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Complaint.

COMPLAINT.

Filed August 8, 1920.

New Jersey Supreme Court

ESSEX COUNTY.

10

LEHIGH VALLEY RAILROAD COMPANY,

Plaintiff,

vs.

MAAS & WALDSTEIN Co.,

Defendant.

Action at Law.

Complaint.

The plaintiff, Lehigh Valley Railroad Company, a corporation organized and existing under the laws of the State of Pennsylvania, and having the right to trans-act business in the State of New Jersey says: 20

1. The plaintiff is a railroad company and common carrier engaged in interstate and intra-state commerce in the State of New Jersey and elsewhere.

2. The defendant is a corporation of the State of New Jersey and is engaged in the manufacture of acids, chemicals and other commodities in the City of Newark, N. J. During the years 1916 and 1917 the plaintiff moved considerable freight for the defendant consisting of coal, nitrate of soda, acid, and other commodities. 30

3. On the 1st day of January, 1916, the plaintiff and the defendant entered into an agreement known as an Average Agreement, which, among other things, provided that demurrage charges on shipments made by the defendant over the lines of the plaintiff should be computed upon the basis of the rate set forth in the tariffs published by the plaintiff with the sanction of the Interstate Commerce 40

Complaint.

Commission and the supplements thereto, and it was therein further provided that such rates should govern both as to interstate and intra-state shipments.

4. During the months of April, June, July, August and September, 1916, there were in force plaintiff's tariff No. I. C. C. F. 17 and supplement No. 5 to tariff I. C. C. F. 17 and during said period of time, the defendant
 10 shipped commodities over the lines of the plaintiff and had commodities consigned to it, and failed to accept or arrange for delivery of such commodities within the free period provided for in said tariff and the supplements thereto, so that demurrage accrued and became due from the defendant to the plaintiff on account of such shipments pursuant to said tariff and the supplements thereto, and the said Average Agreement between the plaintiff and the defendant.

20 5. Schedule A, which is hereto annexed and made a part hereof, sets forth the amount of debits and credits accruing to the defendant on account of demurrage during the said months of April, June, July, August and September, 1916, pursuant to said tariff, the supplements thereto and said Average Agreement, as well as the amount due therefor. The entire sum of \$10,902.00 therein set forth became due and owing from the defendant on account of demurrage charges during said
 30 months.

6. The defendant has paid the sum of \$6,250.00 on account of said demurrage charges, but although requested, has failed and refused to pay the balance of \$4,652. due on account thereof.

SECOND COUNT.

1. The plaintiff repeats the allegations of paragraphs 1 and 2 of the first count.

2. From the first day of January, 1916, to the 30th
 40 day of April, 1917, the defendant caused to be shipped

Complaint.

over the lines of the plaintiff and caused to be stored in the freight cars of the plaintiff certain dangerous commodities, to wit, acid and nitrate of soda.

3. Under an agreement then subsisting between the plaintiff and the defendant, and pursuant to paragraph B of the plaintiff's tariff No. I. C. C.—C. 4031, it was provided that a storage charge of \$2.00 should accrue on such shipments for each day that such commodities should remain in storage in the freight cars of the plaintiff after the free period upon such shipments. 10

4. Schedule B, which is hereto annexed, and made a part hereof, sets forth the particulars of said storage of dangerous commodities caused to be made by the defendant in the freight cars of the plaintiff, and the amount which became due therefor pursuant to said agreement between the plaintiff and the defendant and plaintiff's tariff No. I. C. C.—C. 4031. 20

5. The entire sum of \$9,456.00 referred to in Schedule B became justly due and owing from the defendant to the plaintiff on account of such storage charges, which said sum the defendant, although duly requested, has failed and refused to pay.

The plaintiff demands judgment upon the first count for the sum of \$4,652.00 and upon the second count for the sum of \$9,456.00, together with lawful interest upon said sums and costs of suit. 30

McCARTER & ENGLISH,
Attorneys for Plaintiff.

Complaint—Schedule A.

SCHEDULE A.

Statement showing amounts of demurrage charges assessed on cars loaded with interstate and with intrastate shipments for Maas & Waldstein Co., Newark, N. J., during the months mentioned below.

10	April, 1916.					
				Ex. debits up to 5 as per Supt. #5 to I. C. C. #F-17		
	Interstate	Dr. 227	Cr. 15	Ex. Dr. 1270	9	\$1491.00
	Intrastate	9	4	2	—	7.00
		—	—	—	—	—
		236	19	1272	9	\$1498.00
20	June, 1916.					
	Interstate	231	..	2508	88	\$2827.00
	Intrastate	5	..		2	7.00
		—	—	—	—	—
		236	..	2508	90	\$2834.00
30	July, 1916.					
	Interstate	282	21	2955	72	\$3288.00
	Intrastate	...	11		..	11.00
		—	—	—	—	—
		282	32	2955	72	\$3277.00
30	August, 1916.					
	Interstate	90	11	2071	28	\$2178.00
	Intrastate	1	16		..	15.00
		—	—	—	—	—
		91	27	2071	28	\$2163.00
30	September, 1916.					
	Interstate	60	6	1072	10	\$1136.00
	Intrastate	..	6		..	6.00
		—	—	—	—	—
		60	12	1072	10	\$1130.00

Complaint—Schedule B.

	Charges Assessed on Interstate Shipts.		Charges Assessed on Intrastate Shipts.	Total Charges Assessed.	
April	\$1491.00		\$7.00	\$1498.00	
June	\$2827.00		7.00	\$2834.00	
July	3288.00	credits	11.	3277.00	
August	2178.00	“	15.	2163.00	
September	1136.00	“	6.	1130.00	10
Totals	\$10920.00	excess credits	18	\$10902.00	

SCHEDULE B.

To Storage Charges on Cars from January 1,
to April 30, 1917

As Per Tariff ICC No. C-4031.

Statement Attached\$9456.00

20

Statement of Storage of Cars Account of Maas & Wald-
stein From January 1916 to April 30, 1917.

Init	No.	Arr'd	Released	Days Detention	Amt. Earned	
ABCX	192	2/23	2/29	2	4.00	
ABCX	1099	2/23	3/1	3	6.00	
HBX	183	2/26	3/4	1	2.00	
HBX	174	2/26	3/6	2	4.00	
HBX	186	2/26	3/6	2	4.00	
HBX	169	2/26	3/7	3	6.00	30
ABX	1122	2/26	3/8	4	8.00	
ABX	1090	2/26	3/8	4	8.00	
ABCX	1107	3/6	3/14	5	10.00	
ABCX	1037	3/7	3/14	4	8.00	
ABCX	1106	2/28	3/16	12	24.00	
GATX	8310	2/28	3/17	13	26.00	
HBX	188	3/3	3/21	14	28.00	
ABCX	1118	2/26	3/21	17	34.00	
ABCX	1097	3/2	3/23	18	36.00	40

Complaint—Schedule B.

	Init.	No.	Arr'd	Released	Days Detention	Amt. Earned
	ABCX	1096	3/3	3/23	16	32.00
	GATX	8069	3/3	3/23	16	32.00
	JTX	213	4/19	4/24	1	2.00
	JTX	221	4/13	4/19	1	2.00
	JTX	218	4/10	4/17	2	4.00
10	JTX	211	4/10	4/17	2	4.00
	HBX	167	4/3	4/10	4	8.00
	ABCX	1087	3/29	4/8	7	14.00
	TEX	1168	4/28	5/15	11	22.00
	TEX	1131	5/2	5/15	9	18.00
	GATX	8304	5/2	5/6	2	4.00
	ITX	227	4/25	5/2	3	6.00
	GATX	5006	4/25	5/2	3	6.00
	ITX	203	4/25	5/6	9	18.00
	FGS	5	5/2	5/8	3	6.00
20	ITX	205	5/4	5/12	5	10.00
	ITX	206	5/4	5/13	0	
	ITX	409	5/4	5/13	0	
	ITX	209	5/4	5/16	2	4.00
	PL	553175	4/14	5/22	28	56.00
	GRTZ	3	4/28	5/24	19	38.00
	CMS ^t P	501523	4/14	5/27	33	66.00
	GATX	8307	4/27	5/29	24	48.00
	SCKX	1121	4/28	5/29	23	46.00
30	PCC&STL	55298	4/14	5/31	35	70.00
	GT	102575	4/17	6/9	41	82.00
	RI	42224	4/17	6/9	41	82.00
	FRRX	10	4/28	6/13	35	70.00
	CP	113686	4/17	6/17	48	96.00
	NYCH	112743	4/17	6/17	48	96.00
	NH	77740	4/17	6/17	48	96.00
	DL&W	6234	4/17	6/19	49	98.00
	CRI&P	55015	4/19	6/21	49	98.00
	LV	62128	4/19	6/21	49	98.00
40	CNW	126314	4/17	6/24	54	108.00

Complaint—Schedule B.

Init.	No.	Arr'd	Released	Days Detention	Amt. Earned	
NYC & L	17013	4/17	6/24	54	108.00	
MA	52256	4/17	6/26	55	110.00	
LN	4140	4/20	6/26	49	98.00	
Erie	72755	4/17	6/27	56	112.00	
B/4	8585	5/18	6/28	32	64.00	
B/4	46503	5/18	6/28	32	64.00	10
CA	17555	4/18	6/29	57	114.00	
BRP	4399	4/19	6/29	56	112.00	
LV	73809	4/19	6/30	57	114.00	
BRP	3602	4/19	6/30	57	114.00	
DL&W	29642	4/22	7/1	56	112.00	
LV	65120	4/22	7/1	56	112.00	
LV	69148	4/22	7/3	57	114.00	
LV	83615	4/24	7/3	56	112.00	
OSL	10595	4/24	7/3	56	112.00	
Erie	106150	5/18	7/3	56	72.00	20
STLS&W	5126	5/23	7/6	34	68.00	
CP	54590	6/23	7/5	34	68.00	
CV	62095	4/24	7/8	60	120.00	
DL&W	31012	4/25	7/8	59	118.00	
MC	8700	5/18	7/12	43	86.00	
LV	82215	4/25	7/13	1	2.00	
LI	2496	5/23	7/14	41	82.00	
IC	22654	5/23	7/14	41	82.00	
NCR	81902	5/23	7/20	46	92.00	
ACL	36053	5/23	7/21	47	94.00	30
LV	60037	5/23	7/26	51	102.00	
DH	20622	5/23	7/31	55	110.00	
LV	87300	5/23	8/3	58	116.00	
SAL	27671	5/23	8/9	63	126.00	
CNW	102776	5/23	8/10	64	128.00	
NYC	27509	5/23	8/15	68	136.00	
IRC	61069	5/23	8/15	68	136.00	
CNW	109184	5/23	8/19	72	144.00	
DL&W	40597	5/23	8/21	73	146.00	
LV	61877	5/23	8/23	75	150.00	40

Complaint—Schedule B.

	Init.	No.	Arr'd	Released	Days Detention	Amt. Earned
	CS	33722	5/23	8/23	75	150.00
	NH	74860	5/23	8/23	75	150.00
	DL&W	25306	5/23	8/24	76	152.00
	B&O	71235	8/14	8/24	7	14.00
	PL	2883	8/14	8/24	7	14.00
10	FWD	6466	5/18	8/26	82	164.00
	LV	87538	5/18	8/26	82	164.00
	NYCRR	246770	5/18	8/28	83	166.00
	CL	7266	5/18	9/2	88	176.00
	Erie	104259	5/18	9/5	89	178.00
	NYC	211169	5/18	9/6	90	180.00
	KCM	4099	5/18	9/6	90	180.00
	PRR	70210	8/14	9/14	24	48.00
	LV	82248	8/14	9/14	24	48.00
	LN	94847	8/14	9/14	24	48.00
20	LV	81950	8/14	9/15	25	50.00
	LV	73895	8/14	9/15	25	50.00
	NYC	207606	8/14	9/16	26	52.00
	SCEX	8150	9/7	9/19	8	16.00
	WBX	174	9/15	9/19	0	
	BRI	15470	8/14	10/11	47	94.00
	PRR	14844	8/14	8/16	0	
	L	69367	8/14	10/17	51	102.00
	NYC	209606	8/14	10/18	52	104.00
	LV	85164	8/14	10/18	52	106.00
30	Erie	107112	8/14	10/19	53	106.00
	MSTL	11294	8/14	10/24	57	114.00
	B&O	39298	8/14	10/25	58	116.00
	PRR	24785	8/14	10/26	59	118.00
	Erie	101372	10/7	10/27	15	30.00
	CN&A	62066	10/7	10/28	15	30.00
	MC	50228	10/11	11/1	15	30.00
	TEX	7709	10/11	11/4	18	36.00
	FWD	6456	10/11	11/6	19	38.00
	MC	91269	10/7	11/9	24	48.00
40	GT	24819	10/7	11/10	25	50.00

Complaint—Schedule B.

Init.	No.	Arr'd	Released	Days Detention	Amt. Earned	
GT	105279	10/7	11/15	29	58.00	
LN	2663	10/7	11/18	32	64.00	
PL	517240	10/7	11/21	34	68.00	
PR	3587	10/7	11/23	36	72.00	
MP	25822	10/7	11/24	37	74.00	
PM	61155	10/7	11/23	40	80.00	10
GHS	37675	11/21	11/28	4	8.00	
GT	103243	11/21	11/28	4	8.00	
CLE	21206	11/21	11/28	4	8.00	
CT	9283	11/21	11/28	4	8.00	
MC	51381	11/21	11/28	4	8.00	
CNW	138708	11/21	11/28	4	8.00	
P&R	13031	11/21	11/28	4	8.00	
CNW	124428	11/21	11/28	4	8.00	
Erie	96530	11/21	11/28	4	8.00	
CBQ	43662	11/21	11/28	4	8.00	20
StLSW	4662	11/21	11/28	4	8.00	
CSTPMO	26080	11/21	11/28	4	8.00	
Wab.	76753	11/16	11/28	34	68.00	
CT	10266	11/16	11/28	34	68.00	
LV	78068	10/7	11/28	40	80.00	
CBQ	101547	10/7	12/2	43	86.00	
P&R	14146	1/10	1/17	4	8.00	
Erie	89127	1/10	1/17	4	8.00	
CofGa	25724	1/10	1/20	7	14.00	30
LV	87108	1/10	1/20	7	14.00	
CMStP	83098	1/10	1/20	7	14.00	
DL&W	36230	1/10	1/22	8	16.00	
NYC	237074	3/3	3/7	1	2.00	
LV	84465	3/3	3/7	1	3.00	
LV	86451	3/3	3/7	1	2.00	
LV	70871	3/12	3/15	1	2.00	
LV	69714	3/13	3/17	1	2.00	
LV	78409	3/17	3/22	2	4.00	
LV	68321	3/17	3/22	2	4.00	40

Answer.

	Init.	No.	Arr'd	Released	Days Detention	Amt. Earned
	CNW	136056	3/15	3/23	1	2.00
	LV	63973	3/22	3/28	1	6.00
	CRR	12593	3/26	3/31	2	4.00
	GPM	1042	3/29	4/3	2	4.00
	GT	17314	3/31	4/4	1	2.00
10	CBQ	108755	3/31	4/4	1	2.00
	TX	1175	4/16	4/23	4	8.00
	TX	1155	4/20	4/25	2	4.00
Total						\$9456.00

ANSWER.

Filed November 30, 1920.

- 20 The defendant, Maas & Waldstein Company, a corporation of the State of New Jersey, having its principal office in the City of Newark, County of Essex in said State, answering the complaint filed in the above cause, says:

ANSWER TO FIRST COUNT.

1. It admits paragraphs 1 and 2.
- 30 2. It denies the following portion of paragraph 3: "And it was therein further provided that such rates should govern both as to interstate and intra-state shipments."
3. It admits paragraph 4, but denies that any of the demurrage which accrued and became due from the defendant to the plaintiff on account of the shipments mentioned in said paragraph is now unpaid.
4. It denies paragraph 5.
5. It admits the payment of \$6,250 to the plaintiff for
40 demurrage charges and admits that it has failed and re-

Answer.

fused to pay the sum of \$4,652 mentioned in paragraph 6. It denies that said sum of \$4,652 or any part thereof or any other sum is due to defendant on account of said demurrage charges.

ANSWER TO SECOND COUNT.

6. Paragraph 1 of the second count is admitted. 10

7. It denies that the acid and nitrate of soda or any other commodities shipped by it over the plaintiff's railroad or caused by it to be stored in the freight cars of the plaintiff, were dangerous commodities, and admits the balance of paragraph 2.

8. It denies paragraph 3, 4 and 5.

LINDABURY, DEPUE & FAULKS,
Attorneys for Defendant.

Consent is hereby given to the filing of the within answer as of time. 20

McCARTER & ENGLISH,
Attorneys for Plaintiff.

30

40

Postea.

POSTEA.

Filed October 7, 1922.

10 This case was tried before Judge Worrall F. Mountain (one of the Circuit Court Judges to whom the cases on the list at the September term, 1922, of the Essex Circuit of the Supreme Court were referred for trial by the Justice of the Supreme Court holding the Essex Circuit, the above cause being one of the cases on said list) with a jury on September 29 and October 2, 1922.

The plaintiff having submitted his evidence and rested his case and the Court being of the opinion that it was not sufficient to entitle him to recover against the defendant, granted a non-suit on motion of the defendant.

WORRALL F. MOUNTAIN,
Circuit Court Judge.

20

30

40

Judgment.

JUDGMENT FOR DEFENDANT.

NEW JERSEY SUPREME COURT.

LEHIGH VALLEY RAILROAD COMPANY,	}	<i>Action at Law.</i>	
<i>Plaintiff,</i>		<i>On Postea.</i>	
<i>vs.</i>		<i>Judgment for Defendant.</i>	10
		<i>Lindabury,</i>	
MAAS & WALDSTEIN COMPANY,	}	<i>Depue &</i>	
<i>Defendant.</i>		<i>Faulks,</i>	
		<i>Attorneys.</i>	

Judgment entered this seventh day of
 October, A. D. nineteen hundred and
 Costs \$39.10 twenty-two, in favor of defendant and against 20
 the plaintiff for the sum of thirty-nine
 dollars and ten cents costs.

WM. S. GUMMERE,
C. J.

Notice of Appeal.

NOTICE OF APPEAL.

Filed December 1, 1922.

SIRS:

10 TAKE NOTICE that the plaintiff, Lehigh Valley Railroad Company, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in favor of the defendant in the above-entitled cause on the seventh day of October, 1922, on the following grounds, because:

1. The Trial Judge refused to admit in evidence the plaintiff's Exhibit P. 4 for identification.
2. The Trial Judge refused to admit in evidence the plaintiff's Exhibit P. 7 for identification.
3. The Trial Judge refused to admit in evidence the plaintiff's Exhibit P. 8 for identification.
- 20 4. The Trial Judge sustained the objection of the defendant's counsel to the following question to the plaintiff's witness, Henry V. Walker: "Q Now, I show you a group of delivery sheets all signed by rubber stamps and ask you to look at them and tell us whether you have any doubt if those are the delivery receipts executed by the Maas & Waldstein Company for property specified in the body of the papers."
- 30 5. The Trial Judge granted the defendant's motion for a non-suit.

McCARTER & ENGLISH,
Attorneys of Appellant.

Opening.

NEW JERSEY SUPREME COURT.

ESSEX CIRCUIT.

September 29, 1922.

LEHIGH VALLEY RAILROAD COMPANY,

vs.

MAAS & WALDSTEIN COMPANY.

Action at Law.

10

Before Hon. Worrall F. Mountain, *J.*, and a jury.

For the plaintiff appears McCarter & English, by George W. McCarter.

For the defendant appear Lindabury, Depue & Faulks, by Josiah Stryker.

20

A jury is called and sworn.

Mr. McCarter opens for plaintiff.

Mr. Stryker opens for defendant.

Mr. McCarter. I wish to state that it has been called to my attention recently that the claim for track storage is in part excessive, in so far as the cars in the track storage claim; that the claim for demurrage is in part excessive, in so far as any of the cars in the demurrage claim, which are charged for at the rate of \$2.00 per day. That only applies between April 1st and June 15th, in so far as any of those cars are also charged for on track storage, they are not subject by the tariff to more than \$1.00 a day demurrage. The bills of particulars do not clear that up.

30

The Court. Are only to be charged \$1.00?

Mr. McCarter. Only \$1.00 per day. There cannot be more than \$3.00 per day on one car.

40

George T. Caskey, direct.

Mr. McCarter. I offer in evidence "Car demurrage average agreement," executed between the two parties.

The same was marked P. 1 in evidence.

GEORGE T. CASKEY, sworn in behalf of plaintiff.

Direct examination by Mr. McCarter.

10

Q Mr. Caskey, where do you live? A 1046 Sherman avenue, Plainfield, New Jersey.

Q Are you connected with the Lehigh Valley Railroad Company? A I am.

Q In what capacity? A Chief clerk in the tariff bureau.

Q How long have you been in that bureau? A Fifteen years.

20 Q I show you a printed book which is entitled among other things, "Car demurrage rules" and ask you to state whether or not that is a copy of the car demurrage rules effective November 1st, 1914?

Mr. Stryker. I object as incompetent. These rules are under the Interstate Commerce Commission Act, these rules are not effective unless they are filed with the Interstate Commerce Commission.

30 Q I will draft that question a little better. Do you know Mr. Caskey, whether that document, now in your hands, is a copy of the "Car demurrage rules," effective, November 1st, 1914, one copy of which is on file with the Interstate Commerce Commission?

Mr. Stryker. I object on the same ground, and also that the witness is incompetent to testify as to what may have been done by the Interstate Commerce Commission.

40 Q I will reframe the question. Do you know Mr. Caskey, whether this document, which you have had be-

George T. Caskey, direct.

fore you, is a copy of tariff number I. C. C., F-17, a duplicate of which is filed with the Interstate Commerce Commission?

Mr. Stryker. I object because it calls for proof on the part of this witness as to the record on file with the Interstate Commerce Commission.

The Court. I will admit it.

10

Defendant's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

A I do.

Q Is it a duplicate?

Mr. Stryker. I object; the same objection as to the previous question.

The Court. Objection overruled.

20

Defendant's counsel prays an exception to this ruling of the Court.

Exception allowed as ground of appeal.

A It is.

Q Where else, beside the Interstate Commerce Commission, are other duplicates of that paper filed? A With the Public Service Commission, second district, State of New York.

30

Q Are duplicates of that tariff filed with the agent in charge of the various stations? A They are.

Q Now, can you tell by looking at that tariff before you, Mr. Caskey, what period of time it covers? A Not in itself.

Q Can you tell what period of time it begins to cover? A November 1st, 1914.

Q You cannot tell by looking at it as to how long it remained in effect? A I cannot.

40

George T. Caskey, direct.

Mr. McCarter. I now wish to offer this in evidence.

Mr. Stryker. I object to the offer on the ground that it does not appear by any competent proof that it is a tariff which was effective and in force at any time covered by the complaint in this case.

10

The Court. I will admit it.

Defendant's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

Copy of tariff number I. C. C. F-17 is marked Exhibit P. 2 in evidence.

Q Mr. Caskey, I show you another printed document, consisting of one sheet of paper, which has the words,
20 "Car demurrage rules," on the face, and ask you to tell us what that is?

Mr. Stryker. I wish to make the same objection to this question as to the similar preceding question.

The Court. I will admit it.

A It is a supplement to I. C. C. F-17; supplement No. 5.

Q Do you know whether a duplicate of that is filed
30 with the Interstate Commerce Commission?

Mr. Stryker. I object as the witness is not competent to testify whether a duplicate of that is filed with the I. C. C.

The Court. I will admit it.

A I do.

Q Is it?

Mr. Stryker. I object.

The Court. I will admit it.

40

George T. Caskey, direct.

A It is.

Mr. McCarter. I now offer it in evidence.

Mr. Stryker. I object on the ground that there has been no competent proof that this is a tariff effective during the period named in the pleadings.

The Court. I will admit it.

10

One sheet of paper which has "Car demurrage rules" marked Exhibit P. 3.

Defendant's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

Q Mr. Caskey, this one page document marked P. 3, is that also filed with the various station agents of the Lehigh Valley Railroad Company, as you said P. 2 is? A It was.

20

Q Can you now tell with P. 2 and P. 3 before you, what period of time P. 2, the larger document, was in effect? A Not conclusively, no.

Q How far can you tell? A Up until April 1st, 1916.

Q Up until April 1st? A Yes, sir.

Q Do you know whether or not P. 3 was supplemented by a subsequent issue prior to October 1st, 1916? A It was not.

Q Can you, or not, tell us then whether or not P. 2 and P. 3 are the only tariffs covering demurrage charges during the period commencing April 1st and ending October 1st, 1916?

30

Mr. Stryker. I object as the witness is not competent to answer.

A I can, P. 3 covers that entire period.

Q P. 3 covers that entire time? A P. 2, which is a supplement of the other, covers that entire period.

40

George T. Caskey, direct.

Q Then, would you not say that P. 2 and P. 3 between them are the only tariffs in effect during the period from April 1st, to October 1st, 1916? A I will.

Adjournment until Monday, October 2nd, 1922,
at 10 o'clock.

10

SECOND DAY.

October 2, 1922.

Appearances as before stated.

GEORGE T. CASKEY, sworn in behalf of the plaintiff.

20 *Direct examination* by Mr. McCarter.

Q Mr. Caskey, I note that Exhibit P. 2 is labeled or numbered tariff I. C. C. F-17, and that Exhibit P. 3 is labeled supplement No. 5, of tariff I. C. C.-17, do you know whether or not there is any other tariff I. C. C. F.-17 in existence, I don't mean duplicates of this, is that number applicable only to Exhibit P. 2 and copies of it? A It is.

Q Is the same thing true of supplement No. 5, Exhibit P. 3? A Yes, sir.

Q Now I show you a red covered book headed "Lehigh Valley Railroad, Rules for transportation of explosives and other dangerous articles of freight," and also headed form T-686, and ask you to tell us what that book is? A My understanding of this book is it is the regulation—

Mr. Stryker. I object as he is not testifying from his own knowledge.

Q I will reframe that question. Do you know what the book is? A I do.

40

George T. Caskey, cross.

Q What is it? A It is the regulations prescribed by the commission for the handling of high explosives for Interstate and State traffic.

Q Do you know, or can you tell, by looking at this book, whether or not that was the regulation under which the railroad operated during the year 1916, and the first three months of 1917? A It was.

10

Mr. McCarter. I offer the Rules in evidence.

Cross examination by Mr. Stryker.

Q You say this book contains the regulations prescribed by the commission, what commission? A The Interstate Commerce Commission.

Q You are not connected with the Interstate Commerce Commission, are you? A I am not.

Q You have no official connection whatsoever with them? A No, sir.

20

Q Your connection is with the Lehigh Valley Railroad? A Yes, sir.

Mr. Stryker. I object on the ground that this is no way to prove an official document. This witness' testimony is not competent proof of the character of these supposed regulations.

Q (*By the Court.*) Is this book a set of rules? A Yes, sir.

30

Q Were these rules made by the American Railway Association, or someone else? A I believe they were worked in conjunction with the American Railway Association and approved by the commission.

Mr. Stryker. I object and I move to strike out what the witness believes.

The Court. Strike it out. Objection sustained. Plaintiff's counsel prays an exception to this ruling of the Court.

40

George T. Caskey, cross.

Exception noted as ground of appeal.

Rules for transportation of explosives, etc., marked Exhibit P. 4 for identification.

10 Q (*By Mr. McCarter.*) Now I show you a tariff entitled "Local Freight Tariff of storage charges number I. C. C.—4021," and ask you, Mr. Caskey, what that is?

Mr. Stryker. I object and wish to interpose the same objection as to the last tariff offered in evidence.

A It is a tariff of the Lehigh Valley Railroad, covering storage charges, and rules regarding the storage of freight at stations on the Lehigh Valley Railroad, filed with the commission No. 4031, effective March 16, 1916.

20 *Mr. Stryker.* I object because it includes the witness' conclusion; the paper he has in his hand was filed with the commission on a particular date.

The Court. Can you seriously dispute this paper?

Mr. Stryker. I do not know.

The Court. Look at it.

Q (*By the Court.*) Did you file that paper with the Interstate Commerce Commission? A I did.

Q You did? A In the office, under my direction.

30 Q I don't understand how you did it, do you mean it was done under your supervision and filed with them, you are speaking of your own knowledge? A Yes, and we received a receipt from Washington acknowledging receipt of this tariff, I will explain that if you will permit me.

Q (*By the Court.*) Mr. Caskey, this document seems to have a number of rules, do you know of your own knowledge, who enacted these rules, are they the rules of the railroad company or were they enacted by some one else? A They were the railroad company's rules.

40

George T. Caskey, re-direct.

Q Enacted by the railroad? A Initiated by the railroad.

Mr. Stryker. They were not effective until approved by the Interstate Commerce Commission, that is a matter of law.

The Court. If you can prove they were filed with the Interstate Commerce Commission I think I will accept them. Ordinary proof, even of mailing a letter to them or showing the receipt of a letter that it was filed; if you can do that, I will be inclined to admit them. 10

Re-direct examination by Mr. McCarter.

Q Have you any knowledge as to whether or not this document before you has been filed with the Interstate Commerce Commission? A I have.

Q What knowledge have you? A I have examined the receipts received from the commission in regard to these tariffs. 20

Mr. Stryker. I object as the testimony is on something he has examined.

Q You say you have in your office receipts from the I. C. C. showing the receipt of this document? A We have.

Q You have? A Yes, sir. 30

Mr. Stryker. I object, the same objection because it embodies what the receipts contain.

The Court. No, I won't admit it in evidence as yet.

Re-direct examination by Mr. McCarter.

Q You did not send it yourself? A I did not.

The Court. I would suggest you prove the acknowledgments of receipt of all of these tariffs. 40

George W. Goodmanson, direct.

Mr. McCarter. Then, will your Honor allow me to withdraw this witness at this time?

The Court. I will.

GEORGE W. GOODMANSON, sworn in behalf of the plaintiff.

10 *Direct examination by Mr. McCarter.*

Q You are an employee of the Lehigh Valley Railroad Company? A Yes, sir.

Q In what capacity? A Yardmaster.

Q Whereabouts? A At the present time in Clairmount.

Q Were you ever yardmaster at the East Oak Island yard? A Yes, sir.

Q When? A From 1903 to about 1920.

20 Q Where is that? A On the meadows, east of Newark, in the section between the Lehigh Valley and the Central Railroad, mosquito line.

Q Do you know the whereabouts of the Maas & Waldstein plant? A Yes, sir.

Q Where was their plant during 1916? A On the Bay Shore connecting line, about a half a mile from our yard.

Q About a half a mile from the Lehigh Valley Yard on the Bay Shore connecting line? A Yes, sir.

30 Q What arrangements had they there for the delivery of freight at the Maas & Waldstein plant? A Local delivery tracks.

Q What? A Delivery tracks where they placed our cars and unloaded them.

Q Now, was there more than one track? A Yes, two tracks for awhile and they had to put another one in, they expanded the plant there during the war.

Q Did the Maas & Waldstein Company have their own locomotives or did they use the railroad company's? A

40 The railroad company's.

George W. Goodmanson, direct.

Q Do you know what is the meaning in the railroad business of industrial interchange tracks? A It is where we deliver cars to another concern and they handle them with their own locomotives.

Q You say the Maas & Waldstein Company didn't have their own locomotives? A No.

Q During 1916, were there any cars of freight consigned to the Maas & Waldstein Company that passed through the East Oak Island Yards? A Quite a number. 10

Q Do you know whether or not during April, 1916, the private sidings of the Maas & Waldstein Company were or not congested with cars? A They were always congested.

Q Was there any time during the month of April, 1916, that the Lehigh Valley Railroad received at the Oak Island Yard, cars consigned to the Maas & Waldstein Company which could not be delivered on account of the cars already on the tracks? A Daily. 20

Q Did that condition remain through June, 1916? A Yes, sir.

Q July? A Yes, sir.

Q August? A Yes, sir.

Q September? A Until late in the fall.

Q Was there any time during the month of April, 1916, that the Lehigh Valley Railroad, you at Oak Island Yard, receive orders or requests from the Maas & Waldstein Company for a freight car, when there was room to deliver that freight car on the private siding of the Maas & Waldstein Company, that you did not promptly deliver same? A No, we got our orders in the afternoon and the cars were delivered the following day, we couldn't always get in as many as were ordered, though. 30

Q Do you remember what most of the cars contained? A Coal. 40

George W. Goodmanson, cross.

Q Would the Maas & Waldstein Company unload any of that coal at their plant? A Not all of it, they took a long time to unload it.

Q What was the method of unloading it? A Shoveling it from the top.

Q Of what? A Of the car, and piling it up.

10 Q Alongside of the tracks? A Yes, sir.

Q What was done with the coal then? A They had a store there and they trucked it from there to wherever they wanted it.

Q Do you know whether or not this coal alongside of the tracks ever interfered with the use of the private tracks of the Maas & Waldstein Company? A It did occasionally, piles would fall back on the tracks and derail our cars, it would not be cleared up for a great length of time.

20 Q Who was your conductor in charge of the actual moving of cars at the Maas & Waldstein plant, during this time? A Conductor Quinn.

Q Is he here in court? A Yes, sir.

Cross examination by Mr. Stryker.

Q Mr. Goodmanson, where is your office? A At the present time?

Q No, where was it in 1916? A East Oak Island.

30 Q What was the character of your duties? A It was the classification yard.

Q Your individual duties, what did you do? A Classified cars and distributed them to where they belonged.

Q And where did you perform those duties? A In the office.

Q In the office, from the office? A Yes, sir.

Q Did your work take you out to the various railroad sidings? A I used to go over to Bay Shore, that was within my jurisdiction.

40 Q How frequently? A A couple of times a month.

George W. Goodmanson, cross.

Q Whereabouts did you go over there, a couple of times a month? A Different sidings, where we had our cars.

Q Did you cover them all? A We only had about four or five.

Q It was your habit to visit the Maas & Waldstein siding a couple of times a month? A Yes, sir. 10

Q That was true during April, June, July, August and September? A Probably every month, about that.

Q Now, are you willing to swear positively that you were there at all in April, 1916, on your oath, were you there? A Yes, sir.

Q On what day? A I could not say what the date was.

Q How nearly can you say what day? A I couldn't give no date. 20

Q Were you there on Sunday afternoon? A No, it was during the week.

Q What day of the week then? What day were you there in June? A I could not give you no date.

Q You cannot tell the Court and jury when you were there then? A Only that I was there, I went over there.

Q Do you remember what you saw when you were there in April, from your own personal recollection, not by looking at the records? A I met Dr. Walker in his office there, and he sent out and called in his foreman to try and improve on the coal unloading there. 30

Q You were there at that time with a number of officials? A Yes, sir.

Q What was the purpose of the conference? A About releasing the cars.

Q The purpose of that conference was to make some arrangements with the Lehigh Valley Railroad to deliver cars when there was room for them on the Maas & Waldstein Company siding, wasn't it? A There was an ar- 40

George W. Goodmanson, cross.

rangement made by the Maas & Waldstein Company to unload cars more promptly.

Q And arrangements made by the railroad company to deliver cars more carefully? A No.

Q Are you talking about the occasion that occurred on March 15th? A In March.

10 Q About the middle of March, 1916, when a number of the officials of the Lehigh Valley Railroad went over to the Maas & Waldstein plant, that is what you are talking about? A Yes, sir.

Q Didn't you know there had been demands for the delivery of cars at that time made on you and that that siding was not congested? A We delivered all the cars we could get in there, at all times.

20 Q Is that the only visit you remember? A That is the only visit on which I met any people there, but I was around the different plants quite often.

Q Do you remember how many cars there were on this siding on the occasion of that visit, did you count them? A I didn't count them.

Q Do you know how many cars that congested siding would hold, I am asking for your knowledge, of your own knowledge? A Eleven cars.

Q When? A On this particular day you mean?

