

Per Curiam.

385 U. S.

UNITED STATES ET AL. v. SASKATCHEWAN  
MINERALS.APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON.

No. 525. Decided November 14, 1966.\*

District Court's order setting aside on the merits ICC's dismissal of appellee's complaint that railroad rates were preferential and ordering ICC to grant appellee relief *held* unduly limited ICC's duty to reconsider the entire case.

253 F. Supp. 504, vacated and remanded.

*Solicitor General Marshall, Assistant Attorney General Turner, Howard E. Shapiro, Robert W. Ginnane, Fritz R. Kahn and Betty Jo Christian* for the United States et al. in No. 525.

*Charles W. Burkett, W. Harney Wilson, Arthur A. Arsham and Willard P. Scott* for appellants in No. 526.

*Wayne W. Wright* for appellee in both cases.

## PER CURIAM.

These appeals are from an amended judgment of a three-judge district court, 253 F. Supp. 504, which set aside an order of the Interstate Commerce Commission dismissing appellee's complaint, 325 I. C. C. 621, and remanded the case to the Commission "for further proceedings with instructions to grant relief" to the appellee "in accordance with the opinion heretofore entered by this court on December 8, 1965, and the Supplemental Memorandum Decision entered by this Court on March 3, 1966." Accepting the District Court's decision to set aside the Commission's order on the merits, appellants challenge that portion of the judgment which instructs

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\*Together with No. 526, *Great Northern Railway Co. et al. v. Saskatchewan Minerals*, also on appeal from the same court.

the Commission to grant relief to the appellee and precludes the Commission from reopening the proceedings for the receipt of additional evidence relevant to the question whether the rates challenged by the appellee are in fact unreasonably preferential in violation of § 3 (1) of the Interstate Commerce Act, 49 U. S. C. § 3 (1). We agree with the appellants that, under the circumstances present here, this restriction is an improper limitation on the Commission's duty to reconsider the entire case. *Arrow Transp. Co. v. Cincinnati, N. O. & T. P. R. Co.*, 379 U. S. 642. Accordingly, the judgment of the District Court is vacated and the cases are remanded to the District Court with instructions to enter an order remanding the case to the Commission for further proceedings consistent with the District Court's opinion of December 8, 1965.

*It is so ordered.*