, with whom *Assistant Solicitor  
General Bell and Mr. Daniel W. Knowlton* were on the  
brief, for the United States and Interstate Commerce  
Commission.

*Mr. David C. Walls* argued the cause, *pro hac vice*, on  
behalf of the Commonwealth of Kentucky, and *Mr.  
Bailey P. Wootton*, Attorney General, and *Mr. C. R.  
Hillyer* filed a brief.

PER CURIAM.

This is a suit to restrain the enforcement of an order  
of the Interstate Commerce Commission, made February  
7, 1935, relating to rates for the transportation of coal  
from mines in Kentucky and West Virginia, respectively,  
and requiring the establishment of rates, as described, in  
order to remove an undue prejudice found to result from

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\*Together with No. 550, *United States et al. v. Chesapeake &  
Ohio Ry. Co. et al.* Appeal from the District Court of the United  
States for the Southern District of West Virginia.

existing rates. 201 I. C. C. 165; 206 I. C. C. 445. Upon the hearing by the District Court, composed of three judges, the injunction was denied and the bill of complaint dismissed, but a restraining order was entered staying the enforcement of the Commission's order pending appeal to this Court. 11 F. Supp. 588. The Railway Company and intervening shippers appeal from so much of the decree as denied the injunction and dismissed the bill of complaint, and the United States, the Interstate Commerce Commission, and others, appeal from that part of the decree which stayed the enforcement of the Commission's order.

This Court, upon an examination of the record, agrees with the conclusion of the District Court that the order in question was sustained by findings of the Commission acting within its statutory authority and that these findings were adequately supported by evidence. The decree denying injunction and dismissing the bill of complaint is affirmed. *Texas & New Orleans R. Co. v. United States*, 295 U. S. 395.

This disposition of the case makes it unnecessary to pass upon that portion of the decree which stayed the enforcement of the Commission's order. See *Virginian Ry. Co. v. United States*, 272 U. S. 658.

*Affirmed.*

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### UNITED STATES *v.* HASTINGS.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI.

No. 22. Argued November 12, 1935.—Decided December 9, 1935.

1. Upon appeal under the Criminal Appeals Act from an order quashing an indictment, this Court must accept the construction of the indictment placed upon it by the District Court. P. 192.
2. This Court cannot entertain an appeal by the Government, under the Criminal Appeals Act, from a judgment of the District Court