30 Q Yes. A There was room for eleven cars in there.

Q What day was that? A Well, during this period.

Q During the whole period? A No, I believe it was lengthened out there.

Q Now, as a matter of fact, didn't you know Mr. Goodmanson, that the Maas & Waldstein Company had four tracks and room for eleven cars on each track? A Not at that time.

40 Q How many tracks did you say they had? A Well, we only placed cars on the two tracks, that is where we were given permission to place our cars.

George W. Goodmanson, cross.

Q You testified that the Maas & Waldstein Company tracks were always congested, as a matter of fact of your own knowledge, independent of what other people have told you, you don't know, do you? A Oh, yes.

Q You don't know whether that track was ever congested except by the few occasions that you were personally there? A I was told every day by the conductors. 10

Q You were told every day by the conductors but you remember you swore to things of your own knowledge of same. You don't know whether those tracks were congested so far as you own knowledge goes? A Well, I only then—

Q Answer yes or no. A Only what was told me.

Q And that is true of all the rest of your testimony that you gave on direct examination based entirely upon what someone else told you and in no respect of your own personal knowledge? A Yes, sir. 20

Mr. Stryker. I move to strike out all the witness' testimony as being hearsay.

The Court. No, not all.

Q Now, Mr. Goodmanson, on what days did you, you yourself, observe that the defendant's siding was congested with cars and deliveries could not be made by your company? A I could not give in days.

Q You could not give any date? A No, sir. 30

Q On what days, Mr. Goodmanson, did you observe that the unloading of coal at the plant along the tracks interfered with the use of the tracks, on what days did you observe that personally? A I could not give the date or the day, but I noticed it when I was there.

Q When were you there? A During this period, several times.

Q What do you mean this period? A From April up to the 4th of September, besides that our crew told us they had cars derailed there. 40

George W. Goodmanson, cross.

Q Did you see the cars derailed? A I think on one occasion I was there when a car was derailed.

Q When was that? A I could not give you the day.

Mr. Stryker. I move to have that stricken out.

The Court. You cannot strike it out because the man cannot say what the date was. I won't strike it out.

10

Q (*By the Court.*) Was it during this period of time? A Yes, sir, the conductor said that cars had been frequently derailed there.

Q (*By Mr. Stryker.*) Did you see a car derailed there? A Yes, sir.

Q When? A I cannot tell.

Q On which track? A On the track where the big coal pile was.

20

Q Whereabouts? A Right on the curve.

Q Do you know who was responsible for the derailment of the cars? A The pile was so high that the coal kept dropping back on the tracks.

Q That was in one occasion? A Yes, sir.

Q Can you state, of your own knowledge, that on any other occasion that you were there during the month of April, June, July, August, September, the tracks were full, so full that no other cars could be delivered, from your own knowledge, now? A The days I was over there we could not deliver any.

30

Q You cannot say how many cars were there? A No.

Q You cannot say even how many cars they contained can you? A There were certain commodities on the east end of the track and the coal was on the west end.

Q What time of day were you there? A Varying, before or after lunch, after dinner.

Q Do you know whether your company had made deliveries of cars every day that you were there? A They were working around there.

40

George W. Goodmanson, cross.

Q Had your company made a delivery of cars to the Maas & Waldstein Company on that particular day that you were there, do you know or not? A Cars were being switched and empty cars were coming out and filling up with loaded ones.

Q Can you say, of your own knowledge, whether the railroad company was prevented, on the day you were there, from delivering any cars to the Maas & Waldstein Company, which it was holding over at East Oak Island? 10
A Yes, positively.

Q What cars were delayed on that day, there as a reason of our inability to receive them? A Forty or fifty cars were waiting for delivery all the time.

Mr. Stryker. I object to that answer and request that it be stricken out, it should be specific.

The Court. Strike it out.

Q Can you name any particular cars, the delivery of which was delayed by reason of the congestion of the tracks at the Maas & Waldstein Company, which you observed? A No, I cannot give you a specific number or car number. 20

Q Then, I understand you cannot give the date you were there, you cannot give the number of the cars on the tracks and the cars delayed by reason of the congestion when you were there? A I cannot give the number. 30

Q You cannot give the specific car number? A I cannot give that.

Q You don't know, Mr. Goodmanson, whether on the occasion of these visits, the Lehigh Valley Railroad had already made delivery of its cars on both tracks for that particular day, do you? A I followed the engine around.

Q They were making a delivery? A Yes, when I was there.

Q Were the cars on the siding, empty or full, do you know? A We drilled the empty cars out. 40

George W. Goodmanson, re-direct.

Mr. Stryker. I object to that answer and request that it be stricken out.

The Court. Strike it out.

Q Will you answer the question, were the cars on the siding empty or full, when you were there? A Some were empty and some were loaded.

10 Q I am asking you, not what someone told you or what someone saw, I am asking about the cars that you saw on this siding, whether you knew they were empty or loaded? A Yes, we drilled some empties and we threw them out, and filled up with loaded cars.

Q Well, then, if I understand you correctly, the congestion was caused in part by empty cars which were waiting removal from the tracks? A Yes, sir.

Q That is true? A Yes, sir.

Q Then the tracks were not filled with loaded cars? A The cars that had been made empty from the previous day were the only ones we drilled out.

Q And what you observed was they came around and removed the empty cars from the siding? A Yes, sir.

Q How many empty cars were removed from the siding at any time? A Usually—

Q Not usually, what you know of your own knowledge, how many empty cars you removed from there on any of those days? A No.

30 Q And you don't know how many cars you put in there on any of these days, do you? A No.

Re-direct examination by Mr. McCarter.

Q On any of the days you were there, were all the cars empty? A No.

Q On any days that you were there were there or not more than enough full cars consigned to the Maas & Waldstein Company, in the Oak Island Yard, to fill the place of such empty cars as were then on the Maas & Waldstein tracks?

40

George W. Goodmanson, re-cross.

Mr. Stryker. I object because it is leading.

The Court. Sustained.

Q On any day that you were at the Maas & Waldstein plant, when you were there, how many cars, what minimum number full cars, consigned to the Maas & Waldstein Company were out in the East Oak Island Yard, what minimum number? A About forty or fifty. 10

Q How many cars in all would the Maas & Waldstein track hold? A Eleven cars we put on that track, then we got permission to place cars on another track afterwards.

Q When did you get that permission to place cars on another track? A On the day we had the conference there.

Q How many cars were placed on the Maas & Waldstein track after they gave you permission to use the additional track? A Two cars between the scales, clear. 20

Q That would make a total of how many cars placed on the Maas & Waldstein track after this permission was given? A About thirteen cars, the Central Railroad placed more cars there than we did.

Q During this time you say the Maas & Waldstein Company were receiving cars from the Central Railroad? A Yes, more.

Q What track? A The same track where the Lehigh Valley cars were. 30

Re-cross examination by Mr. Stryker.

Q How do you know about the number of cars received by the Maas & Waldstein Company from the Central Railroad, what do you know about that? A I don't know the exact number, but I know that the condition existed there.

Q What condition existed there, of your own knowledge? A What I saw when I was there. 40

George W. Goodmanson, re-cross.

Q What did you see? A The Central delivered cars and the Central drilled and got in first and our cars had to wait an hour or two.

Q Is that all you observed at the time you were there? A Placing of the cars, I saw all the time.

Q You were not correct when you said the Central
10 Railroad placed more cars there than the Lehigh Valley Railroad, basing it on your knowledge, were you? A I think it was correct, because—

Q It was correct because you made the best guess you could when counsel asked you that question? A I don't know how many Central Railroad cars were placed, but they were placing them there.

Q I am asking you what you know about the fact that you have testified to that the Central Railroad placed more cars there than the Lehigh Valley Railroad, what
20 you know about it? A I know what was told me by the crew that they were doing more business there than we were.

Q You must tell what you know of your own knowledge, do you understand that? A Yes, sir.

Q Then why the additional answer to the question based on what you were told?

Mr. McCarter. I object as argumentative.

The Court. It is argumentative.

30 Q (*By Mr. Stryker.*) How do you know there were fifty cars of freight waiting delivery for Maas & Waldstein, on the occasion when you were at their plant? A Why, there was two tracks that we used for Bay Shore business and we had about two tracks full, about fifty per cent. was Maas & Waldstein's freight, in fact there was a time we had to get quite a number on the cross delivery track to get them out of the way.

Q Did you count the cars waiting for delivery? A
40 We had tickets in our office.

George W. Goodmanson, re-cross.

Q Did you count the cars at any time that were waiting delivery to Maas & Waldstein? A Yes.

Q You did? A Yes.

Q When? A We counted them—

Q Not we, did you count them? A Only from the bills in the office.

10

Q Did you count the cars? A No, I did not go out on the tracks and count the cars.

Q You don't know, of your own knowledge, that there was always fifty cars there, do you? A Not always, but every day about that.

Q You don't know how many were there, and you don't know whether there was twenty, fifty or ten there on this particular day that you were at the Maas & Waldstein plant, do you? A We never had as low as ten.

Q Now, you said something about you only delivered cars on one track but after you had the conference you delivered cars on two tracks. Do you know when that conference occurred? A In the spring, March.

20

Q Do you know whether you were delivering cars on one or two tracks in April? A Well—

Q Answer the question, do you know whether you were delivering cars on one or two tracks during the month of April? A After the conference we delivered on two tracks.

30

Q You don't know whether the conference occurred in March or April? A No, I do not know.

Q Do you know what was in these cars you were holding for Maas & Waldstein Company? A Mostly coal.

Q Do you know how many of them were coal? A I could not say offhand, the freight was moving more rapidly.

Q Did you deliver the acid and other freight on the same track as coal? A Yes, sir.

40

George W. Goodmanson, re-direct.

Re-direct examination by Mr. McCarter.

Q Why would the acid and freight move faster than the coal? A We didn't have very much of that commodity on hand and we could check that more rapidly.

Q Did the wishes or requests of the Maas & Waldstein Company have anything to do about that? A At times
10 we had to make special deliveries, run cars over specially.

Q Why did you have to run the cars over special? A They requested us to have the car placed.

Q A specific car request of Maas & Waldstein? A Yes, sir.

Q Do you know at any time when a specific car was requested by Maas & Waldstein that the railroad company did not promptly place that car? A No.

Q On any of these occasions when you visited the yard did you see the Central Railroad drilling cars there?
20 A Yes, we had to wait outside whatever plant they were in, we had to wait outside.

Q You saw that yourself? A Yes, sir.

Q What kind of waybills were used? A A ticket from Newark to cover the car.

Q Did you ever in the course of your career at East Oak Island receive a waybill for a car and not also receive the car? A No.

Q Did you ever go out in the yard yourself and observe the cars which were waiting for delivery at Maas & Waldstein Company? A Yes, sir, we had two tracks
30 in the yard for the Bay Shore business, which took care of one hundred cars.

Q Were all of the one hundred cars waiting for the Maas & Waldstein Company? A Oh, no, about half, and the rest belonged to other people, but it was all Bay Shore business on that track.

Re-cross examination by Mr. Stryker.

Q Of course, you don't mean half, you mean that is
40 your best guess? A Yes, sir.

George W. Goodmanson, re-direct.

Q You said there was never any request made by the Maas & Waldstein Company for the delivery of cars which were not promptly complied with? A No, sir.

Q Do you know that car A. P. C. 1118, arrived at East Oak Island, do you know when that car arrived? A No.

Q You don't know when car A. P. C. 1118 arrived at East Oak Island? A No.

10

Q Have you any records here that would tell you about that? A The records in the office.

Q Have you any records to show when that car arrived?

Mr. McCarter. As a matter of fact there is no claim on that car.

Mr. Stryker. You are making a claim for car storage on this car.

Q (*By Mr. Stryker.*) You can tell us about that car, can you, you don't know when that car reached Oak Island or when it was delivered to Maas & Waldstein? A No, sir.

20

Q And the same is true of A. C. X. 1106, A. P. C. 1096, 1097, isn't it? A Yes, sir.

Mr. Stryker. I will ask the plaintiff to produce a letter of March 15, 1916.

Q Do you know Mr. C. H. Gulick? A Yes, sir.

Q What was his position on March 15, 1916? A Agent for the Lehigh Valley Railroad in Newark.

30

Q Did he have anything to do with the movement of cars in East Oak Island Yard? A No, he was the soliciting agent.

Q If he received letters regarding the movement of cars, do you know whether or not such letters were referred to you? A I don't understand the question.

Q If he received letters from shippers asking that certain cars be taken from the East Oak Island Yard and

40

Daniel J. Quinn, direct.

moved to the shippers siding, would those letters be referred to you? A A number would be referred to me.

Q I asked you if you ever saw a letter, of which this is a carbon copy, addressed to Mr. Gulick in regard to cars? A No, I never did.

Q He is the man to whom complaint would be made about the movement of cars, isn't he? A No.

Q You don't know how many complaints Maas & Waldstein made to you in regard to delay of delivering cars through Mr. Gulick? A No.

DANIEL J. QUINN, sworn in behalf of plaintiff.

Direct examination by Mr. McCarter.

Q Where do you live? A 215 Woodbridge street, Jersey City.

Q Are you employed by the Lehigh Valley Railroad Company? A Yes, sir.

Q In what position? A Conductor.

Q Were you such during 1916 and employed in and about the East Oak Island Yard? A Yes, sir.

Q In what capacity? A Conductor.

Q Did you as such conductor ever visit the plant of Maas & Waldstein Company at Bay Shore? A Yes, sir.

Q How frequently? A Well, I dropped the first cars ever there.

Q How frequently did you visit there? A Every day after that, almost every day.

Q During the period beginning April and ending September, 1916, how frequently did you visit the plant of Mass & Waldstein Company at Bay Shore? A Every day in the week.

Q What would be your duties, what would you do when you went there? A Whatever they wanted done. Take out all the empty cars and fill up with loaded ones or anything else they wanted done.

Daniel J. Quinn, direct.

Q How many tracks did they have in their plant? A As a matter of fact they only have five tracks now, get that straight.

Q They only have five tracks? A Yes, sir, five tracks, that is taking in the A and B plant.

Q The Maas & Waldstein Company had more than one plant? A Two, yes, sir. 10

Q Were they adjoining? A Yes, sir.

Q On how many of the five tracks were cars stored? A On all five, but one would only hold one, would hold on the rear.

The Court. What was that last question?

Q (Question repeated.) How many cars would the whole yard hold? A The yards, well, the working points hold in A plant, that was the plant nearest the Central Railroad, now this here A plant, I'm getting it down fine, I forget the number of feet, but it holds two cars of acid one the rear. 20

Q What? A Pitric acid was stored there then, and about five cars of coal, that was along the boiler house, then on the track that went toward the Butterworth-Judson plant, that track would hold two cars that was the A plant, and the track before you come to those cars you can store one car, that is about all the cars A plant will hold.

Q How about B plant? A It is quite a while to remember. I think three box cars of this nitre cake was in there, I think that is what was put down there, then coal was stored there that had to go over by the furnaces, that left storage for four cars of coal. Then they had a plant there for gun cotton with a circular track that ran around inside the B plant, that held five cars, then they had a scale track in the B plant where they weighed acids and coal, that held one car. The scale held one car and when we took it off it was ready for another car. 30 40

Daniel J. Quinn, direct.

Q Did they weight most of the cars that came in there? A All acids in tank cars of that kind were weighed, I have no doubts about their weighing coal, I have no doubts about their weighing that.

10 Q How much of the time that you were in and about the Maas & Waldstein plant would their private tracks have as many cars as they could hold? A Have as many cars as they could hold?

Q Yes. A At all times.

Q At all times? A Yes, sir.

Q Do you know whether or not during this time there were cars out at East Oak Island or consigned to and waiting for a place in the Maas & Waldstein yards? A There were cars out there consigned to Maas & Waldstein, yes.

20 Q Did you see them yourself? A Yes, sir, I saw them.

Q Can you tell us about how many? A Oh, I can't tell you offhand, they have the record in the office of those cars.

Q I want you to give the minimum number.

Mr. Stryker. I object he says he doesn't know.

A About forty, that was the average every day, some days more and some days less.

30 Q (*By the Court.*) Where were these thirty or forty cars, in the yard or were they waiting? A They were in the yard, there was two tracks in the yard that held cars for Bay Shore, in the Lehigh Valley yard at East Oak Island.

Q (*By Mr. McCarter.*) Did you ever see the Central Railroad Company delivering or drilling cars there during this period? A Every day.

40 Q Could you observe whether or not they moved more cars than you did? A I would call it about fifty-fifty, I guess.

Daniel J. Quinn, cross.

Q During any time that you were acting as conductor in and about the Maas & Waldstein yard, Mr. Quinn, did you leave an empty car in the Maas & Waldstein yard, a Lehigh Valley car of course, standing there empty, which you did not pull out the first opportunity you had?
A Not that I remember, unless it was to reload, sometimes cars were reloaded.

10

Q If they were to be reloaded you would get some instructions? A Yes, sir; either from the Maas & Waldstein Company or the Lehigh Valley Railroad Company through the agent.

Cross examination by Mr. Stryker.

Q How long have you been a freight conductor on the Bay Shore line? A On the Bay Shore line, since about 1908. I ain't sure.

Q You are still working in that capacity? A Not on the Bay Shore line.

20

Q Well, you are still a freight conductor employed by the Lehigh Valley Company? A Yes, sir.

Q As a freight conductor was it any part of your duty to keep account of the number of cars consigned to the Maas & Waldstein Company awaiting delivery at the East Oak Island yard? A No, sir.

Q It was not any part of your duty? A No, sir.

Q Your knowledge on that subject is only general, isn't it? A I am just trying to dream it out, whether I had to keep a record; I don't think I did.

30

Q Well, will you try to dream this out: Was your knowledge of these cars which were consigned to the Maas & Waldstein Company and which were waiting at East Oak Island, based entirely upon what someone else told you? A No, not entirely on what someone else told me, I know for a matter of fact they were there and knew from your people they were there.

Q How did you know as a matter of fact? A I knew from seeing them there after I went over to your plant—

40

Daniel J. Quinn, cross.

Q Now— A Will you allow me to continue? Your man in charge there, I believe you called him a traffic manager, he had a number for every car there at the A plant, from East Oak Island.

10 Q You don't mean, I take it, or do you mean that each day you went out and counted up fifty cars at the East Oak Island yard consigned to the Maas & Waldstein Company? A No, sir; I didn't do that.

Q Neither did you go into the office and find out what their records showed in regards to how many cars were consigned to Maas & Waldstein Company, did you? A I went into the Maas & Waldstein Company?

Q I am talking of the Lehigh Valley office, you didn't go into that office and find how many cars were consigned to Maas & Waldstein, did you? A No, not every day.

20 Q This man, whom you say has the number of the cars at East Oak Island, you don't know whether he knew anything about them or not, do you? A I do know—

Q You don't know whether he had them or not out at East Oak Island, do you? A This traffic manager had the number of cars standing at East Oak Island.

Q He got them from the railroad company? A I thought he got them from the railroad company.

30 Q You thought there were a lot of cars out there, didn't you, you didn't know anything about it except so far as people told you about it? A No, no.

Q When did you see the cars there? A Every day.

Q You didn't count them? A No.

Q How many did you see? A I said before, about forty.

40 Q How do you know you saw about forty? A Well, I will tell you, there was certain kinds of commodities that the Maas & Walstein Company used, coal was one, and most all of their coal was shipped in B. & S. cars. They used acid and nitre cakes and used boxes for storing gun cotton, and all those cars we could see by the

Freda Riedel, direct.

different marks on them what was in them, that is how I knew they were for the Maas & Waldstein Company.

Q Now, other people on the Bay Shore connecting railroad used coal? A Yes, sir; they all did.

Q And other people used acid? A Yes, sir.

Q And other people used the other materials, didn't they? A I wish you would not stop right there. The other people that used coal, the coal was marked for them; Butterworth-Judson and the other people, and that is how I picked out the Maas & Waldstein stuff from the other people's. 10

Q That was a part of your business every day to go out and see how many cars were standing to be delivered to the Maas & Waldstein Company? A No, you are getting the wrong impression. When I had an order for a certain number of Butterworth-Judson cars, while I was going along I would look and see how many Maas & Waldstein cars there were at the same time, and then when I came to a car marked B. & J. which might be down near the end I had to have all the other cars pushed past and I could see how many Maas & Waldstein cars there were when these cars went by. 20

Q Do I understand that all the cars on the Bay Shore Railroad were all mixed together? A Yes, sir; all on the first track.

Q How did you get your impression of the number of cars waiting delivery to the Maas & Waldstein Company, in regards to your drilling out and getting the cars for yourself and others? A I didn't get that. 30

FREDA RIEDEL, sworn in behalf of plaintiff.

Direct examination by Mr. McCarter.

Q Miss Riedel, are you employed by the Lehigh Valley Railroad Company? A Sir?

Q Are you employed by the Lehigh Valley Railroad Company? A Yes, sir. 40

Freda Riedel, cross.

Q Whereabouts? A At the Poinier street freight station.

Q Where is that, in Newark? A Yes, sir.

Q How long have you been working there? A I started with the company on the 15th day of December, 1915.

10 Q And during 1916 and the first three months of 1917, what job did you hold down there? A Car demurrage.

Q Were you a clerk? A Car demurrage.

Q What were your duties in that position? A I had all the car demurrage, the duties are handling the arrival of cars, constructively placing them, and I also had some westbound reports and reports of the conductors.

Q Now I show you a group of papers fastened together headed, "Notices of Constructive Placement," and ask you to look at every one of these and tell me whether
20 or not the entries in handwriting are in your handwriting? A Yes, sir; they are.

Q When you made these out did you make duplicates? A Yes, sir.

Q What did you do with the others? A The original I retained and the copy I sent to the consignee.

Q How did you send the copy to the consignee? A By United States mail.

Q On what dates? A The dates I have here, I usually
30 put them myself in the box at five o'clock, I usually around five o'clock each day put them in the mail box.

Q Have you ever mailed them later than five o'clock? A No, that is the latest.

Mr. McCarter. I offer these notices in evidence.

Cross examination by Mr. Stryker.

Q Miss Riedel, where did you get the information from to make out these notices? A From the waybills brought in by the yard department.
40

Freda Riedel, cross.

Q Do you know anything about the arrival of the cars, except what you took from the waybills? A No, sir.

Q You have on these notices, under the column headed, "Constructively placed" various dates, what do those dates refer to? A The dates of the arrival of the cars.

Q That is the date that the cars arrived in the yard? A Yes, sir, and also the dates we called the consignees up, we call them up each day on the arrival of the cars. 10

Q I am not asking you about that, I am asking about the dates to which this refers? A Yes, sir.

Q I noticed on the first one, you have constructively placed 3-1-5? A That means the month, the date and 5 o'clock P. M.

Q That is the time the car arrived? A That is the time they are put in the mail box.

Q After the car arrives? A On March 1st, at 5 P. M. I constructively placed it. 20

Q When did it arrive? A In the morning, all cars arrive at nine o'clock in the morning and we get the waybills not later than eleven o'clock in the morning.

Q Then I understand when you got a waybill for a car consigned to the Maas & Waldstein Company you made out one of these notices and mailed it to the Maas & Waldstein Company? A I retained it to the end of the day to see how many there were, sometimes I have a dozen, I always hold them all until five o'clock, and when I am sure I have all I put them in the mail box. 30

Q And that is what you call constructively placing the car? A Yes, sir, constructively placing of the car which means—

Q You have answered my question. Now, your office is on Poinier street? A Yes, sir.

Q How far is that from the East Oak Island yard? A Quite a ways, I don't know, I have never been there.

Q That is the place where all of these cars were supposed to have been stored? A Yes, sir. 40

Freda Riedel, cross.

Q How did you get the waybill? A From the yard department, yardmaster's office and as they constructively place the cars these waybills came to the office and then reports were made up.

Q That is when the cars arrive at East Oak Island? A They are constructively placed, when the consignee cannot
10 handle any more, they are stored at East Oak Island, until the consignees give instructions to have them actually placed.

Q You don't know anything about whether the consignee can immediately handle the cars described in these notices or not, do you? A No, sir, but I do know—

Q All you knew was that certain way bills came into you and then you took the car numbers and consignees and other information from the waybills and mailed the notices? A Yes, and they were also notified.

Q I am not asking you about that, someone else may
20 have done that, I am talking about the notices. These notices you mailed? A Yes, sir.

Q You don't know, of your own knowledge, whether these were cars at East Oak Island or whether Maas & Waldstein Company had room for the cars at their siding? A I do not know.

30 *Mr. Stryker.* I object on several grounds to the admission of these notices. First, they have no relevancy at all in this case in the present condition of the proof. The fact that the cars had arrived at East Oak Island, was not sufficient to charge us with demurrage, the cars were consigned to the Maas & Waldstein Company on their siding and demurrage cannot commence to run until the cars were delivered at their siding, unless they were unable to take them or the railroad was unable to deliver them, because of some condition attributable to Maas & Waldstein. There is no proof
40 here as to any of these particular cars, that the

Freda Riedel, re-direct.

railroad company was not able to deliver them at the siding because of a condition attributable to the Maas & Waldstein Company, and therefore the notices are not admissible at all unless that proof is given. The demurrage does not commence to run until the car has been delivered. There is no proof here that any of these specific cars could not be delivered because of a condition attributable to the consignee and therefore I object to these notices at this time. 10

The Court. They will be admitted.

Defendant's counsel prays an exception to this ruling of the court.

Exception noted as ground of appeal.

Mr. Stryker. I also wish to reserve the right and move to strike out, if not supplemented by proof, that the railroad company was unable to deliver cars because of conditions attributable to the consignee, Maas & Waldstein Company. 20

Notices of constructive placement marked P.5 E.

Re-direct examination by Mr. McCarter.

Q I show you another group of similar documents and want you to look them over and tell me, in the first place, whether each of them is in your own handwriting? A Yes, sir. 30

Q Now, to save time, let me ask you whether or not these documents which you have just identified are in all effects the same as the group of documents which you identified before and which were marked P.5? A They are the same.

Mr. Stryker. I wish to make the same objection and an additional objection to these because I have been informed by Mr. McCarter that these are offered under the second count, therefore, I repeat 40

Freda Riedel, re-direct.

10 my objection made to the last notices because they all apply to these with equal force and wish to object to these upon the ground that there is no provision in any car storage tariff that I have been able to find, for constructive placement of cars, and under car storage regulations there is no provision for constructive placement, and if car storage applies to our situation it cannot apply under the railroad's own rules until after the car is actually delivered at the place to which it is consigned.

The Court. I will admit them.

Defendant's counsel prays an exception to this ruling of the court.

Exception noted as ground of appeal.

Similar documents to those marked P.5 are marked P.6 in evidence.

20 Q Now, Miss Riedel, I show you another group of papers and ask you to look it over and tell us in the first place whether any of that is in your handwriting? A No, sir.

Q Do you know in whose handwriting they are? A Do I know in whose handwriting they are?

Q Yes. A I don't recognize some of it, but these here are by this man who signs here, by Mr. Gorman.

30 Q I see some signed by someone else. A Yes, that is Mr. Sturm.

Q Do these slips come to your desk? A Yes, sir, after the cars are put in and actually are placed.

Q There are certain marks on here which require some explanation, for instance, looking at the slip dated April 6, 1916, and signed something Gorman, under the words Maas & Waldstein Company, there is a figure 1087—, and then some initials followed by an "X", what does that mean? A That is the car number and that is the initial of the car, this here "C", means partly unloaded.

40

Freda Riedel, re-direct.

Q What does the dash after the car number mean? A That means the car is actually empty.

Q Do you know whether Mr. Gorman is still connected with the Lehigh Valley Railroad Company at Poinier street station at present? A No, sir.

Q Do you know where he is now? A No, sir.

Q How about Mr. Sturm? A He is not with the company either. 10

Q Do you know where he is? A No, sir.

Q What about the other notices made by Mr. Gorman and signed by him, do you recognize the handwriting as of a person still working there? A No, sir.

Q You have been steadily employed there since 1916, haven't you? A 1915, December.

Q What are these slips called? A Yard locations, cars actually placed.

Q (*By the Court.*) What is that last? A They are called yard locations, meaning cars that are actually placed. 20

Q (*By Mr. McCarter.*) Do you use these slips? A Yes, sir.

Q In making up what? A Car demurrage, daily car demurrage of cars actually placed and released.

Q When you have a slip under the heading of the Maas & Waldstein Company and you find a certain car initial and number followed by a dash, what does that indicate to you? A That means it is an empty car and then the car is actually released. 30

Q You say that means it is an empty car and that the car is then actually released? A Yes, sir.

Q Did you record that car as being released on that day? A Yes, sir.

Q Did you actually use these slips, before you, in making up the car demurrage account of the Maas & Waldstein Company? A Yes, sir, daily.

Freda Riedel, re-direct.

Mr. McCarter. I offer in evidence the location slips.

10 *Mr. Stryker.* I object to their offer on several grounds, first, this is the meat of the whole case and counsel seeks to prove it by offering in evidence slips made by some people not produced as witnesses. He intends to prove the date the cars were actually placed and the date they were released, which is practically his whole case, with the exception of the congestion of our track, and does not intend to prove same by sworn evidence but merely by the records of some people previously in the employ of the railroad company and not there now.

(Counsel argue.)

Objection sustained.

20 Plaintiff's counsel prays an exception to this ruling of the court.

Exception noted as ground of appeal.

Location slips marked P. 7 for identification.

Q I show you another group of papers, somewhat similar to P. 7 for identification, and ask you to tell us whether or not they are the same kind of records? A Yes, they are.

30 Q Do you recognize the handwriting of those documents? A As of this man Gorman and also Sturm.

Q And are they in all respects the same as on P. 7 for identification? A Yes, sir, they are.

Q You say you recognize the handwriting, this handwriting, as being of those two people you have mentioned? A Pardon me?

Q You say you recognize the handwriting on these as the handwriting of these two people you have mentioned? A Yes, sir.

Albert M. Dickman, direct.

Q Have you looked over all of them? A Yes, sir.

Mr. McCarter. I now offer them in evidence.

Mr. Stryker. I object on the same ground as I objected to the admission of the other records.

The Court. Objection sustained.

Plaintiff's counsel prays an exception to this ruling of the court. 10

Exception noted as ground of appeal.

Group of papers marked P. 8 for identification.

ALBERT M. DICKMAN, sworn in behalf of plaintiff.

Direct examination by Mr. McCarter.

Q Where do you live? A Jersey City.

Q What is your connection with the Lehigh Valley Railroad Company? A Special agent. 20

Q You have been in charge of the preparation of this case? A Yes, sir.

Q In the course of the preparation of this case, did you ascertain the names of the persons who made out the two sets of documents, P. 7 and P. 8 for identification?

A I did, yes, sir.

Q Did you make any effort to locate those gentlemen? A I did.

Q What did you learn? A I found they were not in the employ of the company and their former associates had no knowledge of where I could find them. 30

Q Is there now the same agent at the Poinier street station as there was in 1916? A No, sir, there have been three changes there.

Q Whom did you inquire of? A Various employees at the Oak Island yards and also at the Poinier street station.

Q Were you able to ascertain where or how you could get a hold of them? A I could not get any information or line on them in any way. 40

Albert M. Dickman, cross.

Cross examination by Mr. Stryker.

Q For whom did you inquire? A For a party by the name of Sturm.

Q What was his first name? A I don't know, I just call him the yard clerk.

Q How do you spell his name? A S-t-u-r-m.

10 Q And you don't know his first name? A No.

Q When did he leave the employ of the railroad company? A Several years ago.

Q When? A I didn't ascertain the date, I only knew he left the employ of the company.

Q Where did he live at the time he was employed by the Lehigh Valley Railroad Company? A In Newark.

Q Whereabouts? A In the east end.

Q What street? A I don't know.

Q Didn't you try to ascertain that? A I did.

20 Q Of whom did you inquire? A All of his former associates.

Q Who? A Those who knew him while he was employed by the company.

Q Who were they, who were the persons you inquired of? A Miss Riedel and a party named Brady who was a yard clerk with him, and Hemming who is an old employee. I am not sure whether I talked to Goodmanson at this time, but I did two years ago.

30 Q You didn't look in the Newark directory to see if he still was living at the same place where he was living while he was employed by your company, did you? A No.

Q Didn't expect Miss Riedel to tell you, did you? A No, I only thought that she could give me some information to trace him.

Q Of who else did you inquire? A Brady.

Q This man Sturm, what was his first name? A I don't know.

40 Q You don't know? A No, sir.

Albert M. Dickman, cross.

Q What was his position? A Yard clerk.

Q Was Brady also a yard clerk? A Yes, in a different section of the yard.

Q Did you ask Brady where Sturm lived when he worked for the railroad company? A He thought he knew.

Q Did you ask him that? A He said he lived down 10 in what is called "the neck".

Q Did you go down to look for him? A No, sir.

Q Where else did you inquire? A At Oak Island.

Q Did you expect to find him at Oak Island? A I thought someone there would know and could tell me.

Q All you did was to go around to certain employees who hadn't left the railroad company and ask them where Sturm was employed? A Where he could be found.

Q And they all told you they didn't know? A Yes.

Q You didn't make any effort to see if he still lived 20 in Newark, and for all you knew he may be living in Newark, isn't that right? A Yes, but my investigation was rather exhaustive at the time I am speaking of, two years ago and a couple of months ago.

Q Well, it wasn't exhaustive enough for you to learn his first name, was it? A Well, we often call them by their last names.

Q Didn't the railroad records have their first names? A I could get it from the payroll if I went to it.

Q Couldn't you find his first name in the present 30 directory of Newark? A Yes, if it is listed there.

Q Who was the other man you asked for? A Gorman, I am quite sure.

Q Are you quite sure? A Well, I would have to refresh my memory on that.

Q Have you any memorandum made by you? A Not just now.

Q You think it was Gorman? A I think so.

Q What was his first name? A I didn't know. 40

Albert M. Dickman, cross.

Q What was his capacity with the railroad company?

A Yard clerk.

Q And you asked some people about him and made just exactly the same kind of search for him as you made for Sturm? A Yes, sir.

10 Q Did you inquire for any one else? A I got together all the others.

Q You got together all the other employees? A Yes, sir, that is, I got a statement from them, one man was out of the service of the company and I managed to get him all right.

Mr. McCarter. At this time I wish to offer in evidence P. 7 and P. 8 marked for identification.

20 *Mr. Stryker.* I renew my objections on the same ground previously urged and it seems that the search or inquiry which they have proven is a farce. Furthermore I wish to object to P. 7 for identification on the further ground that the handwriting has not been identified as to all the entries there and of course no inquiry has been made nor testimony given by the employee who made some of those entries.

Mr. McCarter. I will consent that the first page of P. 7 for identification be withdrawn.

30 (Counsel argue.)

40 *The Court.* Let me rule on this. I am interested, and I know counsel will be in the interpretation of this rule in old Greenleaf, in which the case you read is somewhat similar, but this enlarges a little bit. It says among other things, "That the entry to be admissible must be one which it was the person's duty to make or which belonged to the transaction as part thereof and the party making it must also have had competent knowledge of the fact, or it must have been part of his duty to

Albert M. Dickman, cross.

have known it; there must have been no particular motive to enter that transaction falsely, more than any other; and the entry must have been made on or about the time of the transaction recorded. In such a case, the entry itself is admitted as original evidence being part of the *res gesta*." If you prove those things, and the witness was here, he could testify, the witness not being here his absence must be accounted for, if he is dead you can prove it, if he is living and competent to testify it is deemed necessary to produce him or obtain his testimony. It is alleged that the witness cannot be produced, his death is not proved, his absence is sought to be accounted for by an explanation that such inquiry has been made as indicates a diligent, conscientious and bona fide effort to discover the witness. It is a question for the Court to decide whether that sort of effort has been made and I don't think that it has. I will sustain the objection and give the plaintiff an opportunity to get additional proof, if he can.

10

20

Mr. McCarter. It is a crucial part of the case and without those records so little of the charge can be proved that there is no use going on with the case and I would much rather make the record and seek to review it and if you insist we can make a further search, and the only thing I can do then is to request the withdrawal of a juror and by the time the case comes up again we will have made a further search, for these men.

30

The Court. Is there any objection?

Mr. Stryker. I think we ought to have a non-suit but I don't think it makes any—

The Court. I think wisest to consent to the withdrawal of a juror.

40

Albert M. Dickman, cross.

Mr. Stryker. We don't object.

The Court. I will withdraw a juror and declare this a mistrial then.

Mr. Stryker. I think this ought not to be done.

The Court. You said that you consented.

10

Mr. Stryker. I think the statute of limitations applies to some of this case and under the circumstances a juror should not be withdrawn. This was in 1916.

The Court. That is a substantial right.

Mr. Stryker. I think the statute applies.

The Court. I won't withdraw a juror unless by consent.

20

Mr. Stryker. I withdraw my statement, we do object, because of the fact that we lose a substantial right if a juror is withdrawn, I think it is only fair that I should.

30

Mr. McCarter. A large part of the delay was at the request of counsel for the defendant. This trial could have been brought before the statute of limitations and I don't think it is fair to compel us to be non-suited when a large part of the delay in coming to trial has been due to him. I was ready at the June term and this trial could have been brought on at that time, when the statute of limitations would not cut the same figure.

The Court. You won't need this jury?

Mr. McCarter. If it is non-suited I would like to put in the best record.

The Court. Will you consent to a non-suit?

Mr. Stryker. I cannot consent to the withdrawal of a juror.

40

The Court. I will permit you to withdraw your first consent and let Mr. McCarter proceed.

Henry V. Walker, direct.

HENRY V. WALKER, sworn in behalf of plaintiff.

Direct examination by Mr. McCarter.

Q You are the president of the defendant company, Maas & Waldstein Company? A I am.

Q You were in 1916? A I was.

Q I want to show you some letters and ask you if you signed them. I show you a letter dated July 19, 1916, and ask you if you signed that letter and sent it? A Yes, that is my signature. 10

Mr. McCarter. I offer that letter in evidence.

Mr. Stryker. No objection to that.

Letter of July 19, 1916, offered in evidence and marked P. 9.

Q I show you a letter dated November 21, 1916, and ask you if you wrote that letter? A It is not my signature. I wrote this letter. This statement appended is a carbon copy and of course I didn't write that. 20

Q I ask you to look at the page of the letter where reference is made to some appended statement and ask you if the statement appended is not the statement referred to in the body of that letter? A Yes, sir, it is.

Mr. McCarter. I offer this letter in evidence.

Letter of November 21, 1916, from Maas & Waldstein Company to the Lehigh Valley Railroad marked P. 10 in evidence. 30

Q Now, I show you a letter dated January 20, 1917, and ask you to look at that and ask you if you wrote that, Mr. Walker? A Yes, sir, I wrote it.

Mr. McCarter. I offer it in evidence.

Letter of January 20, 1917, from Maas & Waldstein Company to Lehigh Valley Railroad offered in evidence and marked P. 11. 40

Henry V. Walker, direct.

Q I show you a letter date February 16, 1917, Dr. Walker, and ask you if you wrote that? A Yes, sir.

Mr. McCarter. I offer it in evidence. It is marked P. 12.

10 Q I show you a letter dated March 16, 1917, and ask you if you wrote that, doctor? A Yes, sir.

Mr. McCarter. I offer it in evidence.
Same is marked P. 13.

Q I show you a letter dated May 25, 1917, Dr. Walker, and ask you if you wrote that? A I did.

Mr. McCarter. I offer it in evidence.

20 *Mr. Stryker.* I object to this letter on the ground that it contains nothing material and relevant to this controversy.

The Court. I will admit it.

Letter of May 25, 1917, marked P. 14 in evidence. Defendant's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

Q I show you a letter dated September 7, 1917, and ask you if you wrote that? A I did.

30 *Mr. McCarter.* I offer it in evidence.
Same is marked P. 15 in evidence.

Q Dr. Walker, I show you a letter of May 16, 1917, produced by your counsel signed E. H. Boles, and also some documents annexed thereto headed, "Agreed statement of facts," and ask you if you received those? A The "Agreed statement of facts came from our file."

Q You did receive it? A I received it.

40 *Mr. McCarter.* I offer it in evidence.

Henry V. Walker, direct.

Mr. Stryker. I object on the same grounds as I did to the letter offered two minutes ago, which was a reply to this.

The Court. I will admit it.

Defendant's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

10

Letter May 16, 1917, and the annexed "Agreed statement of facts," marked P. 16, in evidence.

Mr. McCarter. Exhibit P. 16 is "Agreed statement of facts" referred to in Exhibit P. 14, P. 14 being the letter written by Dr. Walker.

Q Dr. Walker, did the Maas & Waldstein Company have a Mr. Keck in their employ as traffic manager? A Yes, sir.

Q As traffic manager what were his duties? A The usual duties of a traffic manager.

20

Q What was that? A Expedite car movements, tend to routine of shipments and incoming freight.

Q I show you a letter on the letterhead of the Maas & Waldstein Company date February 19, 1918, and ask you if that is Mr. Keck's signature on that letter? A I think it is, I am not very familiar with his signature, but I think it is.

Mr. McCarter. I offer this letter in evidence.

30

Same is marked Exhibit P. 17 in evidence.

Q Now, I show you a letter dated April 18, 1918, which bears your name on the bottom, but is in different handwriting than yours, and ask you if you dictated or had anything to do with the signing of that letter? A I did not, to the best of my knowledge. It was not my habit to have others sign my name.

Q Have you any idea as to how this letter signed with your name, by the intial "K," came to be in the posses-

40

Henry V. Walker, direct.

sion of the Lehigh Valley Railroad? A I have no knowledge of that at all.

Q I show you another letter dated July, it looks like 29, 1918, or maybe it is July 20, 1918, on the letterhead of the Maas & Waldstein Company, addressed to Mr. E. C. Mann, signed Henry V. Walker, in some other handwriting, and ask you if you know anything about that letter? A I dictated that letter.

Q Who signed it? A My secretary.

Mr. McCarter. I offer this letter in evidence.

Same is marked Exhibit P. 18 in evidence.

Q Dr. Walker, I wish you would look at the signature on P. 18 and then look at this letter dated April 18, 1918, which I showed you before and see if you don't think the letter dated April 18, 1918, was also signed by your secretary as you said P. 18 was? A I think it was.

Mr. McCarter. I offer the letter of April 18, in evidence.

Same is marked P. 19 in evidence.

Q Did the Maas & Waldstein Company have in its employ an R. H. Olmstead? A They did.

Q What was his position? A At what time?

Q In 1916. A Why he was originally a receiving clerk and subsequently assistant cashier.

Q I show you a document entitled, "Delivery receipt," dated 3/3/16, bearing down in the place designated consignee by a rubber stamp, Maas & Waldstein Company, R. H. Olmstead, and ask you if that isn't a delivery receipt signed by the Maas & Waldstein Company for the commodity designated in the body of the document? A I am unable to say whether it is or not. Do you want me to identify Mr. Olmstead's signature?

Q Do you recognize that as his signature? A No.

Henry V. Walker, direct.

Q Who would sign for property delivered to the Maas & Waldstein Company when Mr. Olmstead was in your employ? A I think at this period, Olmstead would have signed.

Q Now I show you a group of delivery sheets all signed by rubber stamps and ask you to look at them and tell us whether you have any doubt if those are the delivery receipts executed by the Maas & Waldstein Company for property specified in the body of the papers. 10

Mr. Stryker. I think the question is objectionable, it does not call for the witness's knowledge. He is a witness on behalf of the plaintiff.

The Court. I sustain the objection.

Plaintiff's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal. 20

Q The Maas & Waldstein Company was, during 1916, receiving shipments of nitrate of soda, was it not? A I can only answer with my best guess, I do not know when we were receiving shipments.

Q You do not know then that you were receiving shipments of nitrate of soda? A When we originally started the plant we were not and we subsequently built an acid plant and then used it.

Q Now look back on Exhibit P. 10 which you identified this morning, and I call your attention to the first line of the list and see if that does not refresh your memory that during 1916 you were receiving shipments of nitrate of soda? A I don't see anything here that tells the commodity. 30

Q See it there (pointing)? A Oh, yes.

Q So you now are able to say that during 1916 the Maas & Waldstein Company did receive shipments of nitrate of soda? A Yes, they did. 40

Henry V. Walker, direct.

Q Don't you recall that nitrate of soda was shipped to the Maas & Waldstein Company by steamer coming to New York Harbor and moving then to your plant in Newark over the Lehigh Valley track? A We received a large amount of nitrate of soda moved in various ways, some over the Lehigh Valley Railroad track.

10 Q Don't you recall that one of the original items of dispute between your company and the Lehigh Valley Railroad is over demurrage charges and over shipments of nitrate of soda? A Yes.

Q That nitrate of soda was a shipment imported by the Maas & Waldstein Company arriving in New York by steamer and delivered to the Maas & Waldstein Company over the Lehigh Valley Railroad track? A It was not imported by the Maas & Waldstein Company.

20 Q Well, it came to New York Harbor by steamer? A Yes, it did.

Q And was moved by the Lehigh Valley Railroad Company from the steamer to your plant? A Yes.

Q Do you recall now how much this nitrate of soda amounted to, how much of a quantity there was of it. This particular shipment? A I don't recall.

Q As a matter of fact the Maas & Waldstein Company was receiving over the Lehigh Valley Railroad a great many shipments of bags of nitrate of soda, wasn't it? A Yes, sir, large quantities.

30 Q And aren't you prepared to say that this group of receipts which I show you now, so far as they refer to bags of nitrate of soda, represent nitrate of soda, delivered by the Lehigh Valley Railroad Company to the Maas & Waldstein Company? A I have no knowledge of that, I never saw them before.

Q Was the Maas & Waldstein Company in the habit of issuing receipts for property they did not receive? A No.

Henry V. Walker, direct.

Q You are still not prepared to say that this group of receipts, which I hold in my hand, the number I can only estimate, you can estimate as readily as I from the size, were or were not received, signed by the proper person in the Maas & Waldstein Company to receipt for shipments coming in? A I have no knowledge of them whatever.

10

Q Wasn't R. H. Ohmstead during 1916, a proper person to sign for commodities received by the Maas & Waldstein Company? A During a part of 1916, he was.

Q You say you do not know whether this particular receipt for car G. A. T. X., 8069 was or was not for property received by the Maas & Waldstein Company? A No, I have no knowledge of it.

Q You were at that time president of the Maas & Waldstein Company? A Yes, sir.

Q You had personal knowledge of the fact that the Lehigh Valley Railroad Company was delivering to you large quantities, you say of bags of nitrate of soda? A Yes, sir.

20

Q And you had personally investigated the circumstances of that shipment sufficiently to write these letters, among others Exhibit P. 10? A Yes, sir.

Q Do you still make the statement that you have no knowledge as to these receipts? A I never saw them before and I don't know whether they are the originals. I called your attention that I thought a few were signed by R. H. Olmstead.

30

Q You make no distinction in your mind of those signed by R. H. Olmstead and those signed otherwise? A No.

Q You also, during this period, were receiving shipments of sulphuric acid, weren't you? A Yes, we were.

Q Any other kind except sulphuric acid? A Mixed acid.

40

Henry V. Walker, cross.

Q I show you, Dr. Walker, a group of notices of constructive placement, which are annexed to the answer to interrogatories in this case and ask you if you found that document among the records of the Maas & Waldstein Company? A Yes, they were in our files.

Q They were in your files? A Yes, sir.

10 Q And they are annexed to your affidavit in the case?

A Yes, sir.

Mr. McCarter. I offer it in evidence.

It is marked P. 20 in evidence.

Q (*By the Court.*) You were acting within the scope of your authority when you signed all these letters, weren't you? A Yes, sir.

Cross examination by Mr. Stryker.

20 Q Doctor, have you ever had personal knowledge of the time when cars were delivered by the Lehigh Valley Railroad Company to your plant?

Mr. McCarter. I object as it is not cross examination.

The Court. Objection sustained.

Q Dr. Walker, at the time you wrote these letters which have been offered in evidence and marked P. 9 to
30 P. 18 inclusive, did you have any knowledge of the accuracy of the statement submitted by the Lehigh Valley Railroad Company to your company for demurrage charges?

Mr. McCarter. I object as it is not cross examination.

The Court. I will admit it.

A I had knowledge that they were inaccurate and in dispute between the respective companies.

Henry V. Walker, cross.

Q Did you know whether the cars referred to in these statements or covered by the statements had been delivered or tendered at the times claimed by the railroad company?

Mr. McCarter. I object. It should be made clear what statement is referred to.

The Court. Objection sustained.

10

Q I refer to the bills submitted by the company for April, June, July, August and September, 1916. What knowledge did you have, doctor, at the time you wrote these letters, of the claim made by the railroad company?

A The knowledge that appears in the correspondence, and afterwards the solicitor was urging payment of the claim.

Q Do you know the amount of the claim at those times?

A At all times?

20

Q At the times covered by the correspondence? A Yes, it is covered in the correspondence.

Q Do you know whether delays had occurred with the cars to support that amount? A No.

Q Now, referring, Dr. Walker, to the letter addressed to you by Mr. Boles who was general solicitor of the plaintiff company at the time the letter was written, did you examine the agreed statement of facts annexed to the letter at the time it was sent? A I did.

30

Q What was the purpose of that agreed statement of facts, Dr. Walker?

Mr. McCarter. I object as it is incompetent.

A For the purpose of preparing the case for submission to the Board of Public Utilities Commission of the State of New Jersey.

Q And it was prepared by whom? A By the railroad company, Mr. Boles.

40

Henry V. Walker, cross.

Q And enclosed with this letter which has been admitted marked P. 16? A Yes, sir.

Q (*By the Court.*) This agreed statement of facts, so called, simply indicates that one side claims so and so and the other side claims so and so, in other words, it sets up reverse claims? A Mr. Boles seemed to take the
 10 view that the whole question between us was whether in signing the average agreement we had waived the provision of the New Jersey statute, and that was the question we submitted to the New Jersey State authorities. In my acknowledgment I called his attention to his erroneous view, but that was the whole question. I took it that it was nothing for the New Jersey State Commission to pass on except Intra State movements. Boles was going to submit the whole thing apparently and when he discovered a substantial part of the delayed shipments which
 20 could not be classed as Intra State, he dropped the whole thing.

Q (*By Mr. Stryker.*) This agreed statement of facts never became effective? A Never.

Q In your letter of May 25th, referring to his statement, you say the statement of facts is correct and we are willing to submit the case to the Board on this statement, what did you mean by that statement?

30 *Mr. McCarter.* I object.

The Court. I will admit it.

(Question read.)

Mr. McCarter. I still object.

The Court. I will admit it.

Q (*By the Court.*) Didn't you explain that to me, doctor? A I think I did.

Q (*By the Court.*) Otherwise I will admit the question, but I see no use for repetition.
 40

Harry A. Campbell, direct.

HARRY A. CAMPBELL, sworn in behalf of the plaintiff.

Direct examination by Mr. McCarter.

Q Where do you live? A Woodhaven, Long Island.

Q What is your occupation? A Inspector in the Bureau of Explosives.

Q What is the Bureau of Explosives? A It is an agency that enforces Interstate Commerce Commission regulations with respect to the safe transportation of explosives and other dangerous articles. 10

Q How long have you been connected with that bureau? A Since January, 1909.

Q Do your duties, as such, require you to familiarize yourself with what commodities are or are not dangerous from an explosive standpoint, in transportation? A They do.

Q Will you state whether or not sulphuric acid is such a commodity? 20

Mr. Stryker. I object to the question as immaterial.

The Court. I will admit it.

Defendant's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

A Sulphuric acid is not classed as an explosive, it is classed as "other dangerous articles." 30

Q Is it a kind of commodity, from a standpoint of safety in transportation, that requires special treatment?

A It does.

Q Does it require a special placard or label, or anything of that kind?

Mr. Stryker. I object as the regulations are not in evidence.

The Court. Objection sustained.

George T. Caskey, direct.

Plaintiff's counsel prays an exception to this ruling of the court.

Exception noted as ground of appeal.

Cross examination waived.

10 *Mr. McCarter.* I wish to ask for an adjournment at this time, until approximately three o'clock, to allow the return of Mr. Caskey who has gone to New York for the records.

The Court. Gentlemen of the jury, you may retire to the jury room.

Adjournment from 2:45 P. M. to 3:15 P. M.

GEORGE T. CASKEY, recalled in behalf of the plaintiff.

20 *Direct examination by Mr. McCarter.*

Q I show you some pink slips and ask you where you obtained them? A These are our receipts from the Commission in acknowledgment of certain tariffs.

Q Where did you get them? A From our records in New York.

Q When you left the stand this morning you went and got them? A Yes, sir.

30 Q Are these sent from the Lehigh Valley Railroad Company to the Interstate Commerce Commission and then received back or how? A They are sent in duplicate to the Commission and the Commission acknowledges receipt of the duplicate and returns it to us and these are the returns from the Commission.

Q How does the Commission signify its acknowledgment of the receipts? A By a stamp and a number.

40 *Mr. McCarter.* I offer those receipts and "Storage charge tariff I. C. C. No. 4021," in evidence.

George T. Caskey, cross.

Cross examination by Mr. Stryker.

Q Did you personally send these statements? A I did not.

Q I understood you to say that when these were sent off they were sent in duplicate? A In duplicate.

Q You mean, take for instance this pink slip dated January 15, 1919, do you mean two pink slips of that character? A The original is kept by the Commission and this is the duplicate. 10

Q What accompanies this original? A The tariffs themselves.

Q In duplicate? A Two copies.

Q They return both copies? A They return both copies.

Q I understood you to say that you did not attend to this yourself? A I did not.

Q And of your own knowledge you don't know what accompanied this slip, do you? A Nothing more than what is enumerated on the pink slip. 20

Q You don't know that other than it is enumerated there? A That is all.

Mr. Stryker. I object to the admission of these so-called receipts, upon the ground that the witness has no personal knowledge as to what they acknowledged receipt of, they acknowledged receipts of something and they purport on the face to identify that something. 30

Q (*By Mr. Stryker.*) Do you know, of your own knowledge, how that rubber stamp, which appears to be on the receipt came to be placed there? A I have no information about that.

Mr. Stryker. I also object on the ground that there is no proof that they are in fact receipts of the Interstate Commerce Commission. 40

George T. Caskey, re-direct.

The Court. Do you want to examine the witness further, Mr. McCarter.

Re-direct examination by Mr. McCarter.

10 Q Have you, in the course of your duties in the office in which you are employed, seen these Interstate Commerce Commission receipt stamps before? A Yes, sir.

Q How many of them do you suppose you have seen? A In the neighborhood of 8,000 per year.

Q I will ask you to look at those pink slips and state whether that rubber stamp on there looks like, or is any different from other stamps you have seen?

Mr. Stryker. I object. He does not know any more about those, than the others he has testified to.

20 *The Court.* I will admit this, if you will show that this man, as chief clerk of the Tariff Bureau of the Lehigh Valley Railroad Company, gave orders in that capacity to have these tariffs sent to the Interstate Commerce Commission and that in accordance with those orders these letters were written, and that in accordance with the orders the copies of the letters were found among their files, indicating that the letters had been written, and that as an additional indication the letters were
30 written and returned in the regular course of business, they are found with the stamp of the Interstate Commerce Commission upon them, and that other letters had been written to them, and they had been sent and received a similiar stamp upon them.

Mr. McCarter. Did you give orders to any subordinate in your office, to mail to the Interstate Commerce Commission the tariffs referred to in these pink slips, before you?

40 A I did.

George T. Caskey, re-direct.

Q And did you give orders that a duplicate pink slip be included in the letters sent the Commission? A I did.

Q Have you ever, in the course of your duties in that office, mailed any tariffs yourself? A I have mailed a number of them.

Q And any of those you mailed yourself have you subsequently found in the files of the office, the pink slips bearing a similar stamp of the Interstate Commerce Commission? A I have. 10

Q And you say you found these pink slips, now before you, when you made the search in your office today? A Yes, sir.

Mr. McCarter. I now offer them in evidence.

Mr. Stryker. I object.

The Court. I will admit them.

Same are marked P. 21 in evidence. 20

Defendant's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

Q (*By Mr. McCarter.*) I show you a pink slip similar in appearance, bearing a similar I. C. C. stamp, which purports to refer to supplement number 5, of I. C. C. F-17, which is P. 3 in evidence, and ask you if you found that slip among your files today? A I did. 30

Q Is that slip, one of the same class of slips, in evidence P. 21? A Of the same nature.

Q And what you have testified to about them, applies equally to this? A It does.

Mr. McCarter. I offer that in evidence.

Mr. Stryker. The same objection is interposed to this as to the other.

The Court. I will admit it.

Pink slip offered in evidence and marked P. 22. 40

George T. Caskey, re-direct.

Q I show you another pink slip dated October 31, 1916, and referring among other tariffs to supplement number 6, of I. C. C. F-17, effective, dated December 1, 1916, and for brevity will ask you, if that receipt is in all respects the same as the other pink slips you testified to? A It is.

10 *Mr. McCarter.* I offer this pink slip in evidence.

Mr. Stryker. The same objection as to the other pink slip, I wish to interpose.

The Court. I will admit it.

Pink slip marked P. 23 in evidence.

Cross examination by Mr. Stryker.

Q You have no personal knowledge as to the tariffs that accompanied this slip, have you? A It is enumerated on the publication going down.

20 Q Yes. A No.

Q And that is true of all these others? A Yes, sir.

Re-direct examination by Mr. McCarter.

Q Mr. Caskey, can you tell, by looking at any of these pink slips which are a part of Exhibit P. 21, how long local freight tariff I. C. C. 4031, which is also a part of Exhibit P. 21, remained in effect without a supplement?

30 A From March 16, 1916, until February 1st, 1917.

Q And on that last date, what was the number of the supplement that went into effect? A Number 1.

Q This document which I show you now is supplement number 1? A It is.

Mr. McCarter. I wish to offer supplement number 1 in evidence.

Mr. Stryker. I object to supplement number 1 being offered in evidence.

40

Defendant's Motion for a Non-Suit.

The Court. Objection sustained.

Mr. McCarter. I wish to renew my offer of P. 4 for identification into evidence, which your Honor excluded before. It is the "Storage of dangerous articles rules" which the witness testified to this morning.

Mr. Stryker. I object. 10

The Court. Sustained.

Plaintiff's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal.

PLAINTIFF RESTS.

Mr. Stryker. I move for a non-suit on both counts. I think it is so entirely clear that we are entitled to a non-suit on the second count, that no argument is needed to support that. There is nothing in evidence anywhere to show that any of the cars mentioned in the second count were ever even shipped to us let alone that they were stored at East Oak Island or subsequently delayed after delivery on our tracks. Nothing has been said about that, in the case or correspondence, except we disputed the obligation to pay any storage at all on these cars and had taken up the question as to whether this tariff applied to carload freight in unloading. They have based their claim on this tariff offered in evidence. In order to sustain their claim they are obliged to show that these car numbers, annexed to the complaint in the bill of particulars, were delivered at the destination and held by us for the number of days charged in their bill. They have not shown anything about the delivery of the cars or anything the time of release of the cars. They have shown absolutely nothing on this car storage, and it seems to me without any argument, that we are entitled to a non-suit on that count. They relied on getting in the memoranda of employees made but not produced and they 40

Defendant's Motion for a Non-Suit.

failed as to that and there is nothing here which shows this Court and jury that there had been a day's delay on any of these cars, and if there was not a delay on the cars then it is obvious that the plaintiff has failed in proving a *prima facie* case. In regard to the claim for demurrage, exactly the same situation exists, and I, therefore, desire to move for a non-suit on both counts.

(Counsel argue.)

The Court. The first count in the complaint made by the Lehigh Valley Railroad Company states that on the first day of January, 1916, the Lehigh Valley Railroad Company and Maas & Waldstein Company entered into an agreement known as "Average agreement" which, I think, was put in evidence. This among other things says, "Demurrage charges should be computed upon the basis of the rate set forth in the tariff published by the plaintiff with the sanction of the Interstate Commerce Commission and the supplements thereto." It is further provided "that such rates should govern us as to Interstate and Intrastate shipments." Then, the next paragraph of the complaint alleges "that during the month of April, June, July, August and September, 1916, there were in force plaintiff's tariffs I. C. C. F-17 and supplement number 5 to F-17, and during that period of time defendant shipped commodities over the lines of the plaintiff, and had commodities consigned to it, and failed to accept or arrange for delivery of such commodities within the free period provided for in said tariffs and the supplements thereto." The last few lines, as to the failure to accept or arrange for delivery, indicates the first stumbling block for the plaintiff in this case. So that "demurrage accrued and became due from the defendant to the plaintiff on account of such shipments pursuant to said tariffs and the supplements thereto."

Through no fault of counsel, I think, because of the unexpected way things happen at a trial, the plaintiff

Defendant's Motion for a Non-Suit.

has been disappointed in an effort to put in some evidence, and the result has been that the evidence which we have before us is not very clear, and when I say "not very clear," I mean in this respect: The plaintiff practically says on the first count to the defendant, "I desire to recover from you demurrage because I placed cars on your tracks with my engines and you kept them there beyond the time you should in accordance with our agreement and you were charged at so much per day for keeping them there." Where is there proof of that? That is what we waited for the plaintiff, and expected it to prove, but unfortunately, I say, because of my ruling on one of the questions submitted, the plaintiff failed. 10

Giving the plaintiff the benefit of every favorable inference I can draw, there is nothing I can submit to the jury, that twelve intelligent men can analyze and return. Nothing to support the plaintiff's claim on either count. 20

I will dispose of the second one quickly, as there is no question about that. It is true that there is a letter written in 1916, showing that some of the cars were held and subsequently released, giving the date. There is evidence that some six thousand dollars was paid by the defendant to the plaintiff, and there is evidence produced by the plaintiff that the defendant's contention was that was all it owed, that it owed nothing else, and I do not see, gentlemen of the jury, what you would take with you to the jury room. How many cars you would determine or not were there; or how long they remained there; or how you could intelligently decide the question, in other words, the plaintiff has failed to prove, in my opinion, a *prima facie* case on both counts, after giving it the benefit of every favorable inference. 30

I will, therefore, grant defendant's counsel motion for a non-suit.

Plaintiff's counsel prays an exception to this ruling of the Court.

Exception noted as ground of appeal. 40

Exhibit P. 1.

EXHIBIT P. 1.

CAR DEMURRAGE AVERAGE AGREEMENT.

January 1, 1915.

TO LEHIGH VALLEY RAILROAD COMPANY:

10 Being fully acquainted with the terms, conditions and effect of the average basis for settling for detention to cars set forth in Tariff I. C. C. No. *F.-17*, P. S. C.-2 N. Y. No. *G-15*, P.S.C.-Pa. No. *J.-12*, supplements thereto and reissue thereof, being the car demurrage rules governing at all stations and sidings on the lines of said railroad company, except as shown in said tariff, and being desirous of availing *ourselves* of this alternate method of settlement *we* do expressly agree to and with the LEHIGH VALLEY RAILROAD COMPANY that with respect to all cars which may, during the continuance of this agreement, be handled for *our* account at Newark, N. J. (station), *we* will fully observe and comply with all the terms and conditions of said rules as they are now published or may hereafter be lawfully modified by duly published tariffs, and will make prompt payment of all demurrage charges accruing thereunder in accordance with the average basis as therein established or as hereafter lawfully modified by duly published tariffs (time on intrastate and interstate business to be computed in accordance with the rules set forth in the above named tariff or as said rules may be lawfully modified hereafter by duly published tariffs).

30 This agreement to be effective on and after the *first* day of *January*, 1916, and to continue until terminated by written notice from either party to the other, which notice shall become effective on the first day of the month succeeding that in which it was given.

MAAS & WALDSTEIN Co.,
Henry V. Walker,
President.

40 Approved and accepted *Jan. 1, 1916*, by and on behalf of the above-named railroad company by
G. B. Minshull,
Supt. of Car Service.

Exhibit P. 2.

EXHIBIT P. 2.

Tariff I. C. C. No. F-17.

Cancels Tariff I. C. C. No. F-16.

Only One Supplement to this Tariff will be in effect at any time.

P. S. C.-2 N. Y. No. G-15.

10

Cancels P. S. C.-2 N. Y. No. G.-14.

P. S. C.-Pa. No. J-12.

Cancels P. S. C.-Pa. No. J-9.

LEHIGH VALLEY RAILROAD COMPANY

CAR DEMURRAGE RULES

and

Explanations of and Instructions Relating to Same
Applicable at Freight Stations of the

LEHIGH VALLEY RAILROAD

20

as shown in

Official List of Freight Stations, I. C. C. No. B-5200, P. S.
C.-2 N. Y. No. D-1550, P. S. C.-Pa. No. K-55, Sup-
plements thereto and Reissues thereof.

Issued October 1, 1914

Effective November 1, 1914.

Issued by

T. Clem. Beck, Chief of Tariff Bureau, New York, N. Y.

30

J. F. Maguire, General Manager, South Bethlehem, Pa.

C. W. Kinney, Supt. of Transportation, South Bethlehem,
Pa.

G. B. Minshull, Supt. Car Service, South Bethlehem, Pa.

Receipt No. 80824.

(✕M143727)

Exhibit P. 2.

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	Demurrage Charges	Rule 7
	Free time allowed	Rule 2
	Loading, Car for	Rule 6
	Notification	Rule 4
	Time allowed (Free)	Rule 2
	Time, Computing	Rule 3
	Unloading, Placing Cars for	Rule 5

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Exhibit P. 2.

CAR DEMURRAGE RULES

INSTRUCTIONS AND EXPLANATIONS.

Instructions to Agents on the Rules are printed in Italics.

Explanation to Demurrage Rules are printed in Roman.

RULES.

RULE 1.—CARS SUBJECT TO RULES.

Cars held for or by consignors or consignees for loading, unloading, forwarding directions, or for any other purpose, are subject to these Demurrage Rules, except as follows:

SECTION A.—Cars loaded with live stock.

SECTION B.—Empty cars placed for loading coal at mines or mine sidings, or coke at coke ovens, and cars under load with coal at mines or mine sidings or coke at coke ovens.

SECTION C.—Empty private cars stored on this Company's or private tracks, provided such cars have been placed or tendered for loading on the orders of a shipper.

NOTE.—Private cars while in railroad service, whether on carrier's or private tracks, are subject to these Demurrage Rules to the same extent as cars of railroad ownership.

Instructions and Explanations.

TO RULE 1.—CARS SUBJECT TO RULES.

Cars loaded with Company material for use of and consigned to the railroad in whose possession the cars are held are not subject to demurrage, *but must be reported in accordance with instructions contained in Order No. 3 (issued by Superintendent of Car Service), supplements thereto and reissues thereof.*

Empty cars placed for loading with Company material are subject to demurrage, unless the loading is done by the railroad company for which the material is intended and on its tracks.

SECTION A.—Empty cars placed for loading live stock by shippers are not exempt and should be reported.

Live poultry is not considered as live stock, and cars so loaded are subject to demurrage.

SECTION C.—Empty private cars stored on tracks switched by this Company, taken for loading without order or requisition from shipper, and without formal assignment by this Company's agent, shall be recorded as placed for loading when actual loading is begun.

NOTE.—Private cars belonging to an industry which does its own switching, placed upon an interchange track for forwarding and refused by this Company's inspector, shall be released from demur-

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Exhibit P. 2.

RULES.

Empty private cars are in railroad service from the time they are placed by the carrier for loading or tendered for loading on the orders of a shipper. Private cars under lading are in railroad service until the lading is removed and cars are regularly released. Cars which belong to an industry performing its own switching service are in railroad service from the time they are placed by the industry upon designated interchange tracks and thereby tendered to the carrier for movement. If such cars are subsequently returned empty they are out of service when withdrawn by the industry from the interchange; if returned under load, railroad service is not at an end until the lading is duly removed.

RULE 2.—FREE TIME ALLOWED

SECTION A.—Forty-eight hours' (two days) free time will be allowed for loading or unloading on all commodities, except as otherwise provided for in Sections B-2 and C-1 of this Rule and in Tariffs I. C. C. No. B-9922, P. S. C.—2 N. Y. No. D-2782, P. S. C.—Pa. No. K-1203, I. C. C. No. B-9031, and I. C. C. No. D-660, Supplements thereto and Reissues thereof.

NOTE.—If a consignee wishes his car held at any break-up yard or a hold-yard before notification and placement, such car will be subject to demurrage. That is to say, the time held in the break-up yard will be included within the 48 hours of free time. If he wishes to exempt his cars from the imposition of demurrage he must either by general orders given to the carrier or by specific orders as to incoming freight notify the carrier of the track upon which he wishes his freight placed, in which event he will have the full 48 hours' free time from the time when the placement is made upon the track designated.

SECTION B.—Twenty-four hours' (one day) free time will be allowed:

1. When cars are held for switching orders.

NOTE.—Cars held for switching orders are cars which are held by a carrier to be delivered to a consignee within switching limits and which when switched become subject to an additional charge for such switching movement.

Instructions and Explanations.

rage if withdrawn by the industry from the interchange track within twenty-four (24) hours after rejection.

Private cars are not in railroad service—

(a) When loaded and unloaded on the tracks of the owner and not moved over the tracks of a carrier;

(b) When placed by this Company for loading on the tracks of the owner and refused by the inspector.

TO RULE 2.—FREE TIME ALLOWED.

SECTION A.—When the same car is both unloaded and reloaded, each transaction will be treated as independent of the other. (When loading is begun before unloading is completed, cars will be considered as released from unloading and placed for loading at the time loading is begun.)

At points within the State of New Jersey, such time will be allowed for loading or unloading intrastate traffic as may be necessary to comply with the State laws, except on cars subject to Average Agreement.

SECTION B.—1. Applies to cars held on this Railroad for disposition. (See Section B-2.)

Exhibit P. 2.

RULES.

2. When cars are held for reconsignment or reshipment in same car received, except as otherwise provided for in Tariff I. C. C. No. F-13, P. S. C.—2 N. Y. No. G-11, and Tariff I. C. C. No. B-9308, P. S. C.—2 N. Y. No. D-2396, P. S. C.—Pa. No. K-512, or Reissues thereof.

NOTE.—A reconsignment is a privilege permitted by tariff under which the original consignee has the right of diversion. In event of the presence of such a privilege in the tariff 24 hours' free time is allowed for the exercise of that privilege by the consignee. A reshipment under this rule is the making of a new contract of shipment by which under a new rate the consignee forwards the same car to another destination.

3. When cars destined for delivery to or for forwarding by a connecting line are held for surrender of bill of lading or for payment of lawful freight charges.

4. When cars are held in transit and placed for inspection or grading. When cars loaded with grain or hay are so held subject to recognized official inspection and such inspection is made after 12 o'clock noon, 24 hours (one day) extra will be allowed for disposition.

5. When cars are stopped in transit to complete loading, to partly unload or to partly unload and partly reload (when such privilege of stopping in transit is allowed in the tariffs of this Company).

6. On cars containing freight in bond for Customs entry and Government inspection.

SECTION C.—1. Cars containing anthracite coal, bituminous coal, boulets, briquettes or coke (except petroleum coke), held at points for unloading into boats will be allowed such free time as is provided for in Tariff I. C. C. No. F-13, P. S. C.—2 N. Y. No. G-11, P. S. C.—Pa. No. J-7, and Reissues thereof. Cars containing anthracite coal, boulets and briquettes held at storage plants of shippers will be allowed such free time as is provided for

Instructions and Explanations.

SECTION B.—2. Applies to cars held in transit for reconsignment or on order of consignor or consignee. (See Rules 3, Section B, and 4, Section B.) A change of consignee after arrival of car at destination is not a reconsignment under these rules unless a diversion provided by tariff is involved.

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SECTION B.—4. See last paragraph of instructions pertaining to Rule 4.—Notification.

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Exhibit P. 2.

RULES.

Instructions and Explanations.

in Tariff I. C. C. No. F-13, P. S. C.—2 N. Y. No. G-11, P. S. C.—Pa. No. J-7, and Reissues thereof.

- 10 2. Cars containing freight, other than anthracite coal, coke, or bituminous coal, for transshipment by vessel, will be allowed such free time at the ports as is provided for in Tariffs I. C. C. No. B-9031 and I. C. C. No. B-9522, P. S. C.—2 N. Y. No. D-2439, P. S. C.—Pa. No. K-56, Supplements thereto and Reissues thereof.

RULE 3. COMPUTING TIME.

TO RULE 3.—COMPUTING TIME.

NOTE.—Except as otherwise provided for in this Tariff, in computing time, Sundays and legal holidays (National, State and Municipal) will be excluded. When a legal holiday falls on a Sunday, the following Monday will be excluded.

NOTE.—The exemption of holidays does not include half holidays.

- 20 SECTION A.—On cars held for loading, time will be computed from the first 7.00 a. m. after placement on public delivery tracks. See Rule 6 (Cars for Loading).

SECTION B.—1. On cars held for orders, time will be computed from the first 7.00 a. m. after the day on which notice of arrival is sent or given to the consignee.

SECTION B.—*Agents will in all cases attach to orders received by mail the envelope enclosing such orders, that there may be on file a record of release.*

- 30 2. When orders for cars held for disposition or reconsignment are mailed, such orders will release cars at 7.00 a. m. of the date orders are received at the station where the freight is held, provided the orders are mailed prior to the date received, but orders mailed and received on the same date release cars the following 7.00 a. m.

SECTION C.—On cars held for unloading, time will be computed from the first 7.00 a. m. after placement on public-delivery tracks, and after the day on which notice of arrival is sent or given to consignee.

- 40 SECTION D.—On cars to be delivered on any other than public-delivery tracks, time will be computed from the first 7.00

Exhibit P. 2.

RULES.

a. m. after actual or constructive placement on such tracks. See Rule 4 (Notification) and Rules 5 and 6 (Constructive Placement).

NOTE.—“Actual Placement” is made when a car is placed in an accessible position for loading or unloading or at a point previously designated by the consignor or consignee.

SECTION E.—On cars to be delivered on interchange tracks of industrial plants performing their own switching service, time will be computed from the first 7.00 a. m. following actual or constructive placement on such interchange tracks until return thereto. See Rule 4 (Notification) and Rules 5 and 6 (Constructive Placement). Cars returned loaded will not be recorded released until necessary billing instructions are given.

RULE 4.—NOTIFICATION.

SECTION A.—Notice shall be sent or given consignee by this Company's agent in writing, or as otherwise agreed to by this Company and consignee, within twenty-four hours after arrival of cars and billing at destination, such notice to contain point of shipment, car initials and numbers, and the contents, and, if transferred in transit, the initials and number of the original car. In case car is not placed on public-delivery track within twenty-four hours after notice of arrival has been sent or given, a notice of placement shall be sent or given to consignee.

SECTION B.—When cars are ordered stopped in transit notice shall be sent or given the party ordering the cars stopped upon arrival of cars at point of stoppage.

SECTION C.—Delivery of cars upon private or industrial interchange tracks, or written notice sent or given to consignee of readiness to so deliver, will constitute notification thereof to consignee.

Instructions and Explanations.

TO. RULE 4.—NOTIFICATION.

Agents are cautioned that, in order to be legal, notices of the arrival of cars must be in writing, and must contain all of the items of information specified by this rule. An impression copy should be retained, and when notice is sent or given on a postal card the impression should be of both sides. If delivered by messenger, a receipt should be taken for the notice when practicable, in order to avoid possibilities of dispute.

In many cases it is desirable for both consignee and carrier that notices be given in some other way, especially by telephone, but such notices are not legal under this rule except when “agreed to by this Company and consignee.” In case consignees desire or will accept some notice other than the written notice, agents will require a written request from them to that effect, and this request, agreed to by the agent, must be retained on file in order to legalize the notice. Where the telephone form of notice is adopted, the agent should require the name of the re-

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SECTION D.—In all cases where notice is required the removal of any part of the contents of a car by the consignee shall be considered notice thereof to the consignee.

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Instructions and Explanations.

ceiver of the message when the notice is given. In the absence of specific agreements to the contrary, however, agents must not fail to send or give the regular written notice required by this rule. When consignee is notified through medium of United States mail, a record shall be kept of the date and hour each notice by United States mail is deposited in United States mail.

When address of consignee does not appear on billing and is not positively known, the notice of arrival must be addressed to the billed destination of the shipment and deposited in United States mails (in such case preferably enclosed in two-cent stamped envelope bearing return address, same to be preserved on file if returned). See Rule 3 Section B and Section C.

Attention is also directed to the fact that when cars are for delivery to public-team tracks, and placement is delayed for more than twenty-four (24) hours after notice of arrival is sent or given, a notice of placement must also be given to the consignee, and the free time for unloading computed according to the notice of placement.

At stations where grain and hay must be inspected or graded, cars being handled under Rule 2, Section B, Paragraph 4, the consignee agreeing with this Company in writing, for file at the station, to accept the bulletining of the cars as due and adequate notice of arrival, the bulletins must be posted by 9.00 a. m. of each day, showing the previous twenty-four (24) hours' receipts, and the free time (twenty-four (24) hours allowed) is to be calculated from the first 7.00 a. m. thereafter. Where there is no agreement for bulletining of cars, the free time must be calculated from the first 7.00 a. m. after the day on which notice of arrival is sent or given to the consignee.

Exhibit P. 2.

RULES.

RULE 5—PLACING CARS FOR UNLOADING.

SECTION A.—When delivery of cars consigned or ordered to any other than public delivery tracks or to industrial interchange tracks cannot be made on account of the act or neglect of the consignee, or the inability of the consignee to receive, delivery will be considered to have been made when the cars were tendered. The agent of this Company must send or give the consignee written notice of all cars he has been unable to deliver because of the condition of the private or interchange tracks, or because of other conditions attributable to consignee. This will be considered constructive placement. See Rule 4 (Notification).

SECTION B.—When delivery cannot be made on specially designated public-delivery tracks on account of such tracks being fully occupied, or from other cause beyond the control of this Company, the agent shall send or give the consignee notice in writing of its intention to make delivery at the nearest point available to the consignee, naming the point. Such delivery shall be made unless the consignee shall before delivery indicate a preferred available point, in which case the preferred delivery shall be made.

RULE 6.—CARS FOR LOADING.

SECTION A.—Cars for loading will be considered placed when such cars are actually placed or held on orders of the consignor. In the latter case the agent must send or give the consignor written notice of all cars which he has been unable to place because of condition of the private track or because of other conditions attributable to the consignor. This will be considered constructive placement. See Rule 3, Section A (Computing Time).

SECTION B.—When empty cars, placed for loading on orders, are not used, demurrage will be charged from the first 7.00 a. m. after placing or tender until released, with no time allowance.

Instructions and Explanations.

TO RULE 5.—PLACING CARS FOR UNLOADING.

SECTION A.—This will apply to such cars which consignees located on switching line are unable to receive and which, for that reason, the switching line is unable to receive from this Railroad; this Railroad will advise the switching line of point of shipment, car initials and number, contents and consignee and if transferred in transit the initials and number of the original car; the switching line will notify consignee and put such cars under constructive placement.

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Exhibit P. 2.

RULES.

RULE 7.—DEMURRAGE CHARGES.

SECTION A.—After the expiration of the free time allowed, a charge of \$1.00 per car per day, or fraction of a day will be made until car is released.

10 SECTION B.—Refrigerator cars (See Note 1) used for shipments of perishable freight (See Note 2), after the expiration of the free time allowed, will be subject to the following charges, which are in addition to the charge provided in Section A.

For the first two days, @ \$2.00 per car per day, or fraction of a day; and for each succeeding day or fraction of a day, @ \$3.00 per car per day will be charged until car is released.

NOTE 1.—Definition of refrigerator cars: "Box cars with complete insulation and ice boxes."

20 NOTE 2.—Perishable freight includes any commodity moved or to be moved in refrigerator cars under refrigeration or ventilation, or protection from heat or cold.

@ Denotes advance.

Instructions and Explanations.

TO RULE 7.—DEMURRAGE CHARGES.

(a) Charges accruing under these rules must be collected in the same manner and with the same regularity and promptness as other transportation charges, and agents will in like manner be held responsible for same.

(b) Freight upon which charges have accrued under these rules shall not be removed from railroad premises until charges thereon have been paid. When consignor or consignee refuses to pay, agent will hold freight until payment is made and continue to charge until freight is removed; or, at his option, may send freight to public warehouses or yards, where the same will be held subject to storage charges and all other charges.

(c) When cars are detained on private or specifically designated tracks for unloading beyond the time allowed and demurrage charges are not promptly paid, agent must, upon advice to that effect from the Superintendent of Car Service, after sending or giving not less than five (5) days' written notice, decline to switch cars to private or specifically designated tracks for such parties, and thereafter tender freight from public-team tracks and collect all charges before delivery, until satisfactory guaranty is given that demurrage rules will be complied with.

30 (d) Charges that accrue while cars are held for loading, for receipt of billing instructions, or for reconsignment or distribution orders, will be collected by agents of the forwarding line when such shipments are ordered to points within the switching limits. When charges accrue on shipments ordered or destined to points beyond switching limits, such charges should be collected by the agent of the forwarding line. Such charges may be billed forward as advances, providing the charges are guaranteed in writing and entered on the shipping tick-

Exhibit P. 2.

RULES.

RULE 8.—CLAIMS.

No demurrage charges shall be collected under these rules for detention of cars through causes named below. Demurrage charges assessed or collected under such conditions will be promptly canceled or refunded by this Company.

CAUSES.

SECTION A.—Weather interference.

1. When the condition of the weather during the prescribed free time is such as to make it impossible to employ men or teams in loading or unloading, or impossible to place freight in cars, or to move it from cars, without serious injury to the freight, the free time shall be extended until a total of 48 hours free from such weather interference shall have been allowed.

2. When shipments are frozen while in transit so as to prevent unloading during the prescribed free time. This exemption shall not include shipments which are tendered to consignee in condition to unload. Under this rule consignees will be required to make diligent effort to unload such shipments.

3. When, because of high water or snow-drifts, it is impossible to get to cars

Instructions and Explanations.

ets and bills of lading and exhibited on the waybills as "Demurrage Charges, Advanced and Guaranteed."

When demurrage charges accrue on cars held in transit by request of consignor or consignee, as agents can neither enter the charges on bills of lading nor obtain guarantee from consignor or consignee without unnecessary delay to the cars, the charges must either be billed forward as advances or separate bills made and charges collected from the party ordering the cars held.

TO RULE 8.—CLAIMS.

SECTION A.—1. *When a consignor or consignee claims exemption under this rule, the agent must obtain a written statement from him to the effect that the conditions were such as are set forth in the rule.*

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Exhibit P. 2.

RULES.

Instructions and Explanations.

for loading or unloading during the prescribed free time.

This rule shall not absolve a consignor or consignee from liability for demurrage if others similarly situated and under the same conditions are able to load or unload cars.

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SECTION B.—Bunching.

1. *Cars for loading.*—When, by reason of delay or irregularity of this Company in filling orders, cars are bunched and placed for loading in accumulated numbers in excess of daily orders, the shipper shall be allowed such free time for loading as he would have been entitled to had the cars been placed for loading as ordered.

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2. *Cars for unloading or reconsigning.*—When, as the result of the act or neglect of any carrier, cars destined for one consignee, at one point, are bunched at originating point, in transit, or at destination, and delivered by this Company in accumulated numbers in excess of daily shipments, the consignee shall be allowed such free time as he would have been entitled to had the cars been delivered in accordance with the daily rate of shipment. Claim to be presented to this Company's agent within fifteen (15) days.

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SECTION C.—Demand of overcharge.

When this Company's agent demands the payment of transportation charges in excess of tariff authority.

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SECTION D.—Delayed or improper notice by carrier.—When notice has been sent or given in substantial compliance with the requirements as specified in these rules, the consignee shall not thereafter have the right to call in question

SECTION B.—2. *When claim is made for exemption from demurrage on account of bunching of cars for unloading or reconsigning, as provided in this rule, agents will require written statement of all cars, with date and point of shipment of each, as evidenced by the bills of lading, if necessary, and forward same to the Superintendent of Car Service, with report showing exemption demanded on account of such bunching.*

SECTIONS C and E.—*When demurrage should not be collected under these sections, agents will make report to the Superintendent of Car Service, together with copy of billing and all information in their possession, showing where the error occurred.*

Exhibit P. 2.

RULES.

the sufficiency of such notice unless within forty-eight hours from 7.00 a. m. following the day on which notice is sent or given, he shall serve upon this Company's agent a full written statement of his objections to the sufficiency of such notice.

1. When claim is made that a mailed notice has been delayed the postmark thereon shall be accepted as indicating the date of the notice.

2. When a notice is mailed by this Company's agent on Sunday, a legal holiday, or after 3.00 p. m. on other days (as evidenced by the postmark thereon) the consignee shall be allowed five hours additional free time, provided he shall mail or send to this Company's agent, within the first twenty-four hours of free time, written advice that the notice had not been received until after the free time had begun to run; in case of failure on the part of consignee so to notify this Company's agent, no additional free time shall be allowed.

SECTION E.—Railroad errors which prevent proper tender or delivery.

SECTION F.—Delay by United States Customs. Such additional free time shall be allowed as has been lost through such delay.

RULE 9.—AVERAGE AGREEMENT.

When a shipper or receiver enters into the following agreement, the charge for detention to cars, provided for by Section A of Rule 7, on all cars held for loading or unloading by such shipper or receiver shall be computed on the basis of the average time of detention to all such cars released during each calendar month, such average detention to be computed as follows:

Instructions and Explanations.

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TO RULE 9.—AVERAGE AGREEMENT.

Application for agreement provided for in Rule 9 will be forwarded to the Superintendent of Car Service, and when executed instructions will be furnished the agent as to the method of reporting.

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Exhibit P. 2.

RULES.

Instructions and Explanations.

10 SECTION A.—A credit of one day will be allowed for each car released within the first twenty-four hours of free time (except for a car subject to Rule 2, Section B). A debit of one day will be charged for each twenty-four hours or fraction thereof that a car is detained beyond the free time. In no case shall more than one day's credit be allowed on any one car, and in no case shall more than five days' credit be applied in cancellation of debits accruing on any one car. When a car has accrued five (5) debits, the charge provided for by Rule 7 will be made for all subsequent detention, including Sundays and holidays. When the fifth debit day falls on a Saturday or on a day preceding a legal holiday, no charge will be made for the Sunday or legal holiday, or both, immediately following, the fifth debit day in such case not being ended until 7 a. m. of the day following.

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SECTION B.—At the end of the calendar month the total number of days credited will be deducted from the total number of days debited, and \$1.00 per day charged for the remainder plus the additional charges (if any) provided for by Section B of Rule 7. If the credits equal or exceed the debits, no charge will be made for the detention of the cars other than the additional charges (if any) provided for by Section B of Rule 7, which additional charges may not be canceled by credits earned on other cars, and no payment will be made to shippers or receivers on account of such excess of credits, nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

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SECTION C.—A shipper or receiver who elects to take advantage of this average agreement shall not be entitled to cancellation or refund of demurrage charges under Section A, Paragraphs 1 and 3, or

40 Section B of Rule 8.

Exhibit P. 2.

RULES.

Instructions and Explanations.

SECTION D.—A shipper or receiver who elects to take advantage of this average agreement may be required to give sufficient security to this Company for the payment of balances against him at the end of each month.

AGREEMENT

.....19....
To LEHIGH VALLEY RAILROAD COMPANY.

Being fully acquainted with the terms, conditions and effect of the average basis for settling for detention to cars as set forth in Tariff I. C. C. No., P. S. C.-2 N. Y. No., P. S. C.-Pa. No., supplements thereto and re-issues thereof, being the car demurrage rules governing at all stations and sidings on the lines of said railroad company, except as shown in said tariff, and being desirous of availing.....

.....of this alternate method of settlement

do expressly agree to and with the Lehigh Valley Railroad Company that with respect to all cars which may, during the continuance of this agreement, be handled for..... account at..... (station)

..... will fully observe and comply with all the terms and conditions of said rules as they are now published or may hereafter be lawfully modified by duly published tariffs, and will make prompt payment of all demurrage charges accruing thereunder in accordance with the average basis as therein established or as hereafter lawfully modified by duly published tariffs (time on intrastate and interstate business to be computed in accordance with the rules set forth in the above-named tariff or as said rules may be lawfully modified hereafter by duly published tariffs).

This agreement to be effective on and after the.....day of....., 19....., and to continue until terminated by written notice from either party to the other, which notice shall become effective on the first day of the month succeeding that in which it was given.

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Approved and accepted.....
19....., by and on behalf of the above-named railroad company by

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Exhibit P. 3.

EXHIBIT P. 3.

Supplement No. 5 to P. S. C.-2 N. Y. No. G-15.

Cancels Supplement No. 4.

Supplement No. 5 contains all changes from the original
Tariff that are effective on the date hereof.

Supplement No. 5 to Tariff I. C. C. No. F-17.

10 Cancels Supplement No. 4.

Supplement No. 5 to P. S. C.-Pa. No. J-12.

Cancels Supplement No. 4.

LEHIGH VALLEY RAILROAD COMPANY

CAR DEMURRAGE RULES

and

Explanations of and Instructions Relating to Same

Applicable at Freight Stations of the

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LEHIGH VALLEY RAILROAD

as shown in

Official List of Freight Stations, I. C. C. No. B-5200, P. S.
C.-2 N. Y. No. D-1550, P. S. C.-Pa. No. K-55, Sup-
plements thereto and Reissues thereof.

SUBSTITUTE the following for Rule 7 shown on Page
8 of Tariff:

30 (A) RULE 7—DEMURRAGE CHARGE

(This Rule expires 7.00 A. M., June 15, 1916, unless
sooner cancelled, changed or extended, after which the
rules shown on back hereof will apply.)

SECTION A.—After the expiration of free time allowed
a charge of \$1 per car per day, or fraction of a day, will
be made for the first seventy-two hours (three days); and
(except as otherwise provided in Sections B and C) \$2
per car per day for each succeeding or fraction thereof,
until car is released.

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Exhibit P. 3.

SECTION B. 1.—Refrigerator or other fully insulated cars (which have been ordered by consignor or shipper) will be subject to the following charges after the expiration of free time allowed.

NOTE 1.—A fully insulated car is a box car having walls, floor and roof insulated, not equipped with ice bunkers or ice baskets.

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NOTE 2.—This section does not apply to ordinary box cars with temporary lining, nor to ice cars in ice trade.

2. When held for loading or unloading—for the first seventy-two hours (three days), \$1 per car per day or fraction of a day; for the succeeding seventy-two hours (three days), \$3 per car per day or fraction of a day; for each succeeding day or fraction thereof, \$5.

3. When held for any other purpose—for the first seventy-two hours (three days), \$1 per car per day or fraction of a day; for each succeeding day or fraction thereof, \$3.

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4. This section shall apply to cars into which freight is loaded, or transferred in transit, for the purpose of providing necessary protection from climatic conditions.

SECTION C.—Where track storage charges are in effect the demurrage charge will be \$1 per car per day, which will apply in addition to the track storage charges. The \$2, \$3 and \$5 charges named above will not apply, but when for any day the track storage charge plus \$1 is less than the charge named in Section A or B, an additional demurrage charge will be made sufficient to make the total charge for that day equal the \$2, \$3 or \$5 charge, as the case may be.

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SECTION D.—Credits earned under Rule 9 (Average Agreement) cannot be used to offset any portion of the charges provided above which is in excess of \$1 per day.

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Exhibit P. 3.

CORRECT the following paragraphs of Rule 9 shown on Page 11 of Tariff:

(A) RULE 9—AVERAGE AGREEMENT

(This Rule expires 7.00 A. M., June 15, 1916, unless sooner cancelled, changed or extended, after which the rules shown on back hereof will apply.)

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When a shipper or receiver enters into the following agreement, \$1.00 of the charge per car per day or fraction of a day for detention to cars, provided for by Rule 7, on all cars held for loading or unloading by such shipper or receiver shall be computed on the basis of the average time of detention to all such cars released during each calendar month, such average detention to be computed as follows:

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SECTION A.—A credit of one day will be allowed for each car released within the first twenty-four hours of free time (except for a car subject to Rule 2, Section B, paragraph 5). A debit of one day will be charged for each twenty-four hours or fraction thereof that a car is detained beyond the free time. In no case shall more than one day's credit be allowed on any one car, and in no case shall more than five days' credit be applied in cancellation of debits accruing on any one car. When a car has accrued five (5) debits, the charge provided for by Rule 7 will be made for all subsequent detention, except that for subsequent Sundays and legal holidays only \$1.00 of the charge per day provided by Rule 7 will be made. When the fifth debit day falls on a Saturday or on a day preceding a legal holiday, no charge will be made for the Sunday or legal holiday, or both, immediately following, the fifth debit day in such case not being ended until 7 A. M. of the day following.

30

(A) Denotes Advance.

Issued March 30, 1916.

Effective April 1, 1916.

(Except as noted in individual items)

40

Exhibit P. 3.

Issued under special permission of the Interstate Commerce Commission No. 36714, of March 28, 1916.

Issued on one day's notice to the public and commission under special permission of the Public Service Commission, Second District, State of New York, orders in Case No. 5487, of date March 28, 1916.

Issued on one day's notice to the public and commission under special permission of the Public Service Commission of the Commonwealth of Pennsylvania, No. 1023, of date March 29, 1916. 10

Issued by

T. Clem. Beck, Chief of Tariff Bureau, New York, N. Y.

J. F. Maguire, General Manager, South Bethlehem, Pa.

C. W. Kinney, Supt. of Transportation, South Bethlehem, Pa.

G. B. Minshull, Supt. Car Service, South Bethlehem, Pa. 20

Receipt No. 86165.

(✕R15025)

Effective 7.00 A. M., June 15, 1916, the following rules will cancel Rule 7 and the paragraphs of Rule 9 shown on first page of this Supplement.

RULE 7—DEMURRAGE CHARGE.

SECTION A.—After the expiration of free time allowed a charge of \$1 per car per day, or fraction of a day, will be made until car is released. This charge is included in and is not in addition to the charges named in Section B. 30

SECTION B. 1.—Refrigerator or other fully insulated cars (which have been ordered by consignor or shipper) will be subject to the following charges after the expiration of free time allowed.

NOTE 1.—A fully insulated car is a box car having walls, floor and roof insulated, not equipped with ice bunkers or ice baskets. 40

Exhibit P. 3.

NOTE 2.—This section does not apply to ordinary box cars with temporary lining, nor to ice cars in ice trade.

2. When held for loading or unloading—for the first seventy-two hours (three days), \$1 per car per day or fraction of a day; for the succeeding seventy-two hours (three days), \$3 per car per day or fraction of a day;
10 for each succeeding day or fraction thereof, \$5.

3. When held for any other purpose—for the first seventy-two hours (three days), \$1 per car per day or fraction of a day; for each succeeding day or fraction thereof, \$3.

4. Where track storage charges are in effect the charge of \$1 per car per day, as per Section A, will apply in addition to the track storage charges. The \$3 and \$5 charges named in Section B will not apply, but when for any day the track storage charge, plus \$1, is less than the
20 charge named in Section B, an additional demurrage charge will be made sufficient to make the total charge for that day equal the \$3 or \$5 charge, as the case may be.

5. Credits earned under Rule 9 (Average Agreement) cannot be used to offset any charges provided above which are in excess of \$1 per day.

6. This section shall apply to cars into which freight is loaded, or transferred in transit, for the purpose of providing necessary protection from climatic conditions.

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Exhibit P. 3.

RULE 9—AVERAGE AGREEMENT

When a shipper or receiver enters into the following agreement, the charge for detention to cars, provided for by Section A of Rule 7, on all cars held for loading or unloading by such shipper or receiver shall be computed on the basis of the average time of detention to all such cars released during each calendar month, such average detention to be computed as follows: 10

SECTION A.—A credit of one day will be allowed for each car released within the first twenty-four hours of free time (except for a car subject to Rule 2, Section B). A debit of one day will be charged for each twenty-four hours or fraction thereof that a car is detained beyond the free time. In no case shall more than one day's credit be allowed on any one car, and in no case shall more than five days' credit be applied in cancellation of debits accruing on any one car. When a car has accrued five (5) 20 debits, the charge provided for by Rule 7 will be made for all subsequent detention, including Sundays and holidays. When the fifth debit day falls on a Saturday or on a day preceding a legal holiday, no charge will be made for the Sunday or legal holiday, or both, immediately following, the fifth debit day in such case not being ended until 7 A. M. of the day following.

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Exhibit P. 4 for Identification.

EXHIBIT P. 4 FOR IDENTIFICATION.

“Extracts from P. 4 for identification relied on by plaintiff as material.”

Form T-686

10 Supersedes Form T-629 Effective March 31, 1912.

LEHIGH VALLEY RAILROAD COMPANY

Regulations

for the

Transportation of Explosives and Other Dangerous
Articles by Freight

and

20 Specifications for Shipping Containers

Prescribed under the Act of March 4, 1909, and Section 15
of the Act to Regulate Commerce, as amended
June 18, 1910.

Effective October 1, 1914, except as noted herein.

30 Paragraphs are numbered to correspond to the Rules and
Regulations of the American Railway Association.

Exhibit P. 4 for Identification.

NOTICE

The regulations herein contained have been adopted by the LEHIGH VALLEY RAILROAD COMPANY, and must be complied with by all concerned, in order to make effective the regulations prescribed by the Interstate Commerce Commission. Every employe concerned must thoroughly familiarize himself with them and see that they are carried out. 10

The placards and labels provided for in these regulations are kept in stock by the General Storekeeper, and may be obtained by making requisition for them in the usual way. Shippers are required to furnish their own labels, but Agents must keep on hand an adequate supply as samples, and for emergency use to replace lost and detached labels.

C. W. KINNEY,
Supt. of Transportation. 20

Approved:

J. F. MAGUIRE,
General Manager.

30

40

Exhibit P. 4 for Identification.

THE AMERICAN RAILWAY ASSOCIATION
RULES
for the

Transportation of Explosives and Other Dangerous
Articles by Freight

10

GENERAL NOTICE.

The following rules are prescribed in order to make effective for interstate and intrastate shipments of articles subject thereto, the Interstate Commerce Commission Regulations for the Transportation of Explosives and other Dangerous Articles published July 2, 1914, to become effective October 1, 1914.

It is necessary for railway employees and shippers to become familiar with their specific duties. Railway employees are specially designated to perform certain duties under these regulations, and the paragraphs referred to in the following rules should be studied carefully.

* * * * *

LIST OF PRINCIPAL DANGEROUS ARTICLES.

1807. (a) The following list shows the names of well-known articles in general use, other than explosives, that are dangerous; the kind of labels required on outside packages; the quantities that may be shipped in one outside package without a label when certified and marked "No label required," and the label exemptions on account of specified packing. (See column 5 of list.)

(b) When a shipment described under a name not in the following list is defined as a dangerous one by paragraphs 1802 to 1806, inclusive, the shipper must inform the carrier of the fact by use of the proper label prescribed herein, and the shipping order must show the certificate prescribed by paragraph 1867. The maximum quantity of any such article shipped in one outside

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Exhibit P. 4 for Identification.

package without label, when certified and marked "No label required," except as specified herein, must not exceed the limit prescribed by column 3 of the list for dangerous articles of similar flash point or characteristics.

(c) Inflammable liquids as defined by paragraph 1802, in securely closed glass, earthenware, or metal containers of not exceeding one pint capacity each, when flash point is 20° F., or lower, and of not exceeding one quart capacity when flash point is above 20° F., packed and cushioned in fiber board or corrugated strawboard containers, wooden boxes, kegs, or barrels, complying with shipping container specifications that apply, may be shipped without labels when certified and marked "No label required." 10

(d) A shipment described under a definite and proper name not in the following list and on a shipping order with no notation as to labels applied and no shipper's certificate, will be assumed by the carrier in the absence of knowledge to the contrary, to be not dangerous under these regulations. 20

(e) When articles described under names in the following list marked with (*) are not dangerous under the regulations, the shipper must, unless otherwise provided in said list, state on his shipping order, as a part of the description of such article, "No label required," and must also furnish the certificate prescribed by paragraph 1867 and mark the package "No label required." 30

(f) When several dangerous articles are placed in one outside package without violating these regulations, labels must be applied, when the combined quantity of the articles of any one group exceeds the lowest limit prescribed by column 3 for any of the articles of that group that are included. 30

(g) When dangerous articles requiring the red label are shipped in the same outside package with dangerous articles requiring yellow or white labels, the outside package must be labeled with the red label only. 40

* * * * *

LIST OF PRINCIPAL DANGEROUS ARTICLES

Names of Dangerous Articles	Group names and flash points—		Maximum quantity in one outside package which may be shipped without a label when marked and certified "no label required."	Kind of label required when quantity exceeds the limits prescribed for "no label required."	References for packing requirements, paragraph numbers, remarks for information, and rules for exceptions of similar articles.
	Inf. L.—Inflammable liquid	Inf. S.—Inflammable solid			
	Oxi. M.—Oxidizing material.	Cor. L.—Corrosive liquid			
	Comp. G.—Compressed gas.				
* * * * *					
*Acid, hydrochloric (muriatic)...	Cor. L.....		5 pints (6 pounds)	White.....	Pars. 1805, 1851, 1852, and 1856.
Acid, hydrofluoric	do....		do.....	do....	Pars. 1851, 1852, and 1854.
Acid, nitrating (mixed acid).....	do....		No exemption	do....	Mixed nitric and sulphuric acids, par. 1858.
*Acid, nitric	do....		do.....	do....	Pars. 1805, 1851, 1852, and 1857.
*Acid, sulphuric	do....		5 pints (9 pounds)	do....	Pars. 1805, 1851, 1852, and 1855.
* * * * *					
Nitrates, in bags	Oxi. M.....		100 pounds (in one shipment.)	Yellow.....	Pars. 1822 and 1841. Nitrates in boxes, kegs, or barrels are exempt from label and certificate requirements when properly so described.
* * * * *					

*Exhibit P. 5.***EXHIBIT P. 5.****LEHIGH VALLEY RAILROAD COMPANY**NOTICE OF CONSTRUCTIVE
PLACEMENT*Newark, N. J. Station*
3/1 1916.

Demurrage Rule 5 Section (A). When delivery of cars consigned or ordered to any other than public delivery tracks or to industrial interchange tracks cannot be made, on account of the act or neglect of the consignee, or the inability of consignee to receive, delivery will be considered to have been made when the cars were tendered. The agent of this Company must send or give the consignee written notice of all cars he has been unable to deliver because of the condition of the private or interchange tracks, or because of other conditions attributable to consignee. This will be considered constructive placement.

10

Demurrage Rule 6 Section (A). Cars for loading will be considered placed when such cars are actually placed or held on orders of the consignor. In the latter case the agent must send or give the consignor written notice of all cars which he has been unable to place because of condition of the private track or because of other conditions attributable to the consignor. This will be considered constructive placement.

20

Render this notice in duplicate and take receipt as indicated below: 30

M Maas Waldstein

.....

You are hereby notified that this company is now holding the following cars subject to your orders or disposition, and which cannot be placed because of conditions attributable to you. These cars are subject to the regular, published demurrage charge of \$1.00 per car per day or fraction thereof, and will be charged to you as constructively placed at the time this

40

Exhibit P. 5.

Notice is given you, as required by Demurrage Rules 5 and 6 quoted hereon.

	Car		Original Car		Point of Shipment	Contents	Where Located	Constructively Placed	
	Number	Initial	Number	Initial				Date	Hour
10	10992	BS			Du Bois	Coal	E. O. Isl.	3	1 5P
	11518	"			"	"	"	"	"
	10110	"			"	"	"	"	"
	11556	"			"	"	"	"	"
	3305	"			"	"	"	"	"
	3164	"			"	"	"	"	"
	11401	"			"	"	"	"	"
	10208	"			"	"	"	"	"
	3302	"			"	"	"	"	"
	10245	"			"	"	"	"	"
20	3298	"			"	"	"	"	"
	3097	"			"	"	"	"	"
	3319	"			"	"	"	"	"
	3243	NP			"	"	"	"	"
	3108	BS			"	"	"	"	"
	3340	"			"	"	"	"	"
	3085	"			"	"	"	"	"
	11528	"			"	"	"	"	"
	10772	"			"	"	"	"	"
	 Agent								

Copy of this notice acknowledged by

..... { Consignor or } per.....
 { Consignee }

(If consignor or consignee refuses to acknowledge receipt of this Notice as provided above, the person delivering same should fill out, date and sign the following certificate on the copy kept on file by the Agent:)

30 I hereby certify that copy of this Notice was delivered by me to Mr., representing the consignor or consignee named hereon, atM. on 191 ..

.....
 (Signature of person delivering Notice)

(If this Notice cannot be delivered personally by the Agent or his representative, it must be served by mail, and the Agent should fill out, date and sign the following certificate on the copy kept on file by the Agent:)

40 I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1916.
 W. L. Van Syckel Agent.

Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/1 1916.

M Maas Waldstein

10

3120	BS			Du Bois Pa	Coal	E. O. Isl	3	1	5P
3101	"			"	"	"	"	"	"
3216	"			"	"	"	"	"	"
1122	ABX	✓	Phila.	Pa. Grays Ferry	Acid	"	"	"	"
1121	"		"	"	"	"	"	"	"
1090	"	✓	"	"	"	"	"	"	"
169	HBX	✓	"	"	"	"	"	"	"
174	"	✓	"	"	"	"	"	"	"
186	"	✓	"	"	"	"	"	"	"
183	"	✓	"	"	"	"	"	"	"
101511	BS		"	"	"	"	"	"	"
276328	PRR			E. Bflo, NY	Mach	"	"	"	"
1118	ABXX	✓	Phila.	Pa. Grays Ferry	Acid	"	"	"	"
12454	BS			Du Bois Pa	Coal	"	"	"	"
10964	"			"	"	"	"	"	"
10821	"			"	"	"	"	"	"
10822	"			"	"	"	"	"	"
3183	"			"	"	"	"	"	"
12457	"			"	"	"	"	"	"

20

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1916.

W. L. Van Syckel Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/1 1916.

10

M Maas Waldstein

3200	BS	Du Bois	Coal	E. O. Isl.	3	1	5
10076	"	"	"	"	"	"	"
3228	"	"	"	"	"	"	"
3070	"	"	"	"	"	"	"
10595	"	"	"	"	"	"	"
3333	"	"	"	"	"	"	"
10733	"	"	"	"	"	"	"
3246	"	"	"	"	"	"	"
10138	"	"	"	"	"	"	"
10910	"	"	"	"	"	"	"
10670	"	"	"	"	"	"	"
12533	"	"	"	"	"	"	"
12394	"	"	"	"	"	"	"
10578	"	"	"	"	"	"	"
11048	"	"	"	"	"	"	"
11272	"	"	"	"	"	"	"
23676	GT	J. City, N J	Linters	"	"	"	"
3224	BS	Du Bois	Coal	"	"	"	"
10021	BS	"	"	"	"	"	"

20

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/21 1916.

30

M Maas Waldstein

12335	BS	Du Bois Pa	Coal	E. O. Isl.	3	21	5
11516	BS	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 5/21, 1916.

W. L. Van Syckel Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/1 1916.

M Macs Waldstein

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63283	LSMS	Hill & Mount	P. Amboy	City	Wood Box	E. O. Isl.	4	1	5
26637	UP	Thomas D. B.	J. City	Linters	E. O. Isl.	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/1, 1916.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/6 1916.

M Maas Waldstein

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34694	ACL	Thomas D. B.	J. City	Linters	E. O. Isl.	4	6	5P
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/6, 1916.

W. L. Van Syckel Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/11 1916.

M Maas Waldstein

10	10100	BS		Du Bois	Coal	E. O. Isl.	3	11	5
	10598	BS		"	"	"	"	"	"
	81562	LV	Thomas D. B.	J. City	Linters	"	"	"	"
	82104	CP	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

3/20 1916.

M Maas Waldstein

9542	NYOW	Thomas D. B.	J. City	Linters	E. O. Isl.	3	20	5P
12427	BS		Du Bois Pa	Coal	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1916.

W. L. Van Syckel Agent.

30

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/29 1916.

M Maas Waldstein

APCX	1087	✓		Hopatcong NJ	S. Acid	E. O. Isl.	3	29	5P
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/29, 1916.

W. L. Van Syckel Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/4 1916.

M Maas Waldstein

LV 65566 Thomas Dye Co J. City Linter E. O. Isl. 4 4 5P 10

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 4/4, 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/18 1916.

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M Maas Waldstein

11571 BS Du Bois Pa Coal E. O. Isl. 3 18 5P
11280 " " " " " " " " " "

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 3/18, 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/3 1916.

30

M Maas Waldstein

HBIX 167 √ Grays Ferry, Phila. S. Acid E. O. Isl. 4 3 5P

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 4/3, 1916.

W. L. Van Syckel Agent.

40

Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/14 1916.

10	30174	PM	Thos. D. B. Co.	J. City HR	Linters	Ok. Isl.	3	14	5P
	112035	NYC	"	"	"	"	"	"	"
	10765	BS		Du Bois	Coal	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/10 1916.

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M Maas Waldstein

211	ITC	✓		P. R. R.	Acid	E. O. Isl.	4	10	5P
218	"	✓		"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/10, 1916.

W. L. Van Syckel Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/13 1916.

M Maas Waldstein

221	ITX	✓		P. R. R.	Acid	E. O. Isl.	4	13	5P
201	ITX			"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon at 5 P. M. on 4/13, 1916.

W. L. Van Syckel Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/14 1916.

M Maas Waldstein

68800	BO	Thomas S R	E. Lynne, Ct.	Linters	E. O. Isl.	4	14	5P	10
501523	ConStP	✓	N York Hr.	Soda	"	"	"	"	
553175	PL	✓	"	"	"	"	"	"	
55298	CCCStL	✓	"	"	"	"	"	"	
14686	GT	Thomas B. B.	Oak Isl Wf	Spleters	"	"	"	"	

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon at 5 P. M. on 4/14, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/15 1916.

M Maas Waldstein

PM	51168	Mis. Felt Co.	St. Louise	Linters	E. O. Isl.	4	15	5P
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/15, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/18 1916.

M Maas Waldstein

82789	LV	Thomas D. B.	J. City	Linters	E. O. Isl.	4	18	5P
17555	CA	✓ M. W. Co.	N Y Hr.	Soda	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon at 5 P. M. on 4/18, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.
4/12 1916.

M Maas Waldstein

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12486	BS		Du Bois Pa	Coal	E. O. Isl.	4	12	5P
12320	BS		"	"	"	"	"	"
12108	BS		"	"	"	"	"	"
87323	PRR	Bklyn	Susp Bridge	B Linters	"	"	"	"
38933	Sur	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/12, 1916.
W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.
4/21 1916.

M Maas Waldstein

20

LN	4140	✓	M. W.	N Y Hr.	Soda	E. O. Isl.	4	21	5P
CMStP	503490		Hill & Mount	P. Amboy	Emty Box	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/20, 1916.

30

A. R. Miller Agent.

Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/22 1916.

M Maas Waldstein

106150	Erie	✓	M. W.	N Y Hr.	Soda	E. O. Isl.	4	22	5P
15281	NCStL		Hill Mount	P. Amboy	W. Boxes	"	"	"	"
29462	DLW	✓	M. W.	N Y Hr.	Soda	"	"	"	"
65120	LV	✓	"	"	"	"	"	"	"
69148	LV	✓	"	"	"	"	"	"	"
107456	CNW			P. R. R.	Linters	"	"	"	"
85344	"			"	"	"	"	"	"
69102	Erie			"	"	"	"	"	"
34237	CRR		Hill M.	P. Amboy	W. Box	"	"	"	"
87854	LV		Thomas D. B.	J. City	Linters	"	"	"	"
122504	CNW		Hill Mount	P. Amboy	Mty Box	"	"	"	"

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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon at 5 P. M. on 4/21, 1916.

A. R. Miller Agent. 20

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/19 1916.

M Maas Waldstein

213	ITX	✓		P. R. R.	Acid	E. O. Isl.	4	19	5P
55015	CRIP	✓	M. Wald	N Y Hrb.	Soda	"	"	"	"
65128	LV	✓	"	"	"	"	"	"	"
4399	BRP	✓	"	"	"	"	"	"	"
73807	LV	✓	"	"	"	"	"	"	"
3602	BRP	✓	"	"	"	"	"	"	"

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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/19, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/4 1916.

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M Maas Waldstein

11016	BS		Du Bois Pa	Coal	E. O. Isl.	3	4	5P
12566	BS		"	"	"	"	"	"
84600	LV	Thos. D. & B. C.	J. City	Linters	"	"	"	"
84946	LV	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1916.

W. L. Van Syckel Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/17 1916.

M Maas Waldstein

PR	33119	ThormeDyeLCo.	J. City	C. Linters	E. O. Isl.	4	17	5P
NH	77740	✓	N York Hr.	N. Soda	"	"	"	"
NYCHR	112743	✓	"	"	"	"	"	"
BO	76310		"	"	"	"	"	"
30 Erie	72755	✓	"	"	"	"	"	"
MO	52256	✓	"	"	"	"	"	"
NYCStL	17013	✓	"	"	"	"	"	"
CNW	126314	✓	"	"	"	"	"	"
F&DDMS	6234	✓	"	"	"	"	"	"
CP	113686	✓	"	"	"	"	"	"
RI	42224	✓	"	"	"	"	"	"
GT	102575	✓	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/17, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

6/1 1916.

M Maas Waldstein

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				Mty				
NH	87111	Hill & Mount	P. Amboy	W. Boxes	E. O. Isl.	6	1	5P
PRR	300432	Penn. C. C. Co.	Penn No. 10	Coal	"	"	"	"
PRR	362080	"	"	"	"	"	"	"
PL	863409	"	"	"	"	"	"	"
PL	721961	Whitney-K.	Rich Hill No. 1	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/1, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

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Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/28 1916.

M Maas Waldstein

FSRG	10	G. S. Alex.	J. City	S. Acid	E. O. Isl.	4	28	5P
"	3	"	"	"	"	"	"	"
SCEX	1121	"	"	"	"	"	"	"

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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon at 5 P. M. on 4/28, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

5/26 1916.

10

M Maas Waldstein

CRR	46018		Amsbry, Pa.	Coal	E. O. Isl.	5	26	5P
CRR	51176		"	"	"	"	"	"
NYC	212718		N York N Y	Soda	"	"	"	"
Md-Ky	15601	Whitney & Kem	Rich Hill No. 1	Coal	"	"	"	"
PRR	233046	"	"	"	"	"	"	"
PRR	233321	P. C. & C. Corp.	Penn No. 19	"	"	"	"	"
PRR	233425	"	"	"	"	"	"	"
PRR	154256	Whitney & Kem	Rich Hill No. 1	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 5/26, 1916.

A. R. Miller Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

6/2 1916.

M Maas Waldstein

30	CRR	45204		Amsbry, Pa. 16	Coal	E. O. Isl.	6	2	5P
	PRR	305206	Penn. C. C. Co.	Penn 19	"	"	"	"	"
	"	302538	"	"	"	"	"	"	"
	"	370554	"	"	"	"	"	"	"
	"	285535	"	"	"	"	"	"	"
	"	304539	"	"	"	"	"	"	"
	"	203763	Whitney & K	Rich Hill 1	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/2, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

6/3 1916.

M Maas Waldstein

PRR	161398	Whitney & K	Rich Hill 1	Coal	E. O. Isl.	6	3	5P	10
PRR	216071	"	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/3, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

6/5 1916.

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M Maas Waldstein

PRR	335405	Penn C. C. Co.	Penn 19	Coal	E. O. Isl.	6	5	5P
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/5, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

6/19 1916.

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M Maas Waldstein

NYCH	71911	P. Coal & Coke	P Coal&Coke	B Coal	E. O. Isl.	6	19	5P
NYCH	76561	"	"	"	"	"	"	"
"	71593	"	"	"	"	"	"	"
"	72025	"	"	"	"	"	"	"
"	309590	"	"	"	"	"	"	"
PRR	47681	Hill Mount	P. Amboy	W. Boxes	"	"	"	"
SP	18325	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/19, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

5/18 1916.

10

M Maas Waldstein

NYC	8700	✓	N York Hr.	Soda	E. O. Isl.	5	18	5P
NYC	211169	✓	"	"	"	"	"	"
KCMO	4099	✓	"	"	"	"	"	"
Erie	104257	✓	"	"	"	"	"	"
PLE	31666		"	"	"	"	"	"
FWD	6466	✓	"	"	"	"	"	"
CCCStL	8685	✓	"	"	"	"	"	"
BIX	46583	✓	"	"	"	"	"	"
FDDMS	7266	✓	"	"	"	"	"	"
NYC	246720	✓	"	"	"	"	"	"
LV	87538	✓	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 5/18, 1916.

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A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

6/12 1916.

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M Maas Waldstein

PL	701444	x881348-P.C.Co	Penn 19	Coal	E. O. Isl.	6	12	5P
Minn	4580	"	"	"	"	"	"	"
PL	881393	"	"	"	"	"	"	"
PRR	207716	Whitney K	Rich Hill	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/12, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

6/16 1916.

M Maas Waldstein

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PRR	67185	Hill & Mount	P. Amboy	Mty Boxes	E. O. Isl.	6	16	5P
DH	40403	Whitney & K	Rich Hill	Coal	"	"	"	"
DH	27845	"	"	"	"	"	"	"
NYCH	36581	P. Coal Coke Co	Pennsyl Coal	B Coal	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/16, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

6/21 1916.

M Maas Waldstein

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NYC	71481	P. C. Coke Co.	Penn	Coal	E. O. Isl.	6	21	5P
TH	3617	Hill Mount	P. Amboy	Mty Boxes	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/21, 1916.

A. R. Miller Agent.

Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

6/22 1916.

M Maas Waldstein

10	NYCH	70763	P. C. C. Co.	Penn	Coal	E. O. Isl.	6	22	5P
	NYC	324738	"	"	"	"	"	"	"
	—	303951	"	"	"	"	"	"	"
	—	75921	"	"	"	"	"	"	"
	SP	17965	Hill Mount	P. Amboy	Mty Boxes	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/22, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

6/23 1916.

M Maas Waldstein

Penn	53841	J. Manville	Manville, NJ	Roof	E. O. Isl.	6	23	5P
NC StL	9454	Hill Mount	P. Amboy	W. Boxes	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/23, 1916.

A. R. Miller Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

6/7 1916.

M Maas Waldstein

PRR	297556	Whitney K	Rich Hill	Coal	E. O. Isl.	6	7	5P
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/7, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

6/8 1916.

M Maas Waldstein

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PL	810403	Penn. C. C. Co.	Penn. No. 9	Coal	E. O. Isl.	6	8	5P
VanL	14495	"	" No. 9	"	"	"	"	"
PRR	382033	"	" No. 9	"	"	"	"	"
PRR	355422	"	" No. 9	"	"	"	"	"
"	210129	Whitney & K	Rich Hill No. 1	"	"	"	"	"
PL	855761	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/8, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

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Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/24 1916.

M Maas Waldstein

CV	62095	✓	M. W.	N Y Hr.	N. Soda	E. O. Isl.	4	24	5P
OSL	10595	✓	"	"	"	"	"	"	"
LV	83615	✓	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/24, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

6/10 1916.

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M Maas Waldstein

DH	37475	Whitney K	Rich Hill	Coal	E. O. Isl.	6	10	5P
PRR	289743	"	"	"	"	"	"	"
PRR	381696	Penn. C. C. Co.	Penn No. 9	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/10, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

5/23 1916.

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M Maas Waldstein

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TStLW	5126	✓	N York Hr.	Soda	E. O. Isl.	5	23	5P
CIL	2496	✓	"	"	"	"	"	"
LC	22654	✓	"	"	"	"	"	"
MC	27509	✓	"	"	"	"	"	"
LRC	61529	✓	"	"	"	"	"	"
SAL	27677	✓	"	"	"	"	"	"
CMW	109184	✓	"	"	"	"	"	"
DLW	40597	✓	"	"	"	"	"	"
LV	61867	✓	"	"	"	"	"	"
CStPMo	32722	✓	"	"	"	"	"	"
NH	74860	✓	"	"	"	"	"	"
CGW	25306	✓	"	"	"	"	"	"
CP	54590	✓	"	"	"	"	"	"
OSL	10927	✓	"	"	"	"	"	"
DH	20622	✓	"	"	"	"	"	"
CMW	102776	✓	"	"	"	"	"	"
LV	60037	✓	"	"	"	"	"	"
NCL	36053	✓	"	"	"	"	"	"
NCR	81902	✓	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 5/23, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

4/25 1916.

M Macs Waldstein

ITX	227	✓		P. R. R.	Acid	E. O. Isl.	4	25	5P
203	ITX	✓		"	"	"	"	"	"
5006	GATX	✓		"	"	"	"	"	"
36040	BA		M. W.	N York Hr.	Soda	"	"	"	"
82215	LV	✓	"	"	"	"	"	"	"
31012	DLW	✓	"	"	"	"	"	"	"

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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/25, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

6/14 1916.

M Maas Waldstein

PRR	293508	Penn.C.&C.Co.	Penn 10	Coal	E. O. Isl.	6	14	5P
DH	9579	Whitney K	Rich Hill	"	"	"	"	"
DH	5715	"	"	"	"	"	"	"

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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/14, 1916.

A. R. Miller Agent.

Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.
6/20 1916.

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M Maas Waldstein

NYCH	80344	P. C. Coke	P. Coal & Coke	Coal	E. O. Isl.	6	20	5P
"	84954	"	"	"	"	"	"	"
"	322444	"	"	"	"	"	"	"
TSMS	16803	"	"	"	"	"	"	"
NYC	304507	"	"	"	"	"	"	"
"	301668	"	"	"	"	"	"	"
PR	60744	"	"	"	"	"	"	"
NYC	306551	"	"	"	"	"	"	"
PRR	206496	Whitney Kem	Rich Hill	"	"	"	"	"
"	292888	"	"	"	"	"	"	"
"	231576	"	"	"	"	"	"	"
"	230612	P. C. C. Co.	Penn. No. 10	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 6/20, 1916.
A. R. Miller Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.
7/11 1916.

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M Maas Waldstein

CMoTP	14036	xMich Paper Co	Jackson	C. Waste	E. O. Isl.	7	11	5P
LM	137746	x	"	"	"	"	"	"
PRR	35599		Chester	Iron	"	"	"	"
LV	83832	Hill Mount	P. Amboy	Mty Boxes	"	"	"	"
	xxB/L required							

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 7/11, 1916.
A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

7/13 1916.

M Maas Waldstein

MNA 2255 Hill Mount P. Amboy Mty Boxes E. O. Isl. 7 13 5P 10

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 7/13, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

6/13 1916.

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M Maas Waldstein

SNY 1206 x47382 CRR Amsbry, Pa. Coal E. O. Isl. 6 13 5P

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 6/13, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

7/18 1916.

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M Maas Waldstein

CBQ 115083 Hill Mount P. Amboy Mty Box E. O. Isl. 7 18 5P

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 7/18, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

7/24 1916.

M Maas Waldstein

10	NH	80880	Hill Mount	P. Amboy	Mty Boxes	E. O. Isl.	7	24	5P
	SMS	4677	"	"	"	"	"	"	"
	RI	40828	"	"	"	"	"	"	"
	NYC	226751	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 7/24, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

7/25 1916.

M Maas Waldstein

	NYC	245615		P. R. R.	Linters	E. O. Isl.	7	25	5P
	NYC	229297		"	"	"	"	"	"
	DLW	39904		Jackson	C. Waste	"	"	"	"
	Erie	71814	Hill Mount	P. Amboy	B. Box	"	"	"	"
	EO	97832	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 7/25, 1916.

A. R. Miller Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

6/28 1916.

M Maas Waldstein

	CMo	121226	Hill & Mount	P. Amboy	Mty W. Boxes	E. O. Isl.	6	28	5P
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 6/28, 1916.

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A. R. Miller Agent.

Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

7/7 1916.

M Maas Waldstein

NYC 215807 Hill Mount P. Amboy Mty Boxes E. O. Isl. 7 7 5P 10

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 7/7, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

7/21 1916. 20

M Maas Waldstein

LV 61561 Hill & Mount P. Amboy Mty Boxes E. O. Isl. 7 21 5P
PE 45938 " " " " " " " " "

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 7/21, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

8/4 1916.

M Maas Waldstein

PRR 232576 P. C. C. Co. Penn. No. 10 Coal E. O. Isl. 8 4 5P
" 252346 " " " " " " " " "

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 8/14, 1916.

A. R. Miller Agent.

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Exhibit P. 5.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

8/14 1916.

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M Maas Waldstein

PR.	2883	✓	N York	Soda	E. O. Isl.	8	14	5P
BO	71235	✓	"	"	"	"	"	"
PR	14844	✓	"	"	"	"	"	"
PR	15470	✓	"	"	"	"	"	"
Erie	107112	✓	"	"	"	"	"	"
LA	94847	✓	"	"	"	"	"	"
LV	82248	✓	"	"	"	"	"	"
MStL	11294	✓	"	"	"	"	"	"
BA	39298	✓	"	"	"	"	"	"
LV	85164	✓	"	"	"	"	"	"
LV	81950	✓	"	"	"	"	"	"
PRR	70210	✓	"	"	"	"	"	"
LV	73895	✓	"	"	"	"	"	"
NYC	209606	✓	"	"	"	"	"	"
LV	69367	✓	"	"	"	"	"	"
20 PRR	24785	✓	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 8/14, 1916.

A. R. Miller Agent.

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40

*Exhibit P. 6.***EXHIBIT P. 6.****LEHIGH VALLEY RAILROAD COMPANY**NOTICE OF CONSTRUCTIVE
PLACEMENT*Newark, N. J. Station*
3/1 1916.

Demurrage Rule 5 (A). When delivery of cars consigned or ordered to private or industrial interchange tracks cannot be made, on account of the act or neglect of the consignee, or the inability of consignee to receive, delivery will be considered to have been made when the cars were tendered. The carrier's agent must give the consignee written notice of all cars he has been unable to deliver because of the condition of the private or interchange tracks, or because of other conditions attributable to consignee. This will be considered constructive placement.

10

Demurrage Rule 6 (A). Cars for loading will be considered placed when such cars are actually placed or held on orders of the consignor. In the latter case the agent must give the consignor written notice of all cars which he has been unable to place because of condition of the private track or because of other conditions attributable to the consignor. This will be considered constructive placement.

20

Render this notice in duplicate and take receipt as indicated below:

M Maas Waldstein

30

.....

You are hereby notified that this company is now holding the following cars subject to your orders or disposition, and which cannot be placed because of conditions attributable to you. These cars are subject to the regular, published demurrage charge of \$1.00 per car per day or fraction thereof, and will be charged to you as constructively placed at the time this Notice is given you, as required by Demurrage Rules 5 and 6 quoted hereon.

40

Exhibit P. 6.

Car		Original Car		Point of Shipment	Contents	Where Located	Constructively Placed		
Number	Initial	Number	Initial				Date	Hour	
x8310	GATX			Phila Pa. Grays Ferry	Acid	E. O. Isl.	2	28	5P
x1106	ABCX			"	"	"	"	"	"
15775	Penn	Stein Hirsch	N York		"	"	"	"	"

..... Agent

10 Copy of this notice acknowledged by

..... {Consignor or } per.....
 {Consignee }

(If consignor or consignee refuses to acknowledge receipt of this Notice as provided above, the person delivering same should fill out, date and sign the following certificate on the copy kept on file by the Agent:)

I hereby certify that copy of this Notice was delivered by me to Mr., representing the consignor or consignee named hereon, atM. on 191 .

20

(Signature of person delivering Notice)

(If this Notice cannot be delivered personally by the Agent or his representative, it must be served by mail, and the Agent should fill out, date and sign the following certificate on the copy kept on file by the Agent:)

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/1, 1916.

30 W. L. Van Syckel Agent.

Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/2 1916.

M Maas Waldstein

x1097	ABCX	Atlas Powder	Reynolds, Pa.	NAcid	E. O. Isl.	3	2	5P
		Thams		B/C				
67567	LV	Dyeing & Blea	J City Term	Linters	"	"	"	"
3333	BS		Du Bois Pa	Coal	"	"	"	"

10

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on , 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/3 1916.

M Maas Waldstein

x1096	APCX	Atlas Powder	Reynolds, Pa.	MAcid	E. O. Isl.	3	3	5P
			Phila					
x8069	GATX	Harrison Bros.	Grays Ferry	S. Acid	"	"	"	"
x188	HBIX	"	"	"	"	"	"	"
10419	BS		Du Bois Pa.	Coal	"	"	"	"
10661	BS		"	"	"	"	"	"
10750	BS		"	"	"	"	"	"
11754	BS		"	"	"	"	"	"

30

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1916.

W. L. Van Syckel Agent.

Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/27 1916.

M Maas Waldstein

10 x8307 GATX G. S. Alex. J. City S. Acid E. O. Isl. 4 27 5P

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/27, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

5/2 1916.

20 M Maas Waldstein

xGATX 8304 G. S. Alexander J. City Acid E. O. Isl. 5 2 5P
xTSRG 5 " " " " " " "

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 5/2, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

30

Newark, N. J. Station.

5/4 1916.

M Maas Waldstein

80035 LV Thomas D. B. J. City Linters E. O. Isl. 5 4 5P
72385 LV " " " " " "
126181 StLSF " " " " " "
x206 ITX P. R. R. Acid " " " "
x409 " " " " " "
x209 " " " " " "
x205 " " " " " "
20439 PMCKy Alex. Co. Balt., Md. Bbls. " " " "

40 I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 5/4 1916.

A. R. Miller Agent.

Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.
9/15 1916.

M Maas Waldstein

xHBIX 174 P. R. R. Acid E. O. Isl. 9 15 5P

10

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 9/15, 1916.
A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.
10/7 1916.

M Maas Waldstein

CBQ	101547	✓	Maas Wald	N York	Hr	Soda	E. O. Isl.	10	7	5P
Erie	x101372	✓	"	"	"	"	"	"	"	"
CN	x62066	✓	"	"	"	"	"	"	"	"
MC	x91269	✓	"	"	"	"	"	"	"	"
GT	x105279	✓	"	"	"	"	"	"	"	"
GT	x24819	✓	"	"	"	"	"	"	"	"
LV	x2663	✓	"	"	"	"	"	"	"	"
PL	x517240	✓	"	"	"	"	"	"	"	"
PR	x3587	✓	"	"	"	"	"	"	"	"
MoPac	x35822	✓	"	"	"	"	"	"	"	"
LV	x78068	✓	"	"	"	"	"	"	"	"
PM	x60155	✓	"	"	"	"	"	"	"	"

30

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 10/7, 1916.
A. R. Miller Agent.

40

Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

10/11 1916.

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M Maas Waldstein

xNYC	50228	✓	Mass Wald	N York, N.Y.	Soda	E. O. Isl.	10	11	5P
CMStP	205809		"	"	"	"	"	"	"
xGCW	7709	✓	"	"	"	"	"	"	"
xFWD	6456		"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 10/11, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

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Notice of constructive placement.

* * * * *

Newark, N. J. Station.

11/16 1916.

M Maas Waldstein

PL	863004		F. R. Upton	P. Amboy	Sand	E. O. Isl.	11	16	5P
xWab	76753	✓		N Y Hr.	Soda	"	"	"	"
xGT	10266	✓		"	"	"	"	"	"

30

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 11/16, 1916.

A. R. Miller Agent.

Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

11/21 1916.

M Maas Waldstein

10

CStPMo	x26080	✓	M. W.	N York Hr.	N.Soda	E. O. Isl.	11	21	5P
StLSW	x4662	✓	"	"	"	"	"	"	"
CBQ	x43662	✓	"	"	"	"	"	"	"
Erie	x96530	✓	"	"	"	"	"	"	"
CNW	x124428	✓	"	"	"	"	"	"	"
PR	x13031	✓	"	"	"	"	"	"	"
CNW	x138708	✓	"	"	"	"	"	"	"
MC	x51381	✓	"	"	"	"	"	"	"
GT	x9283	✓	"	"	"	"	"	"	"
WLE	x21206	✓	"	"	"	"	"	"	"
GT	x103243	✓	"	"	"	"	"	"	"
GHSa	x37675	✓	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 11/21, 1916.

A. R. Miller Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

1/10 1917.

M Maas Waldstein

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Erie	89127	✓	W. R. Grace	N Y Hr.	N. Soda	E. O. Isl.	1	10	5P
PR	14146		"	"	"	"	"	"	"
DGR	14294		"	"	"	"	"	"	"
FHB	3721		"	"	"	"	"	"	"
LV	87108	✓	"	"	"	"	"	"	"
DLW	36230	✓	"	"	"	"	"	"	"
CGW	25724	✓	"	"	"	"	"	"	"
CMStP	83098	✓	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1/10, 1917.

A. R. Miller Agent.

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Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

1/11 1917.

M Maas Waldstein

10 LV 17688 A. H. Ross Saxman No. 2 (No) Coal E. O. Isl. 1 11 5P
 " 22751 " " " " " "
 (No)

I hereby certify that copy of this Notice was mailed by me to
 the shipper or consignee named hereon, at 5 P. M. on 1/11, 1917.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

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Newark, N. J. Station.

1/13 1917.

M Maas Waldstein

PRR 27422 W. R. G. N York Hr. Soda E. O. Isl. 1 13 5P
 NYC 236560 " " " " " "

I hereby certify that copy of this Notice was mailed by me to
 the shipper or consignee named hereon, at 5 P. M. on 1/13, 1917.

A. R. Miller Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

1/16 1917.

M Maas Waldstein

LV 25152 Saxman No. 2 Coal E. O. Isl. 1 16 5P
 " 26413 " " " " " "

(No)

I hereby certify that copy of this Notice was mailed by me to
 the shipper or consignee named hereon, at 5 P. M. on 1/16, 1917.

A. R. Miller Agent.

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Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.
1/17 1917.

M Maas Waldstein

LV	20866	Saxman No. 2	Coal	E. O. Isl.	1	17	5P
"	20765	"	"	"	"	"	"
"	56944	"	"	"	"	"	"

10

(No)

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1/17, 1917.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.
1/22 1917.

M Maas Waldstein

MC	91991	W. R. Grace	N York	N. Soda	E. O. Isl.	1	22	5P
LV	85855	"	"	"	"	"	"	"
CIS	793889	"	"	"	"	"	"	"
LV	22938	A. H. Ross	Lathrope	Coal	"	"	"	"
"	24584	"	"	"	"	"	"	"

(Last 2 no)

30

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1/22, 1917.

A. R. Miller Agent.

Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

1/25 1917.

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M Maas Waldstein

LV	26921	A. H. Ross	Saxman No. 2	Coal	E. O. Isl.	1	25	5P
				(No)				

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1/25, 1917.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

1/31 1917.

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M Maas Waldstein

GT	102875	W. R. G.	N York Hr.	Soda	E. O. Isl.	1	31	5P
DLW	28884	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1/31, 1917.

A. R. Miller Agent.

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Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.
2/13 1917.

M Macs Waldstein

LV	74204	M. W.	N York Hr	Soda	E. O. Isl.	2	13	5P	10
"	82746	"	"	"	"	"	"	"	
"	68893	"	"	"	"	"	"	"	
"	81733	"	"	"	"	"	"	"	
"	84566	"	"	"	"	"	"	"	
"	72672	"	"	"	"	"	"	"	
"	82474	"	"	"	"	"	"	"	
"	83613	"	"	"	"	"	"	"	
"	83147	"	"	"	"	"	"	"	
SP	23784	Hill Mount	P. Amboy	Cases	"	"	"	"	
				(Last 1 no)					

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 2/13, 1917.
A. R. Miller Agent. 20

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.
3/15 1917.

M Maas Waldstein

CNW	136056		N York Hr	Soda	E. O. Isl.	3	15	5P	30
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/15, 1917.
A. R. Miller Agent.

Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/17 1917.

10

M Maas Waldstein

CStPMo	15886	M. W.	N York Hr.	N. Soda	E. O. Isl.	3	17	5P
LV	72285	"	"	"	"	"	"	"
LV	68321	✓	"	"	"	"	"	"
LV	78409	✓	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/17, 1917.

A. R. Miller Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/22 1917.

M Maas Waldstein

LV	63973	✓	N York Hr.	Soda	E. O. Isl.	3	22	5P
IRC	64144		"	"	"	"	"	"
CWS	89085		"	"	"	"	"	"

30 I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/22, 1917.

A. R. Miller Agent.

Exhibit P. 6.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/24 1917.

M. Maas Waldstein

LV	70467	M. W.	N York Hr	Soda	E. O. Isl.	3	24
"	83859	"	"	"	"	"	"

10

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/24, 1917.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/29 1917.

M. Maas Waldstein

StLSF	124062	N York Hr.	Soda	E. O. Isl.	3	29	5P
-------	--------	------------	------	------------	---	----	----

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/29, 1917.

A. R. Miller Agent.

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Exhibit P. 9.

EXHIBIT P. 9.

(Letterhead of Maas & Waldstein Co.)

July 19, 1916.

10 Mr. C. H. Gulick, Commercial Agt.,
Lehigh Valley Railroad,
Newark, New Jersey.

Dear Sir:—

20 We note that we have failed to reply to yours of June 14th, relative to your bill for car demurrage. We have carefully re-read your letter of May 23rd referred to in yours of June 14th and do not understand what information it is which we have failed to furnish and which would enable you to take the matter up with your Superintendent of car service. If the information required is the specific dates upon which you failed to place cars when we were ready to receive them we beg to state that your information in this respect is probably better than ours as you are doubtless well aware of the conditions which have prevailed at your terminals. We are of the opinion that our letter of May 20th fully covers the matter and are returning herewith your bill for demurrage in the sum of \$1498.00.

Yours very truly,

30 MAAS & WALDSTEIN COMPANY,

Henry V. Walker,
President.

HVW:FB

Exhibit P. 10.

EXHIBIT P. 10.

(Letterhead of Maas & Waldstein Co.)

November 21, 1916.

Lehigh Valley Railroad Co.,
228 South Third Street,
Philadelphia, Pa.

10

Mr. C. J. Kulp, Treasurer.

Gentlemen:—

We have yours of November 13th relative to your statements for demurrage at your Newark Station, which statements have not been paid, for the reason that in our opinion the charges thereon have not been properly assessed.

We note in your statement that one of the conditions of the credit arrangement in effect between our respective companies is that bills shall be paid as rendered, adjustment, if any, be made through claim channels. We are not aware that we have agreed to this condition and would thank you to furnish us with copy of the application upon which credit was extended. We understand that the charges in question have been assessed upon the theory that in entering into the car demurrage average agreement with your company we have waived the provisions of law fixing the rate for demurrage on intra-state shipments at \$1.00 per day. We have carefully read the agreement in question and fail to find therein any provision in support of your position. If we are correct in our assumption that you base your right to assess the charges at the higher rate under the average agreement, you will kindly cancel the agreement executed between our respective companies Jan. 1, 1916, the cancellation to become effective Dec. 1st next, as provided in the agreement.

We have been at all times willing to pay the undisputed portion of the statements in question but until the receipt

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30

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Exhibit P. 10.

of your letter were without intimation that this form of settlement was desired by your company.

We append hereto a statement showing the debits under our interpretation of the published tariffs, amounting to a total of \$4,200. The statement also shows debits as charged by your company amounting to a total of \$7,437. We have already paid \$199, being debits as charged by you on the first three cars appearing on the statement. This payment according to our views was in excess of the proper charge in the sum of \$83 and we shall file a claim for refund of this amount. The undisputed balance therefore is \$4,084 and we shall request our Treasurer to remit this amount.

Yours very truly,

MAAS & WALDSTEIN Co.,

Henry V. Walker,
President.

(ENCL.)
H V W-J E

Maas & Waldstein Company record of soda shipments
between April 1st & June 15th, 1916.

	Car Number	Constructively Placed Released		Our Debits	R. R. Debits	Over- charge
30	PL	553175	4/14	5/22	34	58
	CM&STP	501523	4/14	5/27	39	68
	PCC&STL	55298	4/14	5/31	43	74
					116	199
						83.00
	GT	102575	4/17	6/9	50	87
	RI	49224	4/17	6/9	50	87
	CP	113686	4/17	6/17	58	102
	NYC	112743	4/17	6/17	58	100
	NH	77740	4/17	6/17	58	100
	DL&W	6234	4/17	6/19	60	105
	RI	55015	4/19	6/21	60	105

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Exhibit P. 10.

LV	62128	4/19	6/21	60	105	
C&NW	126314	4/17	6/24	65	115	
NYC&STL	17013	4/17	6/24	65	115	
WA	522256	4/17	6/26	67	118	
L&M	4140	4/20	6/26	72	110	
ERIE	72755	4/17	6/27	68	120	
CCC&STL	8585	5/18	6/28	38	67	10
CCC&STL	46503	5/18	6/28	38	67	
C&AA	17535	4/18	6/29	69	122	
BR&P	4399	4/19	6/29	63	120	
LV	73809	4/19	6/30	76	122	
BR&P	3602	4/19	6/30	76	122	
				1151	1989	838.00
DL&W	29642	4/22	7/1	66	118	
LV	65120	4/22	7/1	66	118	
LV	69148	4/22	7/3	71	121	
LV	83615	4/24	7/3	68	119	20
OSL	10595	4/24	7/3	68	119	
ERIE	106150	5/18	7/3	43	76	
CP	54590	5/23	7/6	41	71	
STL&SW	5126	5/23	7/6	41	71	
B&A	36040	4/25	7/7	71	124	
C&O	62095	4/24	7/8	73	128	
DL&W	31012	4/25	7/8	72	126	
MC	8700	5/18	7/12	52	92	
LV	82215	4/25	7/13	76	135	30
RI	2496	5/23	7/14	40	86	
IC	22654	5/23	7/14	40	86	
NCR	81902	5/23	7/20	55	97	
ACL	36053	5/23	7/21	56	99	
OSL	19027	5/23	7/26	61	108	
LV	60037	5/23	7/26	61	108	
D&H	2622	5/23	7/31	66	117	
				1187	2123	936.00
						40

Exhibit P. 10.

10	LV	87300	5/23	8/3	70	123	
	SAL	27671	5/23	8/9	76	134	
	C&NW	102776	5/23	8/10	77	136	
	NYC	27509	5/23	8/15	82	145	
	IRC	61069	5/23	8/15	82	145	
	C&NW	107184	5/23	8/19	86	153	
	DL&W	40597	5/23	8/21	88	156	
	LV	61867	5/23	8/23	90	160	
	CS	33722	5/23	8/23	90	160	
	NH	74860	5/23	8/23	90	160	
	DL&W	25306	5/23	8/24	91	162	
	FWD	6466	5/18	8/26	97	176	
	LV	87538	5/18	8/26	97	176	
	NYC	246770	5/18	8/28	99	179	
20					1215	2165	950.00
	CL	7266	5/18	9/2	104	189	
	P&LE	31666	5/18	9/2	104	189	
	ERIE	104257	5/18	9/5	107	193	
	IC	211169	5/18	9/6	108	195	
	KCM	4099	5/18	9/6	108	195	
					531	961	430.00
Grand Total					4200	7434	\$3237.00

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Exhibit P. 11.

EXHIBIT P. 11.

(Letterhead of Maas & Waldstein Co.)

Jan. 20, 1917.

Mr. E. H. Boles, Gen. Solicitor,
Lehigh Valley Railroad Co.,
143 Liberty Street,
New York City.

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Dear Sir:—

We are in receipt of yours of Jan. 13th informing us that the Treasurer of your company has placed in your hands for collection a claim for \$6,818, being balance of demurrage charges accrued during the months of April, June, July, August and September 1916.

Replying to your request for advice as to our position in regard to the settlement of this claim, we beg to state that as to the portion of the claim represented by the statement for the month of April 1916 our position is defined in letters as follows:—

20

Mar. 15, 1916 to Mr. C. H. Gulick, Coml. Agt., L. V. R. Co. 201 Ordway Building, Newark, N. J.

Letter of May 20th, 1916 to Mr. C. H. Gulick, same address.

Letter of July 19th, 1916 to Mr. C. H. Gulick, same address.

Our position as to the other months is defined in a letter dated Nov. 21, 1916 to Mr. C. J. Kulp, Treas. Lehigh Valley R. R. Co., 228 So. 3d St., Phila., Pa. We may add that as to the month of May, not included in your statement, our position is that we have paid in excess of the proper charge, the sum of \$83 and that we are entitled to a refund of this amount for which claim will be duly filed.

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Yours very truly,

MAAS & WALDSTEIN Co.,

Henry V. Walker,

President.

H V W-J E

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Exhibit P. 12.

EXHIBIT P. 12.

(Letterhead of Maas & Waldstein Co.)

Feb. 16, 1917.

10 Mr. E. H. Boles, Genl. Solicitor,
Lehigh Valley Railroad Co.,
143 Liberty Street, New York.

Dear Sir:—

20 We are in receipt of yours of Feb. 14th relative to adjustment of demurrage account. Replying to your statement that the account from your investigation is one which should be adjusted amicably we would state that it is our desire to have the account so adjusted. However, we do not think that a conference with Mr. Gulick, your Commercial Agent, as suggested by you is likely to lead to such adjustmnet. We are entirely willing to discuss the matter with Mr. Gulick or anyone else by you designated, but as we have already had numerous conferences and considerable correspondence with Mr. Gulick, it seems to us that some other means of arriving at a settlement should be determined upon. Our correspondence with yourself in this matter does not appear to have lead in any degree to putting the account in position for adjustment. For example; in our letter of Jan. 20th we stated specifically, by reference to correspondence, our position relative to
30 the various items which make up this account. Our objection to the account for the month of April 1916 is entirely different from our objection to the account for the months of June, July, August and September 1916, all of which is clearly set forth in the correspondence to which we have referred you. As to the latter month, we are still unable to agree with your finding that the charges were properly assessed in accordance with existing tariffs. As to these months we must ask you to point out to us the provisions of the tariffs upon which you rely to show
40 that in entering into the average agreement with your

Exhibit P. 12.

company on Jan. 1, 1916 we have waived the right to have demurrage charges on intra-state shipments assessed in accordance with the law. We have requested the Lehigh Valley Railroad Company for several months past to furnish this information which they have not done, but as you do in your letter of Feb. 14th, have reiterated your interpretation of the average agreement and the tariffs. As to these bills, therefore, we still maintain that they are not a proper charge against our company. 10

As to the bill for the month of April 1916 in the sum of \$1,498. in view of the fact that a large part of this charge was assessed on cars which the railroad company neglected and refused to deliver, it would appear to us that the proper procedure would be to separate the proper charges from the improper ones. We are quite prepared at any time to confer with any officer having authority to adjust the bill for the month of April. As to the other bills we await evidence other than the statements of your officials that the charges were properly assessed. 20

Yours very truly,

MAAS & WALDSTEIN Co.,

Henry V. Walker,
President.

H V W-J E

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Exhibit P. 13.

EXHIBIT P. 13.

(Letterhead of Maas & Waldstein Co.)

March 16, 1917.

10 Mr. E. H. Boles, Genl. Solicitor,
Lehigh Valley Railroad Co.,
143 Liberty Street,
New York City.

Dear Sir:—

We have yours of March 9th relative to outstanding Demurrage Charges, also copy of yours of the same date to Mr. C. J. Kulp, Treasurer of your company.

20 We are unable to agree with your opinion that the Jersey Statute which you quote does not apply to the assessment of the demurrage charges in question. We think it is clear that we did "refuse to receive" for the reason that we were unable to receive the cars. If we did not refuse to receive, what did occur? It is our opinion that a tender of delivery by the railroad and a refusal to receive by the consignee are the foundations of all demurrage charges.

In further support of our position we beg to quote from Car Demurrage Rules, Central R. R. Co. of N. J. issued Mar. 30, 1916, Rule 7, as follows:

30 "To meet the requirements of the state law of New Jersey the charge on Intrastate traffic only will be at the rate of \$1.00 per car per day or fraction of a day."

It is true that a paragraph similar to the above does not occur in the Car Demurrage Rules as published by the Lehigh Valley Railroad Co. However, the validity of our contention does not depend on the published statements of the railroad company, as it is based on the law itself.

Exhibit P. 14.

As to your desire to take the matter up with our attorneys, we have not taken legal advice on the question, nor do we consider it necessary to do so now. If your company continues to deny the correctness of our position we would suggest that the matter be referred to the New Jersey State Public Service Commission upon an agreed statement of facts.

Yours very truly,

MAAS & WALDSTEIN Co.,

Henry V. Walker,
President

H V W-J E

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EXHIBIT P. 14.

(Letterhead of Maas & Waldstein Co.)

May 25, 1917.

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Lehigh Valley R. R. Co.,
243 Liberty Street,
New York City.

Legal Department.

Gentlemen:—

We have yours of May 16th with copy of the Proposed Agreed Statement of Facts to be submitted to the Board of Public Utility Commissioners of New Jersey, relative to your claim against our Company for Demurrage assessed at Newark during April, June, July, August and September 1916. The Statement of Facts is correct and we are willing to submit the case to the Board upon this statement. However, we desire to direct your attention to the fact that we have not claimed that all the assessed charges arose on Interstate shipments. If you desire, for the purpose of adjusting the whole matter, to do so as

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Exhibit P. 15.

outlined in the statement, we have no objection but wish you to understand that in so doing you waive a portion of your claim which in our opinion properly should be adjusted by other means.

We are not returning the draft as we desire to preserve the copy for our records.

10 Yours very truly,

MAAS & WALDSTEIN Co.,

Henry V. Walker,
President.

H V W-J E

EXHIBIT P. 15.

20 (Letterhead of Maas & Waldstein Co.)

Sept. 7, 1917.

Mr. E. H. Boles,
Gen. Solicitor, L. V. R. R. Co.,
143 Liberty Street,
New York City.

Dear Sir:

30 We have yours of Aug. 10th relative to outstanding demurrage charges.

We have been in correspondence with your Company on this subject for more than a year. It is our desire to arrive at a basis of settlement, and we have conducted the correspondence with that object in view. It would appear, however, from your letter of Aug. 10th, that notwithstanding the lengthy correspondence, we have not progressed even to the extent of framing the issue between us. Although we have clearly stated our objections to the charges, it seems to be necessary to re-state them,
40 which we now proceed to do.

Exhibit P. 15.

1. Amount of Claim.

Your correspondence refers to a claim in the sum of \$6,818. You will please note that on Nov. 21st, 1916 we remitted to your Treasurer the sum of \$4,084, this being the undisputed portion of your claim. The balance is therefor \$2,734, which sum is subject to a further reduction of \$83, as stated in our letter to your Treasurer under date of Nov. 21, 1916. 10

2. Objections to the claim.

Our objection to the claim is on two grounds:—

a. As to the month of April 1916 we object on the ground that we were able and ready to receive some of the cars, and that the delay as to these cars was due to the neglect and refusal of the Lehigh Valley R. R. Co. to deliver them. We are unable to furnish a complete list of the cars under this subdivision, as this is a matter within the knowledge of your company, upon which our information is incomplete. However, we do specify the following cars: 20

Car No.	Arrival Date.	Delivery Date.
APCX 1096	Mar. 3, 1916	Apr. 4, 1916
" 1097	" 2, "	" 6, "

b. Our objection to the claims for the months other than April 1916 is that the charges have been improperly assessed as to amount, as the traffic was intrastate traffic, the demurrage charges being governed by the New Jersey Statute, Laws 1907, Chapter 256. 30

Our objection to these charges was met by your Company by the claim that in executing the Average Agreement for the settlement of demurrage charges, we had waived the New Jersey statutory provision. We note that in your letter of August 10th you state:—"I am of the opinion that you fully and completely waived the New Jersey statute in executing the Average Agreement with our Company." We beg to call your attention to the fact that you were not of this opinion on March 9th of this 40

Exhibit P. 15.

year according to a letter addressed by yourself to the Treasurer of your Company, a copy of which was forwarded to us.

10 Your letter of August 10th in addition to the question of supposed waiver by execution of the Average Agreement, seems to suggest a difference of opinion as to what constitutes intrastate traffic. Under date of Nov. 21st, 1916, we furnished your Treasurer with a list of cars which in our opinion moved in intrastate traffic, and remitted to him the amount admittedly due for demurrage on these cars. No objection to our statement that the traffic was intrastate was made at the time or subsequently, your Company basing its claim on the supposed waiver above mentioned.

In order to arrive at a basis for settlement it appears to be necessary to determine the following points:

20 1. As to the month of April 1916, what portion of the charges were incurred through the failure of the Lehigh Valley R. R. Co. to deliver cars which our Company was willing and able to receive. As it is probably impossible to answer this question accurately, some compromise method of settlement would appear to be in order for the month of April 1916. The amount of your claim for the month of April according to your records is \$1,498.

30 2. As to the balance of your claim, it would appear to be necessary to determine what portion of the charges were assessed on intrastate traffic, and what portion on interstate traffic. We would suggest that you submit two schedules of charges, one covering each of these classes of traffic, with proper credit for the payment made on account. If your classification of the traffic does not agree with ours, we shall specify as to each car to which class it belongs in our opinion. In making this classification we shall hold that cars moving from Jersey City to Newark on bills of lading issued at Jersey City, were employed in intrastate traffic.

Exhibit P. 15.

If your Company desires to continue its claim of a waiver on our part by the execution of the Average Agreement, we would ask you to make a statement to this effect.

As we are not prepared to accept your letter of Aug. 10th as a correct statement of the facts, we are unable to agree to the method of settlement therein suggested. We think that a necessary preliminary to any settlement is to clearly define our differences, and it is for this purpose that we have made the suggestions contained in paragraphs (1) and (2) above. 10

Yours very truly,

MAAS & WALDSTEIN COMPANY,

Henry V. Walker,
President.

H V W-J E

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Exhibit P. 16.

EXHIBIT P. 16.

(Letterhead of Lehigh Valley Railroad.)

May 16th, 1917.

13106.246

10 In re demurrage assessed at Newark during
 April, June, July, August & September '16.

Mass & Waldstein Company,
Post Office Box No. 304,
Newark, N. J.

Dear Sirs:

20 I am sending herewith a copy of a proposed agreed
 statement of facts to be submitted to the Board of Pub-
 lic Utility Commissioners of New Jersey in the above
 entitled matter. I do not know that the Board will take
30 jurisdiction in this matter, as it has no power to act in
 reference thereto, but it may take jurisdiction of the same
 in the form of an arbitration. This company is willing to
 submit its claim to the Board in the manner suggested
 in the agreed statement. I have not attached to the agreed
 statement the tariff publications, or the average agree-
 ment, as you are familiar with the same. Will you kindly
 return this draft with any suggestions you have in refer-
 ence thereto at an early date, as the amount outstand-
 ing against your company is so large that we must take
 immediate steps toward the settlement of the same.

Very truly yours.

E. H. BOLES,
General Solicitor.

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Exhibit P. 16.

Lehigh Valley Railroad Company
v.
Mass & Waldstein Company
before the
Board of Public Utility Commissioners
of
New Jersey. 10

Agreed Statement of Facts.

The Lehigh Valley Railroad Company, a corporation organized and existing under the laws of the State of Pennsylvania and having a right to transact business in the State of New Jersey, and the Maas & Waldstein Company, a corporation organized under the laws of the State of New Jersey, with offices and plant at Newark, New Jersey, herewith submit the following agreed statement of facts to the Board of Public Utility Commissioners of New Jersey, and request the opinion of the said Board in reference to the issues involved. Both parties to this Statement of Facts hereby agree to abide by and carry out the decision of the Board of Public Utility Commissioners rendered herein. 20

(1) The Lehigh Valley Railroad Company claims of the Maas & Waldstein Company, Newark, New Jersey, \$6,818.00 for demurrage assessed on various cars delivered by the Lehigh Valley Railroad Company to the Maas & Waldstein Company during the months of April, June, July, August and September 1916. 30

(2) The basis of the claim of the Railroad Company for the said demurrage is as follows:

The Railroad Company issued on March 30th, 1916, effective April 1st, 1916, its supplement No. 5 to tariff I. C. C. F-17 in reference to demurrage charges. A copy of the said supplement is attached hereto and made a 40

Exhibit P. 16.

part hereof. That part of the said supplement in reference to the average agreement from the effective date of the said tariff, namely, April 1st, 1916, until June 14th, 1916, is as follows:

(A) RULE 9—AVERAGE AGREEMENT.

10 (This Rule expires 7.00 A. M., June 15, 1916, unless
sooner cancelled, changed or extended after
which the rules shown on back hereof
will apply.)

When a shipper or receiver enters into the following agreement, \$1.00 of the charge per car per day or fraction of a day for the detention to cars, provided for by Rule 7, on all cars held for loading or unloading by such shipper or receiver shall be computed on the basis of the average time of detention to all such cars released during each calendar month, such average detention to be computed as follows:

20 SECTION A.—A credit of one day will be allowed for each car released within the first twenty-four hours of free time (except for a car subject to Rule 2, Section B, paragraph 5). A debit of one day will be charged for each twenty-four hours or fraction thereof that a car is detained beyond the free time. In no case shall more than one day's credit be allowed on any one car, and in no case shall more than five days' credit be applied in cancellation of debits accruing on any one car. When a
30 car has accrued five (5) debits, the charge provided for by Rule 7 will be made for all subsequent detention, except that for subsequent Sundays and legal holidays only \$1.00 of the charge per day provided by Rule 7 will be made. When the fifth debit day falls on a Saturday or on a day preceding a legal holiday, no charge will be made for the Sunday or legal holiday, or both, immediately following, the fifth debit day in such case not being ended until 7 A. M. of the day following.

(A) Denotes Advance.

Exhibit P. 16.

That part of the said tariff in reference to the average agreement effective at 7. A. M., June the fifteenth, 1916, is as follows:

RULE 9—AVERAGE AGREEMENT.

When a shipper or receiver enters into the following agreement, the charge for detention to cars, provided for by Section A of Rule 7, on all cars held for loading or unloading by such shipper or receiver shall be computed on the basis of the average time of detention to all such cars released during each calendar month, such average detention to be computed as follows: 10

SECTION A.—A credit of one day will be allowed for each car released within the first twenty-four hours of free time (except for a car subject to Rule 2, Section B). A debit of one day will be charged for each twenty-four hours or fraction thereof that a car is detained beyond the free time. In no case shall more than one day's credit be allowed on any one car, and in no case shall more than five days' credit be applied in cancellation of debits accruing on any one car. When a car has accrued five (5) debits, the charge provided for by Rule 7 will be made for all subsequent detention, including Sundays and holidays. When the fifth debit day falls on a Saturday or on a day preceding a legal holiday, no charge will be made for the Sunday or legal holiday, or both, immediately following, the fifth debit day in such case not being ended until 7 A. M. of the day following. 20 30

(3) The Maas & Waldstein Company was operating under the average agreement covering the assessment of demurrage charges. The following is a copy of the agreement entered into by the Mass & Waldstein Company and the Lehigh Valley Railroad Company:

The said average agreement was entered into by the Lehigh Valley Railroad Company and the Maas & Waldstein Company in accordance with Rule 9 of the Railroad Company's demurrage tariff I. C. C. No. F-17, a 40

Exhibit P. 16.

copy of which tariff is attached hereto and made a part hereof.

10 (4) The Railroad Company contends that the Maas & Waldstein Company, by the signing of the said agreement, made it unnecessary to keep separate accounts of cars delivered to the said Company in interstate traffic and cars delivered in intrastate traffic; that by the signing of the said agreement the Maas & Waldstein Company waived the provisions of the Statute of the State of New Jersey in reference to demurrage, Pamphlet Laws, 1907, page 648. The said Statute is as follows:

20 "When the consignee of property transported by railroad to any point in this State cannot be found, or refuses to receive and pay charges and remove such property, the Company may make and collect a reasonable charge not exceeding \$1.00 per day, for the detention of any railroad car containing such property, or for the use of the railroad track occupied by such car, or for both such detention and use."

30 The Maas & Waldstein Company contends that by the signing of the said average agreement it waived the time provisions of the said Act only, and agreed that instead of being allowed 72 hours' free time on cars moving in intrastate traffic it should be allowed only 48 hours on such cars in accordance with the Interstate Commerce Commission's regulations and tariffs respecting interstate cars; that by signing the said agreement they did not waive the provisions of the said act to the effect that demurrage charges on intrastate traffic in the State of New Jersey shall be no more than one dollar per car per day.

40 It is agreed that if by signing the said average agreement the Maas & Waldstein Company waived the provisions of the New Jersey statute quoted above, the said Company is indebted to the Lehigh Valley Railroad Company in the sum of \$6,818.00 for demurrage assessed in

Exhibit P. 16.

accordance with the tariffs referred to above and made a part of this statement, and that the said sum will be paid by the Maas & Waldstein Company, with such interest thereon as the Board may decide to be due, immediately upon the decision of the Board.

It is further agreed that if the Maas & Waldstein Company did not waive that provision of the Statute limiting demurrage charges to one dollar per day by the signing of the said agreement, the Maas & Waldstein Company will immediately pay to the Lehigh Valley Railroad Company, and the said Railroad Company will accept in full settlement of this claim, all demurrage charges found by the Board to be due the Railroad Company in accordance with the said average agreement and the said interstate tariffs of the said Railroad Company in effect during the said months at the rate of one dollar per day demurrage instead of the increased demurrage charges demanded by the Railroad Company and published in the said tariffs.

Exhibit P. 17.

EXHIBIT P. 17.

(Letterhead of Maas & Waldstein Co.)

Feb. 19th, 1918.

10 Mr. A. R. Miller,
 Freight Agent,
 Lehigh Valley R. R. Co.,
 Newark, N. J.

Dear Sir:—

In reference to your letter of Feb. 16th, your file L-3395-1, wish to advise that we now have up with the Interstate Commerce Commission a case similar to the one which covers charges referred to and until we receive a decision from them will be unable to take any action in your case.

20 Yours very truly,

MAAS & WALDSTEIN COMPANY,

K. ME

W. E. Keck,
Traffic Manager.

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Exhibit P. 18.

EXHIBIT P. 18.

(Letterhead of Maas & Waldstein Co.)

July 29, 1918.

Mr. E. C. Mann,
Treasurer, Lehigh Valley R. R. Co.,
228 South Third Street,
Philadelphia, Pa.

10

Dear Sir:—

Replying to yours of July 2nd, relative to your outstanding account, I beg to state that I am not aware of having made the assurance referred to therein, nor do I find any record of such assurance in our correspondence with your company.

As to my being aware that "the tariff was later sustained," I beg to state that at the date of your letter I was not aware of such action. The railroad companies seem to have had some advantage over us in becoming aware of the action in the matter before the Interstate Commerce Commission, as we were not informed until several days later.

20

We have no agreement with your company as to action by the Interstate Commerce Commission, and it is our opinion that the facts in the case of the Lehigh Valley Railroad are different from those in the case of the Central Railroad of New Jersey. We would also direct your attention to the fact that the account for car service is entirely distinct from that for track storage. The matter of car service was discussed by ourselves, together with Mr. Egner, of your counsel on December 1st, 1917, in conference with our counsel. In this conference we went fully into our objections to the charges and our understanding was that Mr. Egner would take up with your company a possible compromise. We have not heard

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Exhibit P. 19.

from you nor from Mr. Egner since this conference on the subject of the car service account.

Yours very truly,

HENRY V. WALKER,(κ)

Dictated.

President.

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EXHIBIT P. 19.

(Letterhead of Maas & Waldstein Co.)

April 18, 1918.

Mr. A. R. Smith,
Agent Lehigh Valley R. R. Co.,
Newark, N. J.

20 Dear Sir:—

Referring to your letter of the 15th instant, file L-3395-1, regarding storage charges:

This matter has been submitted to the Interstate Commerce Commission and we are awaiting their decision.

Yours very truly,

MAAS & WALDSTEIN CO.,

Henry V. Walker,(κ)

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President.

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MAAS & WALDSTEIN, NEWARK, N. J.—SEPTEMBER, 1916

165g

Invoice	Number	Quantity	Name of Shipment	Arrived	On Hand	Cost	Price	As Charged				As Charged				As Charged				As Charged						
								Dec. 17	Dec. 18	Dec. 19	Dec. 20	Dec. 17	Dec. 18	Dec. 19	Dec. 20	Dec. 17	Dec. 18	Dec. 19	Dec. 20	Dec. 17	Dec. 18	Dec. 19	Dec. 20			
HRX	173 V. Acid	1	Eastport, N. J.	9-12	2	0-12	0-12					1				1				1						
MO	26523	1	Jackson, Mich.	9-12		0-12	0-12																			
MO	26522	1	"	9-12		0-12	0-12																			
BOCK	2120	1	Eastport, N. J.	9-7	2	0-7	0-7																			
NYC	207608	1	"	9-14		0-14	0-14																			
LV	72822	1	"	9-14		0-14	0-14																			
LV	21580	1	N. Y. Harbor	9-14		0-14	0-14																			
LV	22504	1	Jackson, Mich.	9-12		0-12	0-12																			
LV	21347	1	"	9-14		0-14	0-14																			
LV	21342	1	"	9-14		0-14	0-14																			
FR	70210	1	N. Y. Harbor	9-14		0-14	0-14																			
FR	21170	1	Jackson, Mich.	9-12		0-12	0-12																			
LV	26230	1	"	9-2		0-2	0-2																			
LV	19722	1	"	9-2		0-2	0-2																			
LV	21326	1	"	9-2		0-2	0-2																			
LV	24227	1	J. G. M. Books	9-2		0-2	0-2																			
LV	24427	1	"	9-2		0-2	0-2																			
NYC	21183	1	"	9-12		0-12	0-12																			
NYC	104250	1	"	9-12		0-12	0-12																			
FR	21625	1	N. Y. Harbor	9-12		0-12	0-12																			
FR	108412	1	Jackson, Mich.	9-1		0-1	0-1																			
LV	21112	1	Eastport, N. J.	9-1		0-1	0-1																			
LV	27208	1	Bole	9-12		0-12	0-12																			
LV	22576	1	Newark, N. J.	9-1		0-1	0-1																			
Summary																										
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								10																		

165g

MAAS & WALDSTEIN, NEWARK, N. J.—SEPTEMBER, 1916

Initial	Number	Contents	Point of Shipment	Arrived	Ordered	Const. Placed	Act. Placed	Released	As Charged			Ex. Drs.	As Charge Would Be Allowing 48 Hrs. at \$1.00 Per Day			Ex. Drs.	As Charge Would Be Allowing 72 Hrs. at \$1.00 Per Day		
									Drs. in Col. 17	Drs.	Crs.		Drs. in Col. 17	Drs.	Crs.		Drs. in Col. 17	Drs.	Crs.
LV	26676	Piles	Newark, N. J.	9-1	7			9-1	5		1				1				
CL	27266	Soda	N. Y. Harbor	5-18	7	5-18	1	8-28	5	2	5	182		5		99		5	97
SCCX	8118	Acid	Paulsboro, N.J.	9-1	7	9-1	5	9-2	5		1			1					
Erie	106496	Waste	Jackson, Mich.	9-1	7	9-1	5	9-2	5		1			1					
PLE	31666	Soda	N. Y. Harbor	5-18	7	5-18	5	9-2	5	2	5	182		5		99		5	97
Erie	104259	"	"	5-18	7	5-18	5	9-2	5	2	5	186		5		102		5	100
NYC	211169	"	"	5-18	7	5-18	5	9-5	5	2	5	188		5		103		5	101
KCM	4099	"	"	5-18	7	5-18	5	9-5	5	2	5	188		5		103		5	101
LV	24437	Ashes	J. C. N. Docks	9-9	7			9-9	5		1				1				
LV	24887	"	"	9-9	7			9-9	5		1				1				
LV	21396	"	"	9-9	7			9-9	5		1				1				
LV	19722	"	"	9-9	7			9-9	5		1				1				
LV	56230	"	"	9-9	7			9-9	5		1				1				
B&A	37170	Waste	Jackson, Mich.	9-13	7			9-13	5		1				1				
PRR	70210	Soda	N. Y. Harbor	8-14	7	8-14	5	9-12	5			23		5		23		5	22
LV	82248	"	"	8-14	7	8-14	5	9-12	5		5	23		5		23		5	22
L&N	94847	"	"	8-14	7	8-14	5	9-12	5		5	23		5		23		5	22
LV	82504	Waste	Jackson, Mich.	9-13	7			9-13	5		1				1				
LV	81950	Soda	N. Y. Harbor	8-14	7	8-14	5	9-12	5		5	24		5		24		5	23
LV	73895	"	"	8-14	7	8-14	5	9-12	5		5	24		5		24		5	23
NYC	207606	"	"	8-14	7	8-14	5	9-16	5		5	25		5		25		5	23
SCRX	8150	Acid	Paulsboro, N.J.	9-7	7	9-7	5	9-19	5		5	4		5		4		5	2
MC	50552	Waste	Jackson, Mich.	9-19	7			9-19	5										
MC	50552	"	"	9-19	7			9-19	5		1				1				
HBX	174 V	Acid	Paulsboro, N.J.	9-15	7	9-15	5	9-19	5		1				1				
									10	60	12	1,072		60	12	652		60	633
										12				12					60
										48				48					\$693
										1,072				652					
										10									
									Summary	\$1,130				\$700					

MAAS & WALDSTEIN, NEWARK, N. J.—AUGUST, 1916

Initial	Number	Contents	Point of Shipment	Arrived	Ordered	Const. Placed	Act. Placed	Released	As Charged			Ex. Drs.	As Charge Would Be Allowing 48 Hrs. at \$1.00 Per Day			Ex. Drs.	As Charge Would Be Allowing 72 Hrs. at \$1.00 Per Day			Ex. Drs.
									Drs. in Col. 17	Drs.	Crs.		Drs. in Col. 17	Drs.	Crs.		Drs. in Col. 17	Drs.	Crs.	
B&O	97832	Cases	Perth Amboy	7-31	7	7-31	5					1				1				
NC&StL	11203	"	"	7-31	7	7-31	5					1				1				
Sou.	13225	"	"	7-31	7	7-31	5					1				1				
NH	39598	"	"	7-31	7	7-31	5					1				1				
LV	87300	Soda	J. C. Term'l	5-23	7			5-23	5			2	5		116		5		63	
LV	25539	Ashes	J. C. N. Docks	8-2	7	8-2	5					1				1			5	62
LV	52495	"	"	8-2	7	8-2	5					1				1				
LV	26492	"	"	8-2	7	8-2	5					1				1				
NH	93707	Waste	Jackson, Mich	8-5	7	8-5	5					1				1				
NC&StL	10998	Cases	Perth Amboy	8-5	7	8-5	5					1				1				
C&NW	130616	"	"	8-5	7	8-5	5					1				1				
DL&W	33604	Linters	J. C. Term'l	8-8	7	8-8	5					1				1				
SAL	27677	Soda	N. Y. Harbor	5-23	7			5-23	5			2	5		127		5		69	68
NH	75067	Waste	Jackson, Mich.	8-1	7	8-1	5					1				1				
NC&StL	14765	"	"	8-3	7	8-3	5					1				1				
CB&Q	106631	Cases	Perth Amboy	8-4	7	8-4	5					1				1				
B&M	65268	"	"	8-4	7	8-4	5					1				1				
Sou.	137143	"	"	8-8	7	8-8	5					1				1				
C&NW	102776	Soda	N. Y. Harbor	5-23	7			5-23	5			2	5		129		5		70	69
NC&StL	11645	Waste	Jackson, Mich.	8-8	7	8-8	5					1				1				
MC	50037	"	"	8-10	7	8-10	5					1				1				
Pa.	232576	Coal	Penna. (IS)	8-4	7	8-7	7	8-4	5			3				3			2	
Pa.	232346	"	"	8-4	7	8-7	7	8-4	5			5				5			4	
NYC	27509	Soda	N. Y. Harbor	5-23	7			5-23	5			2	5		138		5		75	74
IRC	61629	"	"	5-23	7			5-23	5			2	5		138		5		75	74
NC&StL	14691	Waste	Jackson, Mich.	8-15	7	8-15	5					1				1				
Pa.	21901	"	"	8-18	7	8-18	5					1				1				
CNW	109184	Soda	N. Y. Harbor	5-23	7			5-23	5			2	5		146		5		79	78
MP	1116	Cases	Perth Amboy	8-14	7	8-14	5					1				1				
B&O	93663	Boxes	"	8-18	7	8-18	5					1				1				
DL&W	40597	Soda	N. Y. Harbor	5-23	7			5-23	5			2	5		149		5		81	80
LV	61867	"	"	5-23	7			5-23	5			2	5		153		5		83	82
CS	32722	"	"	5-23	7			5-23	5			2	5		153		5		83	82
NH	74860	"	"	5-23	7			5-23	5			2	5		153		5		83	82
B&O	195918	Boxes	Perth Amboy	8-22	7	8-22	5					1				1				
DL&W	25306	Soda	N. Y. Harbor	5-23	7			5-23	5			2	5		155		5		84	83
B&O	71235	"	"	8-14	7	8-14	5					5			2		5		5	2
PL	2883	"	"	8-14	7	8-14	5					5			2		5		5	2
DL&W	30370	Boxes	Perth Amboy	8-22	7	8-22	7					1				1				
FWD	6466	Soda	N. Y. Harbor	5-18	7			5-18	5			2	5		169		5		92	90
LV	87538	"	"	5-18	7			5-18	5			2	5		169		5		92	90
SAL	25834	Waste	Jackson, Mich.	8-23	7	8-23	5					1				1				
CCC&StL	9433	"	"	8-24	7	8-24	5					1				1				
NYC	246720	Soda	N. Y. Harbor	5-18	7			5-18	5			2	5		172		5		94	92
PL	515859	Waste	Jackson, Mich.	8-24	7	8-24	1					1				1				
NYC	243698	"	"	8-28	7	8-28	5					1				1				
CNOTP	15720	Boxes	Perth Amboy	8-28	7	8-28	5					1				1				
PRR	14474	Bbls.	Newark	8-29	7	8-29	5					1				1				
LV	21159	Ashes	Jersey City	8-2	7	8-2	5					1				1				
LV	17947	"	"	8-2	7	8-2	5					1				1				
PLE	31668	Cases	Perth Amboy	8-9	7	8-9	5					1				1				
SW	14036	"	"	8-9	7	8-9	5					1				1				
CNW	138304	"	"	8-14	7	8-14	5					1				1				
B&O	86856	"	"	8-14	7	8-14	5					1				1				
NH	86169	Boxes	"	8-16	7	8-16	5					1				1				

	28	91	27	2,071	91	27	1,127	86	1,110
		64			64				\$1,196
		28			1,127				
		2,071							
Summary	\$2,163				\$1,191				

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MAAS & WALDSTEIN, NEWARK, N. J.—JULY, 1916

SHEET No. 2

Initial	Number	Contents	Point of Shipment	Arrived	Ordered	Const. Placed	Act. Placed	Released	As Charged			Ex. Drs.	As Charge Would Be Allowing 48 Hrs. at \$1.00 Per Day			Ex. Drs.	As Charge Would Be Allowing 72 Hrs. at \$1.00 Per Day			Ex. Drs.
									Drs. in Col. 17	Drs.	Crs.		Drs. in Col. 17	Drs.	Crs.		Drs. in Col. 17	Drs.	Crs.	
NYC	93656	Waste	Jackson, Mi.	7-24	7			7-25	5		1				1					
OSL	10927	Soda	N. Y. Harbor	5-23	7	5-23	5	7-22	8	2	5	101		5		55		5		54
LV	60037	"	J. C. Term'l	5-23	7	5-23	5	7-24	8	2	5	101		5		55		5		54
LS&MS	16803	Coal	Pardee, Pa.	6-20	7	6-20	5	7-24	8		5	28		5		28		5		28
NYC	32244	"	"	6-20	7	6-20	5	7-24	8		5	28		5		28		5		28
QM&S	4677	Boxes	Perth Amboy	7-24	7	7-24	5	7-26	8			1			1					
NYC	229297	Leiters	Emporium, Pa.	7-25	7	7-25	5	7-26	8			1			1					
NYC	245615	"	"	7-25	7	7-25	5	7-26	8			1			1					
NYC	84954 V	Coal	Pardee, Pa.	6-20	7	6-20	5	7-24	8		5	29		5		29		5		29
NYC	306551	"	"	6-20	7	6-20	5	7-26	8		5	29		5		29		5		29
RI	40828	Boxes	Perth Amboy	7-24	7	7-24	5	7-26	8		1				1					
NH	80880	"	"	7-24	7	7-24	5	7-26	8		1				1					
NYC	80344	Coal	Pardee, Pa.	6-20	7	6-20	5	7-26	8			30		5		30		5		30
NYC	304507	"	"	6-20	7	6-20	5	7-26	8		5	30		5		30		5		30
NYC	301668	"	"	6-20	7	6-20	5	7-26	8		5	30		5		30		5		30
LV	23646	Ashes	Natl. Docks	7-28	7			7-28	7		1				1					
DMCNO	4866	"	"	7-28	7			7-28	7		1				1					
DL&W	79670	"	"	7-28	7			7-28	7		1				1					
LV	23667	"	"	7-28	7			7-28	7		1				1					
LV	47249	"	"	7-28	7			7-28	7		1				1					
LV	24177	"	"	7-28	7			7-28	7		1				1					
LV	21418	"	"	7-28	7			7-28	7		1				1					
B&O	97832	Boxes	Perth Amboy	7-25	7	7-25	5	7-28	8		1				1					
CM&StP	85254	Cases	"	7-28	7	7-28	5	7-29	8		1				1					
L&N	102292	"	"	7-28	7		7-28	5	7-29	8		1			1					
CM&StP	78450	"	"	7-28	7		7-28	5	7-29	8		1			1					
D&H	20622	Soda	N. Y. Harbor	5-23	7	5-23	5	7-25	8	2	5	110		5		60		5		59
Pa.	26326	Waste	Jackson, Mich	7-28	7	7-28	5	7-29	8		1				1					
CNW	131226	Boxes	Perth Amboy	6-28	7	6-30	7	7-1	7											
NYC	215807	"	"	7-7	7		7-7	7-8	8											
LV	61561	"	"	7-21	7		7-21	7-24	7											
PE	45438	"	"	7-21	7		7-21	7-24	7											
B&O	83990	Waste	Jackson, Mich	7-22	7		7-22	7-25	8											
DL&W	39904	"	"	7-22	7		7-22	7-25	8											
									72	282	32	2,955	32	280	32	2,064	32	280	32	2,042
										32				32				32		
										250				248				2,042		
										72				32				\$2,350		
										2,955				2,064						
Summary									\$3,277				\$2,344							

MAAS & WALDSTEIN, NEWARK, N. J.—JULY, 1916

Initial	Number	Contents	Point of Shipment	Arrived	Ordered	Const. Placed	Act. Placed	Released	As Charged			Ex. Drs.	As Charge Would Be Allowing 48 Hrs. at \$1.00 Per Day			Ex. Drs.	As Charge Would Be Allowing 72 Hrs. at \$1.00 Per Day			Ex. Drs.
									Drs. in Col. 17	Drs.	Crs.		Drs. in Col. 17	Drs.	Crs.		Drs. in Col. 17	Drs.	Crs.	
DL&W	29642	Soda	N. Y. Harbor	4-22	7	4-22	5	7-1	8	7-1	5	2	5	111	5	61		5		60
LV	65120	V	"	4-22	7	4-22	5	7-1	8	7-1	5	2	5	111	5	61		5		60
NYC	212718	Coal	Richhill	5-26	7	5-26	5	7-1	8	7-1	5	2	5	49	2	61		5		60
PRR	297506	"	"	6-7	7	6-7	5	7-1	8	7-1	5	2	5	30	2	49	2	5		49
PL	810403	"	Penna. (IS)	6-8	7	6-8	5	7-1	8	7-1	5	2	5	28	2	30	2	5		30
D&H	40403	"	Richhill	6-16	7	6-16	5	6-30	8	7-1	5	2	5	6	5	28	2	5		28
D&H	27845	"	Richhill	6-16	7	6-16	5	6-30	8	7-1	5	2	5	6	5	6		5		6
LV	69148	V Soda	N. Y. Harbor	4-22	7	4-22	5	7-3	8	7-3	5	2	5	114	5	63		5		6
LV	83615	V	"	4-24	7	4-24	5	7-3	8	7-3	5	2	5	112	5	62		5		62
OSL	10595	V	"	4-24	7	4-24	5	7-3	8	7-3	5	2	5	112	5	62		5		61
ERIE	106150	V	"	5-18	7	5-18	5	7-3	8	7-3	5	2	5	69	5	62		5		61
SAL	14495	Coal	Penna. (IS)	6-8	7	6-8	5	7-3	7	7-3	5	2	5	31	2	38		5		36
PRR	210229	"	Richhill	6-8	7	6-8	7	7-3	7	7-3	5	2	5	31	2	31	2	5		31
PRR	382033	"	Penna. (IS)	6-8	7	6-8	7	7-5	7	7-5	5	2	5	34	2	31	2	5		31
PRR	355424	"	"	6-8	7	6-8	7	7-5	7	7-5	5	2	5	34	2	34	2	5		31
PL	855761	"	Richhill	6-10	7	6-10	5	7-3	8	7-5	5	2	5	34	2	34	2	5		34
SLSW	5126	Soda	N. Y. Harbor	5-23	7	5-23	7	7-6	8	7-6	5	2	5	29	2	29	2	5		34
CP	54590	"	"	5-23	7	5-23	7	7-5	8	7-6	5	2	5	64	5	35		5		29
Pa	289743	Coal	Richhill	6-10	7	6-10	5	7-5	8	7-6	5	2	5	31	2	35		5		34
D&H	37475	"	"	6-10	7	6-10	5	7-5	8	7-6	5	2	5	31	2	31	2	5		31
B&A	36040	V Soda	N. Y. Harbor	4-25	7	4-25	5	7-5	8	7-7	5	2	5	117	5	31	2	5		31
LV	62095	V	"	4-24	7	4-24	5	7-7	8	7-8	5	2	5	121	5	65		5		64
DL&W	31012	V	"	4-25	7	4-25	5	7-7	8	7-8	5	2	5	119	5	67		5		66
PRR	293538	Coal	Penna. (IS)	6-14	7	6-14	5	7-5	7	7-8	5	2	5	29	2	66		5		65
NYC	324738	"	PC & COKE	6-22	7	6-22	5	7-7	8	7-8	5	2	5	8	5	29	2	5		29
NYC	70763	"	"	6-22	7	6-22	5	7-7	8	7-8	5	2	5	8	5	8		5		8
D&H	9579	"	Richhill	6-14	7	6-14	5	7-10	8	7-10	5	2	5	32	2	8	2	5		8
D&H	5715	"	"	6-14	7	6-14	5	7-10	8	7-10	5	2	5	32	2	32	2	5		32
Pa.	292888	"	"	6-20	7	6-20	5	7-11	8	7-11	5	2	5	13	5	13		5		32
Pa.	231526	"	"	6-20	7	6-20	5	7-10	8	7-11	5	2	5	13	5	13		5		13
CNO&TP	14036	Waste	Jackson, Mich.	7-11	7	7-11	5	7-11	8	7-11	5	1		1	1					13
Sou.	137746	"	"	7-11	7	7-11	5	7-11	8	7-11	5	1		1	1					
MC	8700	Soda	N. Y. Harbor	5-18	7	5-18	5	7-10	8	7-12	5	2	5	85	5	47		5		45
NYC	76561	Coal	PC & COKE	6-19	7	6-19	5	7-11	8	7-12	5	2	5	15	5	15		5		15
LV	82215	V Soda	N. Y. Harbor	4-25	7	4-25	8	7-10	8	7-13	5	2	5	128	5	71		5		70
Pa.	83832	Boxes	Perth Amboy	7-11	7	7-11	5	7-13	8	7-13	5	1		1	1					
LV	61424	Boxes	Manville	7-13	7	7-13	8	7-13	8	7-13	5	1		1	1					
LI	2496	Soda	N. Y. Harbor	5-23	7	5-23	5	7-13	8	7-14	5	2	5	79	5	43		5		42
IC	22654	"	"	5-23	7	5-23	8	7-11	8	7-14	5	2	5	79	5	43		5		42
NYC	71911	Coal	PC & COKE	6-19	7	6-19	5	7-11	8	7-14	5	2	5	17	5	17		5		17
M&NA	2255	Boxes	Perth Amboy	7-13	7	7-13	5	7-14	8	7-14	5	1		1	1					
NYC	71593	Coal	PC & COKE	6-19	7	6-19	5	7-12	8	7-15	5	2	5	18	5	18		5		18
Pa.	381696	"	Penna. (IS)	6-10	7	6-10	5	7-15	8	7-17	5	2	5	51	2	51	2	5		51
PL	881393	"	"	6-12	7	6-12	5	7-15	8	7-17	5	2	5	49	2	49	2	5		49
SM	1206	"	Armsby, Pa.	6-13	7	6-13	5	7-15	8	7-17	5	2	5	47	2	47	2	5		47
NCR	81902	Soda	J. C. Term'l	5-23	7	5-23	5	7-19	8	7-20	5	2	5	90	5	49	2	5		48
NYC	75921	Coal	Pardee, Pa.	6-20	7	6-20	5	7-20	8	7-20	5	1		1	1					
NYC	303951	"	"	6-20	7	6-20	5	7-20	8	7-20	5	1		1	1					
CB&Q	115083	Boxes	Perth Amboy	7-18	7	7-18	5	7-18	5	7-20	8	1		1	1					
ACL	36053	Soda	J. C. Term'l	5-23	7	5-23	7	7-21	8	7-21	5	2	5	92	5	50		5		49
Pa.	230612	Coal	Penna. (IS)	6-20	7	6-20	5	7-20	8	7-21	5	1		1	1					
Pa.	257291	"	Richhill	6-19	7	6-19	5	7-20	8	7-22	5	5		25	5	25		5		25
Pa.	206496	"	"	6-20	7	6-20	5	7-20	8	7-22	5	5		24	5	24		5		24
NYC	71481	"	Pardee	6-20	7	6-20	5	7-20	8	7-22	5	5		24	5	24		5		24
LV	71814	Boxes	Perth Amboy	7-18	7	7-18	5	7-21	8	7-22	5	1		1	1					
LV	23646	Stone	Nat'l Docks	7-22	7	7-22	8	7-22	8	7-22	5	1		1	1					
LV	21418	"	"	7-22	7	7-22	8	7-22	8	7-22	5	1		1	1					
LV	23001	"	"	7-22	7	7-22	8	7-22	8	7-22	5	1		1	1					
NYC	226751	Boxes	Perth Amboy	7-24	7	7-24	5	7-24	8	7-24	5	1		1	1					
Pa.	60744	Coal	Pardee, Pa.	6-20	7	6-20	5	7-24	8	7-25	5	5		27	5	27		5		27

MAAS & WALDSTEIN, NEWARK, N. J.—JUNE, 1916

Initial	Number	Contents	Point of Shipment	Arrived	Ordered	Const. Placed	Act. Placed	Released	As Charged				As Charge Would Be Allowing 48 Hrs. at \$1.00 Per Day				As Charge Would Be Allowing 72 Hrs. at \$1.00 Per Day			
									Drs. in			Ex. Drs.	Drs. in			Ex. Drs.	Drs. in			Ex. Drs.
									Col. 17	Drs.	Crs.		Col. 17	Drs.	Crs.		Col. 17	Drs.	Crs.	
GT	102575 V	Soda	N. Y. Harbor	4-17	7	4-17	7	6-1	8	6-9	5	2	5	80	5	44	5	43		
RI	49224	Soda	N. Y. Harbor	4-17	7	4-17	7	6-1	8	6-9	5	2	5	80	5	44	5	43		
NH	87111	Boxes	Perth Amboy	6-1	7	6-1	5	6-5	7	6-9	5	2	5	5	5	5	5	5		
TRRX	10 V	Mty.	J. C. Term'l	4-28	7	4-28	5	6-10	8	6-13	5	2	5	66	5	8	37	36		
CP	113686	Soda	N. Y. Harbor	4-17	7	6-17	7	6-17	8	6-17	5	2	5	95	5	8	52	51		
NYCHR	112743 V	"	N. Y. Harbor	4-17	7	6-13	5	4-17	7	6-14	8	2	5	93	5	51	5	50		
NH	77740 V	"	N. Y. Harbor	4-17	7	6-13	5	4-17	7	6-14	8	2	5	93	5	51	5	50		
CRR	51176	Coal	Armsby, Pa.	5-26	7	6-13	5	5-26	5	6-14	8	2	5	21	2	5	2	21		
CRR	46018	"	"	5-26	7	6-13	5	5-26	5	6-14	8	2	5	21	2	5	2	21		
PRR	154254	"	Richhill	5-26	7	6-17	7	5-26	5	6-17	8	2	5	23	2	5	2	23		
DL&W	6234	Soda	N. Y. Harbor	4-17	7	6-17	7	4-17	7	6-19	5	2	5	98	5	54	5	53		
PRR	233321	Coal	Richhill	5-26	7	5-26	5	6-17	8	6-19	5	2	5	26	2	5	2	26		
CRR	45204	"	Armsby, Pa.	6-2	7	6-2	5	6-19	8	6-19	5	2	5	15	2	5	2	15		
PRR	233046	"	Richhill	5-26	7	5-26	5	6-20	8	6-20	5	2	5	28	2	5	2	28		
PRR	216071	"	"	6-3	7	6-3	5	6-19	8	6-20	5	2	5	15	2	5	2	15		
PRR	335405	"	Penna. (IS)	6-3	7	6-3	5	6-20	8	6-20	5	2	5	15	2	5	2	15		
PMcK&Y	15601	"	Richhill	5-26	7	5-26	5	6-17	8	6-21	5	2	5	30	2	5	2	30		
PRR	161398	"	"	6-3	7	6-3	5	6-21	8	6-21	5	2	5	17	2	5	2	17		
CRI&P	55015 V	Soda	N. Y. Harbor	4-19	7	4-19	5	6-20	8	6-21	5	2	5	98	5	54	5	52		
LV	62128 V	"	"	4-19	7	4-19	5	6-20	8	6-21	5	2	5	98	5	54	5	52		
PL	721961	Coal	Richhill	6-1	7	6-1	7	6-21	8	6-22	5	2	5	24	2	5	2	24		
PRR	305206	"	Penna. (IS)	6-2	7	6-2	5	6-22	8	6-23	5	2	5	23	2	5	2	23		
NYC	309590	"	Pardee, Pa.	6-19	7	6-19	5	6-24	7	6-24	7	3	3	3	3	3	3	3		
NYC	720025	"	Pardee, Pa.	6-19	7	6-19	5	6-24	7	6-24	7	3	3	3	3	3	3	3		
PRR	300432	"	Penna. (IS)	6-1	7	6-1	7	6-22	8	6-24	5	2	5	28	2	5	2	28		
PL	836409	"	"	6-1	7	6-1	7	6-22	8	6-24	5	2	5	28	2	5	2	28		
CNW	126314 V	Soda	N. Y. Harbor	4-17	7	4-17	7	6-24	8	6-24	5	2	5	108	5	59	5	58		
NYC&StL	17013	"	"	4-17	7	4-17	7	6-24	8	6-24	5	2	5	108	5	59	5	58		
Wab	52256 V	"	"	4-17	7	4-17	7	6-26	8	6-26	5	2	5	111	5	61	5	60		
L&N	4140 V	"	"	4-20	7	4-20	5	6-26	8	6-26	5	2	5	103	5	57	5	56		
PRR	285535	Coal	Penna. (IS)	6-2	7	6-2	5	6-26	8	6-26	5	2	5	28	2	5	2	28		
PRR	203763	"	"	6-2	7	6-2	5	6-26	8	6-26	5	2	5	28	2	5	2	28		
ERIE	72755	Soda	N. Y. Harbor	4-17	7	4-17	7	6-27	8	6-27	5	2	5	113	5	62	5	61		
BR&P	17490	Coal	Dubois	6-1	7	6-1	7	6-2	7	6-27	5	2	5	33	2	5	2	33		
PRR	305206	"	Penna. (IS)	6-2	7	6-2	5	6-27	8	6-27	5	2	5	30	2	5	2	30		
PRR	304539	"	"	6-2	7	6-2	5	6-27	8	6-27	5	2	5	30	2	5	2	30		
CCC&StL	8585	Soda	N. Y. Harbor	5-18	7	5-18	5	6-28	8	6-28	5	2	5	60	5	33	5	31		
B/4	46503	"	"	5-18	7	5-18	5	6-28	8	6-28	5	2	5	60	5	33	5	31		
PRR	362080	Coal	Penna. (IS)	6-1	7	6-1	5	6-22	8	6-28	5	2	5	35	2	5	2	35		
PRR	207716	"	Richhill	6-12	7	6-12	5	6-28	8	6-28	5	2	5	15	2	5	2	15		
PL	740144	"	Penna. (IS)	6-12	7	6-12	5	6-28	8	6-28	5	2	5	15	2	5	2	15		
C&A	17555 V	Soda	N. Y. Harbor	4-18	7	4-18	5	6-29	8	6-29	5	2	5	115	5	63	5	62		
BR&P	4399 V	"	"	4-19	7	4-19	5	6-29	8	6-29	5	2	5	113	5	62	5	60		
PRR	370554	Coal	Penna. (IS)	6-2	7	6-2	5	6-27	8	6-29	5	2	5	34	2	5	2	34		
LV	73809 V	Soda	N. Y. Harbor	4-19	7	4-19	5	6-30	8	6-30	5	2	5	115	5	63	5	61		
BR&P	3602 V	"	"	4-19	7	4-19	5	6-30	8	6-30	5	2	5	115	5	63	5	61		
M&O	4580	Coal	Penna. (IS)	6-12	7	6-12	5	6-29	8	6-30	5	2	5	19	2	5	5	19		
NYC	36581	"	Pardee, Pa.	6-16	7	6-16	5	6-29	8	6-30	5	5	5	5	5	5	5	5		
GT	18247	Boxes	P. Amboy	5-31	7	5-31	8	6-2	5	6-19	5	5	5	5	5	5	5	5		
PRR	67181	Coal	Dubois, Pa.	6-16	7	6-16	5	6-19	8	6-19	5	5	5	5	5	5	5	5		
PRR	233425	"	Richhill	5-26	7	6-15	5	6-17	8	6-17	5	5	5	5	5	5	5	5		
SP	18325	Boxes	P. Amboy	6-19	7	6-19	5	6-21	8	6-21	5	5	5	5	5	5	5	5		
PRR	47681	"	"	6-19	7	6-19	5	6-21	8	6-21	5	5	5	5	5	5	5	5		
D&H	3617	Coal	"	6-21	7	6-21	5	6-22	8	6-23	5	5	5	5	5	5	5	5		
SP	17965	Boxes	"	6-22	7	6-22	5	6-24	8	6-24	5	5	5	5	5	5	5	5		
PRR	53841	Bbls.	Manville	6-23	7	6-23	5	6-26	8	6-26	5	5	5	5	5	5	5	5		
NC&StL	9454	Boxes	Perth Amboy	6-23	7	6-23	5	6-26	7	6-26	5	5	5	5	5	5	5	5		
									90	236	2,508	48	236	1,642	48	235	1,615			
									Summary			236		236			235			
												90		48			48			
												\$2,834			\$1,926			\$1,898		

165b

MAAS & WALDSTEIN, NEWARK, N. J.—APRIL, 1916

[illegible]

MAAS & WALDSTEIN, NEWARK, N. J.—APRIL, 1916

Initial	Number	Point of Shipment	Contents	Arrived	Ordered	Const. Placed	Act. Placed	Released	As Charged				As Charge Would Be Allowing 48 Hrs. at \$1.00 Per Day				As Charge Would Be Allowing 72 Hrs. at \$1.00 Per Day			
									Drs. Col. 17	Drs.	Crs.	Ex. Drs.	Drs. Col. 17	Drs.	Crs.	Ex. Drs.	Drs. Col. 17	Drs.	Crs.	Ex. Drs.
B&S	10992 ✓	DuBois, Pa.	Coal	1-27-7		3-1-5	3-30-8	4-1-5		5		23		5		23		5		23
B&S	10822 ✓	" "	Coal	2-28-7		3-1-5	3-27-7	4-1-5		5		23		5		23		5		23
B&S	3302 ✓	" "	Coal	2-5-7		3-1-5	3-31-8	4-3-5		5		25		5		25		5		25
B&S	3319 ✓	" "	Coal	2-11-7		3-1-5	3-31-8	4-3-5		5		25		5		25		5		25
B&S	11048 ✓	" "	Coal	2-23-7		3-1-5	4-5-8	5-5-5		5		27		5		27		5		27
B&S	12335 ✓	" "	Coal	3-21-7		3-21-5	4-3-8	4-6-5		5		8		5		8		5		8
LSMS	63283 ✓	Perth Amboy	Box emty	4-1-7		4-1-5	4-6-8	4-6-5		2				2				1		
ACL	34694 ✓	Jersey C. Term	Linters	4-6-7		4-6-5	4-6-8	4-6-5			1				1					
B&S	10598 ✓	DuBois, Pa.	Coal	3-11-7		3-11-5	4-6-8	4-7-5		5		18		5		18		5		18
B&S	11516 ✓	" "	Coal	3-21-7		3-21-5	4-3-8	4-7-5		5		9		5		9		5		9
B&S	11556 ✓	" "	Coal	2-4-7		3-1-5	4-7-8	4-8-5		5		30		5		30		5		30
B&S	10578 ✓	" "	Coal	2-21-7		3-1-5	4-8-8	4-8-5		5		30		5		30		5		30
B&S	10100 ✓	" "	Coal	3-11-7		3-11-5	4-6-8	4-8-5		5		19		5		19		5		19
B&S	12427 ✓	" "	Coal	3-20-7		3-20-5	4-5-8	4-8-5		5		11		5		11		5		11
ABCX	1087 ✓	Hopatcong	Acid	3-29-7		3-29-5	4-1-8	4-8-5		5		2		5		2		5		2
LV	65566 ✓	Jersey C.H.R.	Linters	4-4-7		4-4-5	4-7-8	4-8-5		2				2				1		
LV	65385 ✓	" "	Linters	4-8-7		4-8-5	4-8-8	4-8-5			1				1					
B&S	3164 ✓	DuBois, Pa.	Coal	2-4-7		3-1-5	4-7-8	4-10-5		5		32		5		32		5		32
B&S	10138 ✓	" "	Coal	2-19-7		3-1-5	4-8-8	4-10-5		5		32		5		32		5		32
B&S	11571 ✓	" "	Coal	3-18-7		3-18-5	4-6-8	4-10-5		5		14		5		14		5		14
B&S	11280 ✓	" "	Coal	3-18-7		3-18-5	4-6-8	4-10-5		5		14		5		14		5		14
HBTX	167 ✓	Grays Ferry	Acid	4-3-7		4-3-5	4-5-8	4-10-5	1	4			1	4			1	4		
B&S	3305 ✓	DuBois, Pa.	Coal	2-4-7		3-1-5	4-7-8	4-11-5		5		33		5		33		5		33
B&S	12533 ✓	" "	Coal	2-19-7		3-1-5	4-10-8	4-11-5		5		33		5		33		5		33
B&S	10208 ✓	" "	Coal	2-4-7		3-1-5	4-12-8	4-12-5		5		34		5		34		5		34
B&S	10765 ✓	" "	Coal	3-14-7		3-14-5	4-10-8	4-12-5		5		21		5		21		5		21
AA	15042 ✓	" "	Linters	4-4-7		4-4-5	4-12-8	4-12-5					2	5			2	5		
SM	38933 ✓	" "	Linters	4-12-7		4-12-5	4-12-8	4-12-5	2		1				1					
PRR	87323 ✓	" "	Linters	4-12-7		4-12-5	4-12-8	4-12-5			1				1					
B&S	11405 ✓	DuBois, Pa.	Coal	2-4-7		3-1-5	4-12-8	4-13-5		5		35		5		35		5		35
B&S	10245 ✓	" "	Coal	2-4-7		3-1-5	4-12-8	4-13-5		5		35		5		35		5		35
B&S	10772 ✓	" "	Coal	2-11-7		3-1-5	4-14-8	4-14-5		5		36		5		36		5		36
B&S	11528 ✓	" "	Coal	2-11-7		3-1-5	4-14-8	4-15-5		5		37		5		37		5		37
B&S	3340 ✓	" "	Coal	2-11-7		3-1-5	4-15-8	4-17-5		5		39		5		39		5		39
B&S	3033 ✓	" "	Coal	2-11-7		3-1-5	4-15-8	4-17-5		5		39		5		39		5		39
B&S	3200 ✓	" "	Coal	2-11-7		3-1-5	4-14-8	4-17-5		5		39		5		39		5		39
TTX	218 ✓	Cin. Ohio PRR	Acid	4-10-7	4-13-7	4-10-5	4-15-8	4-17-5		2				2				2		
TTX	211 ✓	" " "	Acid	4-10-7	4-13-7	4-10-5	4-15-8	4-17-5		2				2				2		
TTX	201 ✓	" " "	Acid	4-13-7	4-13-5	4-13-5	4-15-8	4-17-5			1				1					
GT	14686 ✓	Oak T&L Trfr	B. Com.	4-14-7	4-15-7	4-14-5	4-17-8	4-17-5			1				1					
PL	863575 ✓	Put to Cop Hill Term	Emty	4-17-7			4-17-8	4-17-5			1				1					
B&S	3108 ✓	DuBois, Pa.	Coal	2-11-7		3-1-5	4-15-8	4-18-5		5		40		5		40		5		40
B&O	68800 ✓	East Lyne	Linters	4-4-7	4-14-5	4-14-5	4-18-8	4-18-5			1				1					
PM	51168 ✓	Manchester Trfr	Linters	4-15-7		4-15-5	4-18-8	4-18-5			1				1					
LV	82789 ✓	Jersey C. Term	Linters	4-18-7	4-18-5	4-18-5	4-18-8	4-18-5			1				1					
B&S	3085 ✓	DuBois, Pa.	Coal	2-11-7		2-1-5	4-18-8	4-19-5		5		41		5		41		5		41
TTX	221 ✓	Cin. Ohio PRR	Acid	4-13-7	4-13-5	4-13-5	4-15-8	4-19-5		1				1				1		
B&S	10076 ✓	DuBois, Pa.	Coal	2-16-7		3-1-5	4-20-8	4-20-5		5		42		5		42		5		42
B&S	11272 ✓	" "	Coal	2-23-7		3-1-5	4-19-8	4-20-5		5		42		5		42		5		42
B&S	12108 ✓	" "	Coal	4-12-7		4-12-5	4-19-8	4-20-5		5				5			2	5		
B&S	12320 ✓	" "	Coal	4-12-7		4-12-5	4-19-8	4-20-5		5				5			2	5		
B&S	3228 ✓	" "	Coal	2-16-7		3-1-5	4-20-8	4-22-5		5		44		5		44		5		44
B&S	3070 ✓	" "	Coal	2-16-7		3-1-5	4-20-8	4-22-5		5		44		5		44		5		44

Further Bill of Particulars.

NEW JERSEY SUPREME COURT.

LEHIGH VALLEY RAILROAD COMPANY,	}	<i>Action at Law.</i>	<i>Further Bill of Particulars.</i>	10
<i>Plaintiff,</i>				
<i>vs.</i>				
MAAS & WALDSTEIN COMPANY,	}	<i>Action at Law.</i>	<i>Further Bill of Particulars.</i>	10
<i>Defendant.</i>				

SIRS:

TAKE NOTICE that the sheets hereunto annexed constitute the further bill of particulars in the above entitled cause heretofore requested by you.

Yours respectfully,

McCARTER & ENGLISH,
Attorneys of Plaintiff.

20

To

MESSRS. LINDABURY, DEPUÉ & FAULKS,
Attorneys of Defendant.

Service of the within bill of particulars is acknowledged on this 19th day of April, 1922.

LINDABURY, DEPUÉ & FAULKS,
Attorneys of Defendant.

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Interrogatories.

INTERROGATORIES.

SIRS:

10 TAKE NOTICE that the plaintiff demands answers under oath of such of the officers, agents and employees of the defendant as have personal knowledge of the facts, to the following interrogatories:

* * * * *

4. Did you not with respect to each of the cars described by initial and number on the further bill of particulars served on you on April 19, 1922, receive from the plaintiff notice that the plaintiff was unable to deliver such cars because of the condition of your private tracks, or of other conditions attributable to you?

* * * * *

20

Yours respectfully,

McCARTER & ENGLISH,
Attorneys of Plaintiff.

TO MESSRS. LINDABURY, DEPUE & FAULKS,
Attorneys of Defendant.

30

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Exhibit P. 20.

EXHIBIT P. 20.

ANSWERS TO INTERROGATORIES.

Please take notice that the following are answers to the interrogatories served on us on the day of .

* * * * *

Answer to fourth interrogatory:

10

No officer, agent or employee of the defendant has personal knowledge of the facts called for by the fourth interrogatory. During the year defendant discontinued the particular manufacturing plant to which the cars above mentioned were consigned. By far the larger part of the employees of defendant who were employed at such plant are not now in defendant's employ. Defendant has, however, among its records, papers purporting to be notices of constructive placement, copies of which said notices (omitting plaintiff's demurrage rules 5 Sec. A and 6 Sec. A printed thereon) are annexed hereto and marked "Schedule I." No officer, agent or employee of defendant has any knowledge as to when these notices were received by defendant.

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Exhibit P. 20.

“SCHEDULE I”

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

NOTICE OF CONSTRUCTIVE
PLACEMENT

Newark, N. J. Station
3/1 1916.

10 Render this notice in duplicate and take receipt as indicated below:

M Maas Waldstein

You are hereby notified that this company is now holding the following cars subject to your orders or disposition, and which cannot be placed because of conditions attributable to you. These cars are subject to the regular, published demurrage charge of \$1.00 per car per day or fraction thereof, and will to be charged to you as constructively placed at the time this
20 Notice is given you, as required by Demurrage Rules 5 and 6 quoted hereon.

Car	Original Car		Point of Shipment	Contents	Where Located	Constructively Placed		
	Number	Initial				Date		Hour
						3	1	5P
√ 10992	BS	√	Du Bois	Coal	E. O. Isl.	“	“	“
11518	“		“	“	“	“	“	“
10110	“		“	“	“	“	“	“
11556	“		“	“	“	“	“	“
√ 3305	“		“	“	“	“	“	“
√ 3164	“		“	“	“	“	“	“
11401	“		“	“	“	“	“	“
√ 10208	“		“	“	“	“	“	“
√ 3302	“		“	“	“	“	“	“
10245	“		“	“	“	“	“	“
3298	“		“	“	“	“	“	“
3097	“		“	“	“	“	“	“
√ 3319	“		“	“	“	“	“	“
3243	NP		“	“	“	“	“	“
√ 3108	BS		“	“	“	“	“	“
√ 3340	“		“	“	“	“	“	“
√ 3085	“		“	“	“	“	“	“
√ 11528	“		“	“	“	“	“	“
√ 10772	“		“	“	“	“	“	“

Exhibit P. 20.

(If this Notice cannot be delivered personally by the Agent or his representative, it must be served by mail, and the Agent should fill out, date and sign the following certificate on the copy kept on file by the Agent:)

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 1916.

W. L. Van Syckel Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/1 1916.

M Maas Waldstein

√ 3200	BS	Du Bois	Coal	E. O. Isl.	3	1	5P	20
10076	"	"	"	"	"	"	"	
√ 3228	"	"	"	"	"	"	"	
√ 3070	"	"	"	"	"	"	"	
√ 10595	"	"	"	"	"	"	"	
3333	"	"	"	"	"	"	"	
10733	"	"	"	"	"	"	"	
3246	"	"	"	"	"	"	"	
√ 10138	"	"	"	"	"	"	"	
10910	"	"	"	"	"	"	"	
10670	"	"	"	"	"	"	"	
12533	"	"	"	"	"	"	"	
12394	"	"	"	"	"	"	"	
√ 10578	"	"	"	"	"	"	"	
√ 11048	"	"	"	"	"	"	"	
√ 11272	"	"	"	"	"	"	"	
23676	GT	J. City, N. J.	Linters	"	"	"	"	30
√ 3224	BS	Du Bois	Coal	"	"	"	"	
√ 10021	BS	"	"	"	"	"	"	

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on , 1916.

W. L. Van Syckel Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/1 1916.

M Maas Waldstein

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3120	BS		Du Bois, Pa.	Coal	E. O. Isl.	3	1	5P
3101	"		"	"	"	"	"	"
✓ 3216	"		"	"	"	"	"	"
1122	ABx	Phila. Pa.	Grays Ferry	Acid	"	"	"	"
1121	"	"	"	"	"	"	"	"
1090	"	"	"	"	"	"	"	"
169	HBx	"	"	"	"	"	"	"
✓ 174	"	"	"	"	"	"	"	"
186	"	"	"	"	"	"	"	"
183	"	"	"	"	"	"	"	"
101511	BS		"	Coal	"	"	"	"
276328	PRR		E. Bflo. N. Y.	Mach.	"	"	"	"
1118	ABxx	Phila. Pa.	Grays Ferry	Acid	"	"	"	"
12454	BS		Du Bois, Pa.	Coal	"	"	"	"
10964	"		"	"	"	"	"	"
20 10821	"		"	"	"	"	"	"
✓ 10822	"		"	"	"	"	"	"
✓ 3183	"		"	"	"	"	"	"
12457	"		"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on , 1916.
W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/1 1916.

M Maas Waldstein

8310	GATx	Phila. Pa.	Grays Ferry	Acid	E. O. Isl.	2	28	5P
1106	ABCx	"	"	"	"	"	"	"
15775	Penn.	Stein Hirsch	N York	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 3/1, 1916.
W. L. Van Syckel Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/2 1916.

M Maas Waldstein

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1097	ABCx	Atlas Powder	Reynolds, Pa.	M. Acid	E. O. Isl.	3	2	5P
		Thams		B/C				
67567	LV	Dying & Blea	J. City Term'l	Linters	"	"	"	"
3333	BS		Du Bois, Pa.	Coal	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on , 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/3 1916.

M Maas Waldstein

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1096	ABCx	Atlas Powder	Reynolds, Pa.	M. Acid	E. O. Isl.	3	3	5P
			Phila.					
8069	GATx	Harrison Bros.	Grays Ferry	S. Acid	"	"	"	"
188	HBIX	"	"	"	"	"	"	"
10419	BS		Du Bois, Pa.	Coal	"	"	"	"
10661	BS		"	"	"	"	"	"
10750	BS		"	"	"	"	"	"
11754	BS		"	"	"	"	"	"

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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on , 1916.

W. L. Van Syckel Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/4 1916.

M Maas Waldstein

10	√ 11016	BS		Du Bois, Pa.	Coal	E. O. Isl.	3	4	5P
	12566	BS		"	"	"	"	"	"
	84600	LV	Thos. D & B C	J. City	Linters	"	"	"	"
	√ 84946	LV	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on , 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

3/6 1916.

M Maas Waldstein

	1107	APCx	At. Powder	Reynolds, Pa.	MAcid	E. O. Isl.	3	6	5P
	33620	PRR	Thomas Du B.	J. City	Linters	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on , 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

3/11 1916.

M Maas Waldstein

	√ 10100	BS		Du Bois	Coal	E. O. Isl.	3	11	5P
	√ 10598	BS		"	"	"	"	"	"
	81562	LV	Thomas Du B.	J. City	Linters	"	"	"	"
	82104	CP	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on , 1916.

W. L. Van Syckel Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/14 1916.

M Maas Waldstein

30174	PM	Thos. Du B. Co.	J. City H. R.	Linters	O. K. Isl.	3	14	5P	10
112035	NYC	"	"	"	"	"	"	"	
√10765	BS		Du Bois	Coal	"	"	"	"	

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on , 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station. 20

3/18 1916.

M Maas Waldstein

√11571	BS		Du Bois,	Pa.	Coal	E. O. Isl.	3	18	5P
√11280	"		"		"	"	"	"	

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/18, 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

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Notice of constructive placement.

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Newark, N. J. Station.

3/20 1916.

M Maas Waldstein

9542	NYOW	Thomas D. B.	J. City	Linters	E. O. Isl.	3	20	5P
√12427	BS		Du Bois, Pa.	Coal	"	"	"	

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on , 1916.

W. L. Van Syckel Agent. 40

Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/21 1916.

M Maas Waldstein

10	√12335	BS	Du Bois, Pa.	Coal	E. O. Isl.	3	21	5P
	√11516	BS	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/21, 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

3/22 1916.

M Maas Waldstein

81505	LV	Thomas Du B. Co	J. City	Linters	E. O. Isl.	3	22	5P
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/22, 1916.

W. L. Van Syckel Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/25 1916.

M Maas Waldstein

173	HBIX	Grays Ferry	P. R. R.	Acid	E. O. Isl.	3	25	5P
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 3/25, 1916.

W. L. Van Syckel Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/27 1916.

M Maas Waldstein

BS 10686 Du Bois, Pa. Coal E. O. Isl. 3 27 5P 10

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 3/27, 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

3/29 1916. 20

M Maas Waldstein

VAPCx 1087 Hopatcong, NJ SAcid E. O. Isl. 3 29 5P

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 3/29, 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/1 1916.

M Maas Waldstein

V 63283	LSMS	Hill & Mount	P. Amboy	Mty				
26637	NP	Thomas D. B.	J. City	Wood Box	E. O. Isl.	4	1	5P
				Linters	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to
the shipper or consignee named hereon, at 5 P. M. on 4/1, 1916.

W. L. Van Syckel Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/3 1916.

M Maas Waldstein

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√HB1x 167 Grays Ferry, Phila. S.Acid E. O. Isl. 4 3 5P

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/3, 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

20

4/4 1916.

M Maas Waldstein

√LV 65566 Thomas Dye Co J. City Linter E. O. Isl. 4 4 5P

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/4, 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

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4/6 1916.

M Maas Waldstein

√34694 ACL Thomas D. B. J. City Linters E. O. Isl. 4 6 5P
This car released 4/6/16—5 P. M.

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/6, 1916.

W. L. Van Syckel Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

4/10 1916.

M Maas Waldstein

✓	211	IT Co	P. R. R.	Acid	E. O. Isl.	4	10	5P	10
✓	218	"	"	"	"	"	"	"	

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/10, 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/12 1916.

M Maas Waldstein

12486	BS		Du Bois, Pa.	Coal	E. O. Isl.	4	12	5P	
✓ 12320	BS		"	"	"	"	"	"	
✓ 12108	BS		"	"	"	"	"	"	
✓ 87323	PRR	Bklyn	Susp Bridge	BLinters	"	"	"	"	
✓ 38933	Sm.	"	"	"	"	"	"	"	

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/12, 1916.

W. L. Van Syckel Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/13 1916.

M Maas Waldstein

✓	221	ITx	P. R. R.	Acid	E. O. Isl.	4	13	5P	
✓	201	ITx	"	"	"	"	"	"	

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/13, 1916.

W. L. Van Syckel Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

4/14 1916.

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M Maas Waldstein

✓ 68800	BO	Thomas S. R.	E. Lynne, Ct	Linters	E. O. Isl.	4	14	5P
501523	ConStP		N. York Hr.	Soda	"	"	"	"
553175	PL		"	"	"	"	"	"
55298	CCCStL		"	"	"	"	"	"
✓ 14686	GT	Thomas B. B.	Oak Isl. Ty	Spleters	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/14, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

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Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/15 1916.

M Maas Waldstein

✓ PM	51168	Mis. Felt Co.	St. Louise	Linters	E. O. Isl.	4	15	5P
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/15, 1916.

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A. R. Miller Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/17 1916.

M Maas Waldstein

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		Thorme						
√PR	33119	Dye B. Co.	J. City	C. Linters	E. O. Isl.	4	17	5P
√NH	77740		N York Hr.	N.Soda	"	"	"	"
√NYCHR	112743		"	"	"	"	"	"
BO	76310		"	"	"	"	"	"
Erie	72755		"	"	"	"	"	"
√MO	52256		"	"	"	"	"	"
NYCStL	17013		"	"	"	"	"	"
√CNW	126314		"	"	"	"	"	"
F&DDMS	6234		"	"	"	"	"	"
CP	113686		"	"	"	"	"	"
RI	42224		"	"	"	"	"	"
√GT	102575		"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/17, 1916.

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A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/18 1916.

M Maas Waldstein

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√82789	LV	Thomas Du B.	J. City	Linters	E. O. Isl.	4	18	5P
√17555	CA	M. W. Co.	N Y Hr.	Soda	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/18, 1916.

A. R. Miller Agent.

Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/19 1916.

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M Maas Waldstein

✓ 213	ITx		P. R. R.	Acid	E. O. Isl.	4	19	5P
✓ 55015	CRIP	M. Wald	N Y Hrb.	Soda	"	"	"	"
✓ 65128	LV	"	"	"	"	"	"	"
✓ 4399	BRP	"	"	"	"	"	"	"
✓ 73809	LV	"	"	"	"	"	"	"
✓ 3602	BRP	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/19, 1916.

A. R. Miller Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/21 1916.

M Maas Waldstein

✓ LN	4140	M. W.	N Y Hr.	Soda	E. O. Isl.	4	21	5P
✓ CMStP	503490	Hill & Mount	P. Amboy	Mty Box	"	"	"	"

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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/20, 1916.

A. R. Miller Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/22 1916.

M Macs Waldstein

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√106150	Erie	M. W.	N Y Hr.	Soda	E. O. Isl.	4	22	5P
15281	NCStL	Hill Mount	P. Amboy	W. Boxes	"	"	"	"
29642	DLW	M. W.	N Y Hr.	Soda	"	"	"	"
√ 65120	LV	"	"	"	"	"	"	"
√ 69148	LV	"	"	"	"	"	"	"
√107456	CNW		P. R. R.	Linters	"	"	"	"
√ 85344	"		"	"	"	"	"	"
√ 69102	Erie		"	"	"	"	"	"
√ 34237	CRR	Hill M.	P. Amboy	W. Box	"	"	"	"
√ 87854	LV	Thomas D. B.	J. City	Linters	"	"	"	"
√122504	CNW	Hill Mount	P. Amboy	Mty Box	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/21, 1916.

A. R. Miller Agent. 20

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

4/24 1916.

M Maas Waldstein

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√CV	62095	M. W.	N Y Hr.	N. Soda	E. O. Isl.	4	24	5P
√OSL	10595	"	"	"	"	"	"	"
√LV	83615	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/24, 1916.

A. R. Miller Agent.

Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

4/25 1916.

M Maas Waldstein

10	ITx	227		P. R. R.	Acid	E. O. Isl.	4	25	5P
	203	ITx		"	"	"	"	"	"
	5006	GATx		"	"	"	"	"	"
	√36040	BA	M. W.	N York Hr.	Soda	"	"	"	"
	√82215	LV	"	"	"	"	"	"	"
	√31012	DLW	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/25, 1916.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

4/27 1916.

M Maas Waldstein

8307	GATx	G. S. Alex.	J. City	S. Acid	E. O. Isl.	4	27	5P
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I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/27, 1916.

A. R. Miller Agent.

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LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

4/28 1916.

M Maas Waldstein

√FSRG	10	G. S. Alex.	J. City	S. Acid	E. O. Isl.	4	28	5P
"	3	"	"	"	"	"	"	"
SCEx	1121	"	"	"	"	"	"	"

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 4/28, 1916.

A. R. Miller Agent.

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Exhibit P. 20.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

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Newark, N. J. Station.

5/11 1917.

M Maas Waldstein

LV	54826	5/14	P. C. Co.	Lee P. Coal	Coal	E. O. Isl.	5	11	5P
LV	15706	5/14	"	"	"	"	"	"	"

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Void by A. R. Miller

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 5/11, 1917.

A. R. Miller Agent.

LEHIGH VALLEY RAILROAD COMPANY

Notice of constructive placement.

* * * * *

Newark, N. J. Station.

5/14 1917.

M Maas Waldstein

NYCHR	93680	5/12	5/14	N Y Hr.	Soda	E. O. Isl.	5	14	5P
Erie	68593	5/14	5/14	"	"	"	"	"	"
CMStP	76442	5/14	5/15	"	"	"	"	"	"
LV	70449	5/14	5/14	"	"	"	"	"	"
LV	63846	5/12	5/14	"	"	"	"	"	"
CMR	84022	5/12	5/14	"	"	"	"	"	"
MC	88633	5/12	5/14	"	"	"	"	"	"
Wah	78085	5/14	5/15	"	"	"	"	"	"
AGSF	27040	5/14	5/15	"	"	"	"	"	"
NH	84901	5/12	5/14	J. City	Linters	"	"	"	"
IC	39374			P. Amboy	Cases	"	"	"	"
LV	52689	5/14		P Coal	Coal	"	"	"	"
LV	52084	5/14		"	Coal	"	"	"	"
LV	21085	5/14		"	"	"	"	"	"
LV	25178	5/14		"	"	"	"	"	"
LV	52726			"	"	"	"	"	"

30

Void per A. R. Miller

I hereby certify that copy of this Notice was mailed by me to the shipper or consignee named hereon, at 5 P. M. on 5/14, 1917.

A. R. Miller Agent.

40

Exhibit P. 20.

STATE OF NEW JERSEY, } ss.
COUNTY OF ESSEX.

10 HENRY V. WALKER, of full age, being duly sworn, on his oath says that he is the president of Maas & Waldstein, the defendant in the suit in which the foregoing answers to interrogatories are made, and he says that the facts set out in the said answers and statements therein made are true to the best of his knowledge as he verily believes.

HENRY V. WALKER.

Sworn and subscribed to before me
this 22nd day of September, 1922.

H. RICHARD WOEBSE,
(SEAL) *Notary Public of New Jersey.*

20

30

40

*Exhibit P. 21.***EXHIBIT P. 21.**

Duplicate.

LEHIGH VALLEY RAILROAD COMPANY.

GENERAL FREIGHT DEPARTMENT.

New York, N. Y., *January 15, 1919.* 10

Advice No. 621

To the INTERSTATE COMMERCE COMMISSION,
Washington, D. C.

Accompanying schedules are sent you for filing, in compliance with the requirements of the Act to regulate Commerce, issued by LEHIGH VALLEY RAILROAD COMPANY, and bearing numbers as shown below:

Supplement No.	I. C. C. No.	Effective Date	
4	✓C-4031	February 15, 1919	20
1	✓C-6400	February 15, 1919	
57	✓C-3744	February 15, 1919	

and are concurred in by all carriers named therein as participants, under continuing concurrences or authorizations now on file with the Interstate Commerce Commission, except the following-named carriers, whose concurrences are attached hereto:

Yours truly,

H. C. BURNETT,
Asst. General Freight Agent,
Per *E. A. King.*

30

Received
Interstate
Commerce Commission
4735 Jan 15 1919
Division of Tariffs

40

Exhibit P. 21.

Duplicate

LEHIGH VALLEY RAILROAD COMPANY.

New York, N. Y., *April 29, 1918.*

Advice No. 499

10	—	C-6010✓	May 31, 1918
	—	C-6012✓	May 6, 1918
	3	C-4031✓	May 31, 1918

* * * * *

* * * * *

Received
Interstate
Commerce Commission
21057 Apr 29 1918
Division of Tariffs

Yours truly,

H. C. BURNETT,
Asst. General Freight Agent,
Per *E A. King.*

20

Duplicate

LEHIGH VALLEY RAILROAD COMPANY.

New York, N. Y., *September 14, 1917.*

Advice No. 336

2	C-4031	October 15, 1917
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* * * * *

* * * * *

30

Yours truly,

Received
Interstate
Commerce Commission
62523 Sep 14 1917
Division of Tariffs

H. C. BURNETT,
Asst. General Freight Agent,
Per *E A. King.*

40

Exhibit P. 21.

Duplicate

LEHIGH VALLEY RAILROAD COMPANY.

New York, N. Y., *December 26, 1916.*

Advice No. 143

	* * * * *		
—	C-4364✓	January 28, 1917	10
—	C-4367✓	February 1, 1917	
17	C-3980✓	February 1, 1917	
1	C-4031✓	February 1, 1917	
8	C-4170✓	February 1, 1917	
	* * * * *		

Yours truly,

Received
Interstate
Commerce Commission
4442 Dec 26 1916
Division of Tariffs

H. C. BURNETT,
Asst. General Freight Agent,
Per B. H. Dewey.

20

Duplicate

LEHIGH VALLEY RAILROAD COMPANY.

New York, N. Y., *February 9, 1916.*

Advice No. 10010

	* * * * *		
1	A-994 ✓	March 16, 1916	
2	C-3910✓	"	30
	C-4034✓	"	
	C-4037✓	"	
	C-4038✓	"	
	C-4031✓	"	
	C-4036✓	"	
	* * * * *		

Yours truly,

Received
Interstate
Commerce Commission
12768 Feb 9 1916
Division of Tariffs

H. C. BURNETT,
Asst. General Freight Agent,
Per W. R. Coddington.

40

Exhibit P. 21.

Tariff I. C. C. No. C-4031.

Cancels Tariff I. C. C. No. B-9993.

P. S. C.-2 N. Y. No. D-3248.

Cancels P. S. C.-2 N. Y. No. D-2803.

P. S. C.-Pa. No. K-1973.

10 Cancels P. S. C.-Pa. No. K-1244.

Only one Supplement to this Tariff will be in effect at any time.

LEHIGH VALLEY RAILROAD COMPANY

Local Freight Tariff

of

Storage Charges

20

and

Rules Regarding the
Storage of Freight

at stations on the

Lehigh Valley Railroad Company

Issued February 11, 1916.

Effective March 16, 1916.

30

Issued by

T. Clem. Beck, Chief of Tariff Bureau, New York, N. Y.

Wm. T. Grier, General Traffic Manager, New York, N. Y.

H. C. Hamilton, General Freight Agent, New York, N. Y.

(X13337)

Receipt No. 85964.

Exhibit P. 21.

STORAGE.

RULE 1.—Freight, other than company material, and except as provided in Note 1, received for delivery, or held to complete a shipment or for forwarding directions at all points on Lehigh Valley Railroad Company, not including Brooklyn, N. Y., Jersey City, N. J., Jersey City (National Docks), N. J., Jersey City (Communipaw Ave.), N. J., or New York, N. Y., if stored in or on railroad premises, is subject to the rules and regulations named below. 10

NOTE 1.—When space is available upon the vacant land of this company, shippers will be permitted to place on such land freight which is not liable to damage from the elements and which is not ordinarily handled through freight houses, and same will be allowed to remain thereon without charge, pending shipment, and entirely at owner's risk; vacant space to be designated by the proper representative of this Company. 20

(a) Carload shipments of explosives or other dangerous articles are subject to both demurrage and storage rules. (See Rule 6.)

(b) Other carload freight held in cars for delivery and subsequently unloaded in or on railroad premises at request of shipper or consignee is subject to demurrage rules while in cars and to these storage rules after it is unloaded. If unloaded by the railroad company the actual cost of unloading will be in addition to the storage charge, and if reloaded by the railroad company the actual cost of reloading will also be in addition to the storage charge. (See Rule 5-F.) 30

(c) Shipments of less than carload freight loaded into or delivered direct from cars are subject to storage rules, but when the loading or unloading is done by shipper or consignee, either as required by tariffs or at request of shipper or consignee, the cars are subject to demurrage rules and storage rules do not apply. 40

Exhibit P. 21.

(d) Freight upon which the free time allowed under demurrage rules has expired while in cars, and which is subsequently unloaded in or on railroad premises, is subject to these storage rules when unloaded, without free time allowance.

10

NOTIFICATION OF ARRIVAL.

RULE 2.—(a) Notice shall be sent or given consignee by carrier's agent in writing, or as otherwise agreed to by carrier and consignee, within twenty-four hours (one day) after arrival of shipment and billing at destination, such notice to contain point of shipment and commodity.

REFUSED OR UNCLAIMED EXPLOSIVES, ETC.

20 (b) Notice shall be sent or given the consignor of unclaimed or refused shipments of explosives or other dangerous articles on hand 48 hours, providing written request is received for this information by agent at point of origin at time of shipment. Such request should be plainly written on a rectangular piece of paper of color different from that of any label required under the Interstate Commerce Commission's regulations, and placed on the package in close proximity to such label (or to name of consignee).

30 When consignor requests this notice by telegraph it may only be given at his expense.

FREE TIME ALLOWED.

RULE 3.—(a) Forty-eight hours (two days) free time will be allowed on all commodities (except the more dangerous explosives as described in Rule 6-A) for the removal of inbound freight from car or railroad premises, or to complete a shipment and furnish forwarding directions for outbound freight, except as covered by Note
40 1 to Rule 1.

Exhibit P. 21.

(b) Twenty-four hours (one day) free time will be allowed on the more dangerous explosives (as described in Rule 6-A) for the removal of inbound freight from car or railroad premises, or to complete a shipment and furnish forwarding directions for outbound freight.

(c) Shipments held for reconsignment or reshipment will be allowed twenty-four hours (one day) free time. 10

DEMURRAGE CHARGES ON EASTBOUND CARLOAD TRAFFIC CON-
SIGNED TO BUFFALO CONSIGNEES, EX LEHIGH
VALLEY TRANSPORTATION COMPANY.

Except as otherwise provided herein, freight remaining on Lehigh Valley Railroad Company's dock more than four days after unloading from vessel (Sundays and legal holidays excepted) will thereafter be subject to a storage charge of \$1.00 per carload, or any part of such carload, per day or fraction of a day. 20

The Lehigh Valley Railroad Company reserves the right to send such shipments to public store, at the expense and risk of owners, at any time after the expiration of the four days above referred to. All shipments held on Lehigh Valley Railroad Company's dock to be at owner's risk.

DEMURRAGE.

If property is not removed from the Lehigh Valley Railroad Company's dock by the party entitled to receive it within 48 hours (exclusive of legal holidays) after notice of its arrival has been duly sent or given, it will be sent to a public or licensed storage warehouse at the cost of the owner, and there held at the owner's risk. 30

Exhibit P. 21.

COMPUTING TIME.

RULE 4.—

NOTE.—In computing free time Sundays and full legal holidays (National, State and Municipal) will be excluded. When a legal holiday falls on a Sunday, the following Monday will be excluded.

10

(a) Time will be computed from the first 7.00 A. M. after the day on which notice is sent or given to consignee.

(b) On outbound freight held to complete a shipment or for forwarding directions time will be computed from the first 7.00 A. M. after receipt in or on railroad premises.

(c) On outbound carloads of explosives and other dangerous articles (as described in Rule 6) time will be computed from the first 7.00 A. M. after loading is begun.

20

(d) When orders for freight held for disposition are mailed, such orders will release freight at 7.00 A. M. of the date orders are received at the station where the freight is held, provided the orders are mailed prior to the date received, but orders mailed and received on the same date release freight the following 7.00 A. M.

CHARGES FOR STORAGE ON FREIGHT OTHER THAN EXPLOSIVES
AND OTHER DANGEROUS ARTICLES.

30 RULE 5.—(a) Freight, except explosives or other dangerous articles (see Rule 6), held in or on railroad premises in excess of free time allowed, is subject to storage charges at the rate of one-half ($\frac{1}{2}$) cent per 100 pounds per day, or, at the option of the railroad, may be sent to public warehouses. (See Rule 5-F and Rule 7.)

(b) Any fractional part of 100 pounds will be computed as 100 pounds, and any fractional part of twenty-four hours will be computed as one day.

40 (c) In no case shall the amount so collected for storage of a less than carload shipment exceeds the amount

Exhibit P. 21.

authorized to be charged as storage on a carload of similar freight for the same length of time.

(d) The minimum charge for each consignment will be as follows:

500 pounds or less	15 cents.	
Over 500 pounds to and including 1,000 pounds	20 cents	10
Over 1,000 pounds	25 cents	

(e) The storage charge on Automobiles will be 20 cents per ton per day; minimum charge to be 25 cents per machine per day. Any fractional part of 2,000 pounds will be computed as one ton, and any fractional part of twenty-four hours will be computed as one day.

(f) Carload freight which is unloaded by this company for the purpose of releasing needed equipment will be subject to storage charge the same as would have accrued under car demurrage rules had the freight remained in the car, which charges are provided for in Tariff I. C. C. No. F-17, P. S. C.-2 N. Y. No. G-15, P. S. C.-Pa. No. J-12, supplements thereto and reissues thereof.

CHARGES FOR STORAGE ON EXPLOSIVES AND OTHER DANGEROUS ARTICLES.

Extracts from regulations prescribed by the Interstate Commerce Commission.

1.—Paragraph 1433. * * * * “Consignees must remove such shipments from the carrier’s property within 48 hours after notice of arrival at destination, Sundays and holidays not included.”

2.—Paragraph 1643 (a) * * * * “If a shipment of explosives is not removed within 48 hours after notice of arrival at destination, it must be disposed of by return to the shipper, or by storage at the expense of the owner, or by sale, or when necessary to safety by destruction under the supervision of a competent person.”

Exhibit P. 21.

3.—Paragraph 1714. * * * * “Consignees must remove such shipments from the carrier’s property within 48 hours after notice of arrival at destination, Sundays and holidays not included.”

10 RULE 6.—Storage will be charged at the following rates per day of twenty-four hours or fraction thereof, on explosives or other dangerous articles held in or on railroad premises in excess of free time allowed:

(a) On less than carload shipments of the more dangerous explosives, i. e., Low Explosives, Black Powder, High Explosives, Wet Fulminate of Mercury, Blasting Caps, Electric Blasting Caps, Ammunition for Cannon with explosive projectiles, Explosive Torpedoes and Detonating Fuzes, unloaded in or on railroad premises, twenty-five (25) cents per 100 pounds, with a minimum charge of fifty (50) cents.

20 On carload shipments, \$5.00 per day (Sundays and full legal holidays—National, State and Municipal—excluded) in addition to the regular demurrage charges.

30 (b) On less than carload shipments of the less dangerous and relatively safe explosives, i. e., Ammunition for Cannon with empty projectiles, Ammunition for Cannon with sand loaded projectiles, Ammunition for Cannon with solid projectiles, Ammunition for Cannon without projectiles, Smokeless Powder for Cannon, Smokeless Powder for small arms, Common Fireworks, Special Fireworks, Small-Arms Ammunition, Cannon Primers, Small-Arms Primers, Empty Cartridge Bags, Black Powder Igniters, Empty Cartridge Shells, primed, Combination Primers, Percussion Caps, Percussion Fuzes, Time or Combination Fuzes, Safety Fuze, Cordeau Detonant and Safety Squibs, or less than carload shipments of Dangerous Articles other than Explosives requiring Red, Yellow, Green or White I. C. C. labels, unloaded in or on railroad premises, ten (10) cents per 100 pounds, with a minimum charge of twenty-five (25) cents.

40

Exhibit P. 21.

On carload shipments, \$2.00 per day (Sundays and full legal holidays—National, State and Municipal—excluded) in addition to the regular demurrage charges.

(c) When shipments of the more dangerous explosives (see Section A) are not removed from the railway premises by the consignee within the legal limit (forty-eight hours) (two days) after the first 7.00 A. M. following notice of arrival, the most practicable of the steps authorized by Paragraph 1643 (a), as quoted above, must be taken to secure this removal. 10

When available, powder magazines not on railway property should be utilized for storage.

LESS CARLOAD FREIGHT STORED IN PUBLIC WAREHOUSES.

RULE 7.—At the points named below, less carload freight not removed within the free time specified in Rule 3 will be stored in public warehouses at owner's risk and cost, including expense of cartage or switching: 20

Allentown, Pa.	Niagara Falls, N. Y.
Bethlehem, Pa.	Pottsville, Pa.
Buffalo, N. Y.	Rochester, N. Y.
Elmira, N. Y.	South Bethlehem, Pa.
Newark, N. J.	

Freight may be switched, at the option of this company, from stations to public warehouses, and when so switched the charge for switching will be two (2) cents per 100 pounds, with a minimum charge of twenty-five (25) cents for each consignment. 30

Freight which public warehouses will not accept will be stored by this company on its premises at the rates specified in Rule 5.

Exhibit P. 21.

CLAIMS.

RULE 8.—No storage charges shall be collected under these rules through causes named below. Storage charges assessed or collected under such conditions shall be promptly cancelled or refunded by the carrier.

10

CAUSES.

(a) Weather Interference.

1.—When the condition of the weather during the prescribed free time is such as to make it impossible to remove freight from premises without serious injury to the freight the free time shall be extended until the prescribed number of hours free from such weather interference shall have been allowed.

20

2.—When, because of high water or snow-drifts, it is impossible to remove freight from railroad premises during the prescribed free time.

NOTE.—Section A, Paragraphs 1 and 2, shall not absolve a consignee from liability for storage if others similarly situated and under the same conditions are able to remove freight.

(b) Demand of Overcharge.

When the carrier's agent demands the payment of transportation charges in excess of tariff authority.

30

(c) Delayed or Improper Notice by Carrier.

1.—When notice has been sent or given in substantial compliance with the requirements as specified in these rules, the consignee shall not thereafter have the right to call in question the sufficiency of such notice unless within the prescribed free time he shall serve upon the delivering carrier a full written statement of his objections to the sufficiency of such notice.

40

2.—When claim is made that a mailed notice has been delayed, the postmark thereon shall be accepted as indicating the date of the notice.

Exhibit P. 22.

(d) Railroad errors which prevent proper tender or delivery.

(e) Delay by United States Customs.

Such additional free time shall be allowed as has been lost through such delay.

10

EXHIBIT P. 22.

Duplicate.

LEHIGH VALLEY RAILROAD COMPANY.

GENERAL FREIGHT DEPARTMENT.

New York, N. Y., *March 30, 1916.*

Advice No. 10043

20

To the INTERSTATE COMMERCE COMMISSION,
Washington, D. C.

Accompanying schedules are sent you for filing, in compliance with the requirements of the Act to regulate Commerce, issued by LEHIGH VALLEY RAILROAD COMPANY, and bearing numbers as shown below:

Supplement No.	I. C. C. No.	Effective Date	
5	F-17v	April 1, 1916	30

and are concurred in by all carriers named therein as participants, under continuing concurrences or authorizations now on file with the Interstate Commerce Commission, except the following-named carriers, whose concurrences are attached hereto:

Yours truly,

Received
Interstate
Commerce Commission
21330 Mar 30 1916
Division of Tariffs

H. C. BURNETT,
Asst. General Freight Agent,
Per *B. H. Dewey.* 40

*Exhibit P. 23.***EXHIBIT P. 23.**

Duplicate.

LEHIGH VALLEY RAILROAD COMPANY.

GENERAL FREIGHT DEPARTMENT.

10

New York, N. Y., *October 31, 1916.*

Advice No. 105

To the INTERSTATE COMMERCE COMMISSION,
Washington, D. C.

Accompanying schedules are sent you for filing, in compliance with the requirements of the Act to regulate Commerce, issued by LEHIGH VALLEY RAILROAD COMPANY, and bearing numbers as shown below:

	Supplement No.	I. C. C. No.	Effective Date
20	—	C-4296✓	December 1, 1916
	—	C-4306✓	December 1, 1916
	—	C-4307✓	December 1, 1916
	9	C-4110✓	December 1, 1916
	11	B-5026✓	December 2, 1916
	6	F- 17✓	December 1, 1916

and are concurred in by all carriers named therein as participants, under continuing concurrences or authorizations now on file with the Interstate Commerce Commission, except the following-named carriers, whose concurrences are attached hereto:

Yours truly,

Received
Interstate
Commerce Commission
61757 Oct 31 1916
Division of Tariffs

H. C. BURNETT,
Asst. General Freight Agent,
Per B. H. Dewey.

40

New Jersey Court of Errors and Appeals

LEHIGH VALLEY RAILROAD COM-
PANY,

Plaintiff-Appellant,

vs.

MAAS & WALDSTEIN COMPANY,

Defendant-Respondent.

*Action at
Law.*

*On Appeal
from
Supreme
Court.*

BRIEF FOR APPELLANT.

Statement.

This is an appeal from a judgment of non-suit in an action tried at the Essex Circuit, before his Honor, Judge Mountain and a jury.

The plaintiff, Lehigh Valley Railroad Company, is a common carrier, and brought this action against Maas & Waldstein Company, a manufacturing corporation having a place of business in Newark, New Jersey, to recover accrued car demurrage, and an additional sum due for track storage of cars containing dangerous commodities. Prior to the time in question, the plaintiff and defendant entered into a written contract known as Car Demurrage Average Agreement, which was Exhibit P. 1 (Case, p. 76). This agreement which is of the utmost importance, is in the form of a letter signed by the defendant, in which the defendant says that it is fully acquainted with the terms, conditions and effect of the average basis for settlement for detention to cars set forth in certain published tariffs, and being desirous of availing themselves of that method of settlement, did agree with the plaintiff that, "With respect

to all cars which may, during the continuance of this agreement, be handled for *our* account at *Newark, N .J.* (station), *we* will fully observe and comply with all the terms and conditions of said rules as they are now published or may hereafter be lawfully modified by duly published tariffs, and will make prompt payment of all demurrage charges accruing thereunder in accordance with the average basis as therein established or as hereafter lawfully modified by duly published tariffs (time on intrastate and interstate business to be computed in accordance with the rules set forth in the above-named tariff or as said rules may be lawfully modified hereafter by duly published tariffs).'' This agreement was accepted by the plaintiff.

The demurrage rules referred to in the average agreement are in evidence (Exhibit P. 2, Case, p. 77), and are modified as to cars placed after April 1st and not later than June 15, 1916, by Supplement #5, Exhibit P. 3 (Case, p. 92). In order properly to understand the effect of the average agreement, Exhibit P. 1, it is necessary briefly to consider the demurrage situation in the absence of such an average agreement. Demurrage is, of course, a per diem charge imposed by the railroad company for delay in loading or unloading cars furnished by the railroad company for the defendant. As all of the demurrage claimed in this suit is for delay in unloading cars consigned to the defendant, we shall omit all reference to any other kind of demurrage.

Rule 2, Section A (Case, p. 80) provides that forty-eight hours, two days, free time be allowed for loading or unloading. The instructions to the agents under this rule (Case, p. 80) provide in part:

"At points within the State of New Jersey, such time will be allowed for loading or unloading intrastate traffic as may be necessary to comply with the State laws, except on cars subject to Average Agreement."

By Rule 3 Sundays and holidays are excluded in computing time, and by Section D of Rule 2, all cars to be delivered on any other than public delivery tracks, time will be computed from the first seven A. M. after actual or constructive placement on such tracks.

Rule 4 provides that written notice shall be sent the consignee of arrival of the car, such notice to contain point of shipment, car initials and numbers and the contents.

Rule 5, Section A, provides (Case, p. 85):

"SECTION A When delivery of cars consigned or ordered to any other than public delivery tracks or to industrial interchange tracks cannot be made on account of the act or neglect of the consignee, or the inability of the consignee to receive, delivery will be considered to have been made when the cars were tendered. The agent of this Company must send or give the consignee written notice of all cars he has been unable to deliver because of the condition of the private or interchange tracks, or because of other conditions attributable to consignee. This will be considered constructive placement. See Rule 4 (Notification)."

Rule 7, Section A, provides that after the expiration of the free time allowed, a charge of \$1.00 per car per day or fraction of a day will be made until the car is released.

Rule 9 authorizes the making of the average agreement, and provides as follows (Case, p. 89):

"When a shipper or receiver enters into the following agreement, the charge for de-

tention to cars, provided for by Section A of Rule 7, on all cars held for loading or unloading by such shipper or receiver shall be computed on the basis of the average time of detention to all such cars released during each calendar month, such average detention to be computed as follows:

SECTION A A credit of one day will be allowed for each car released within the first twenty-four hours of free time (except for a car subject to Rule 2, Section B.) A debit of one day will be charged for each twenty-four hours or fraction thereof that a car is detained beyond the free time. In no case shall more than one day's credit be allowed on any one car, and in no case shall more than five days' credit be applied in cancellation of debits accruing on any one car. When a car has accrued five (5) debits, the charge provided for by Rule 7 will be made for all subsequent detention, including Sundays and holidays. When the fifth debit day falls on a Saturday or on a day preceding a legal holiday, no charge will be made for the Sunday or legal holiday, or both, immediately following, the fifth debit day in such case not being ended until 7 A. M. of the day following."

Briefly, the effect of the average agreement is to enable the consignee to get credits for unloading within the first twenty-four hours, which credits he may use to cancel debits for delays beyond the free time, not to exceed, however, five days per car delayed, so that, for example, if a consignee has received six cars within one month, and has unloaded and released five of them within the first twenty-four hours after they have been placed, but delays the sixth car for ten days beyond the free time, he may use his five credits to cancel the five of the ten debits against the sixth car, and be chargeable for only the five remaining days of the ten actually delayed.

Section 47 of the Act Concerning Railroads (Revision of 1903) as amended by P. L. 1907, page 648, C. S. 4242, Section 47, so far as relevant, provides:

“Where the consignee of property transported by railroad to any point in this state cannot be found, or refuses to receive and pay charges and remove such property, the company may make and collect a reasonable charge not exceeding one dollar per day, for the detention of any railroad car containing such property, or for the use of the railroad track, occupied by such car or for both such detention and use; provided, no railroad company shall be entitled to impose, demand or collect any charge for delay in unloading goods from any railroad car, or for any detention of such car, commonly called demurrage or car service, until after the expiration of three whole days, at least, exclusive of Sundays, from the time such car has been placed in proper position for unloading, and has, except removal for convenience of railroad operation, not exceeding one working hour daily, so remained; * * * ”

This statute, of course, applies only to intrastate commerce. Moreover, when the parties entered into the average agreement, they contract out of it. The extent of such contracting out is one of the principal questions in this case.

Hitherto, we have considered only the unsupplemented demurrage rule. The effect of supplement #5, Exhibit P. 3, is as follows: It applies to cars placed after April 1, 1916, and not later than June 15, 1916, after which last mentioned date the situation existing before April 1st was restored. This supplement affects only the demurrage charge, Rule 7, and the average agreement, Rule 8. It provides, as to Rule 7, Section A (Case, p. 92):

“After the expiration of free time allowed a charge of \$1 per car per day, or fraction of a day, will be made for the first seventy-two hours (three days); and (except as otherwise provided in Sections B and C) \$2 per car per day for each succeeding or fraction thereof, until car is released.”

The exceptions provided in B and C have no application to the case at bar. In other words, the effect of the supplement is that after the first three days delay, following the expiration of the free time, the charge is increased from \$1 to \$2 a day, although for the first three days delay after the expiration of the free time, it remains at \$1 per day. Section D of the Supplement (Case, p. 93) provides:

“Credits earned under Rule 9 (Average Agreement) cannot be used to offset any portion of the charges provided above which is in excess of \$1 per day.”

A corresponding amendment is made by this supplement in Section A, Rule 9, referring to the average agreement, which amendment reads as follows (Case, p. 94):

“When a shipper or receiver enters into the following agreement, \$1.00 of the charge per car per day or fraction of a day of detention to cars, provided for by Rule 7, on all cars held for loading or unloading by such shipper or receiver shall be computed on the basis of the average time of detention to all such cars released during each calendar month, such average detention to be computed as follows:

SECTION A—A credit of one day will be allowed for each car released within the first twenty-four hours of free time (except for a car subject to Rule 2, Section B. paragraph 5). A debit of one day will be charged for each twenty-four hours or fraction thereof that a car is detained beyond the free time. In no case shall more than one day's credit

be allowed on any one car, and in no case shall more than five days' credit be applied in cancellation of debits accruing on any one car. When a car has accrued five (5) debits, the charge provided for by Rule 7 will be made for all subsequent detention, except that for subsequent Sundays and legal holidays only \$1.00 of the charge per day provided by Rule 7 will be made. When the fifth debit day falls on a Saturday or on a day preceding a legal holiday, no charge will be made for the Sunday or legal holiday, or both, immediately following, the fifth debit day in such case not being ended until 7 A. M. of the day following."

Until the going into effect of supplement #5, Exhibit P. 3, *supra*, the only inconsistency between the New Jersey statute and the situation under the average agreement, is found in the amount of free time, the rate per day after the free time as to ordinary cars (and we are not concerned with any of the exceptional cars for which a higher rate is provided) being \$1.00 per day per car. Under the supplement, however, not only is there a difference in the free time, but after three days the rate per day per car is \$2.00 instead of \$1.00 per day.

I.

The Court erred in Granting the Non-suit.

Having put in evidence the average agreement, the demurrage rules and the supplement thereto (Exhibit P. 3), all above referred to, the plaintiff proceeded to establish the detention of the several cars claimed in the first count of the complaint and the particulars. It first established, through the witnesses Goodmanson and Quinn, that the cars in question were all destined for the private delivery tracks of the defendant,

a siding where the cars consigned to the defendant were moved by the railroad's locomotives. The same witnesses proved that the defendant's said tracks were, during the time in question, so congested with cars delivered there both by the plaintiff and another railroad, that the plaintiff was unable to deliver on those tracks a large number of cars, so that there were from forty to fifty cars consigned to the defendant continually standing on the Oak Island Yards of the plaintiff. This, of course, showed a condition within Rule 5-A of the demurrage rules (Case, p. 85), justifying and requiring the giving of written notice of constructive placement called for in that rule. The mailing of the notices of constructive placement was proved by the witness Riedel. When, however, the plaintiff went on to prove the release of the cars, commencement of whose demurrage periods was established by the constructive placement notices, the records offered to prove the dates of such release, P. 7 and P. 8, for identification, were excluded by the Court on the ground that they were in the handwriting of a witness whose absence was not satisfactorily accounted for (Case, pp. 50, 51, 54). Upon the Court making this ruling, counsel for the plaintiff asked the Court for leave to withdraw a juror. The Court first granted this request (Case, p. 56, l. 2) and then, upon counsel for the defendant withdrawing his consent previously given, reversed himself and refused (Case, p. 56). It became necessary for the plaintiff, therefore, to prove so much of the case as it could out of the mouth of the defendant and by its admissions. Accordingly, the plaintiff called to the stand the defendant's president, Henry V. Walker, examined him, and through him identified and put in evidence a correspondence between the parties. Of course,

if from all the evidence, including the correspondence, there appeared facts showing that even \$1.00 was due, the non-suit was erroneous. We shall show that the written admissions of the defendant, not only go to the extent that upon the proper legal interpretation of the effect of the average agreement (P. 1) something was due the plaintiff, but also to the effect that detention of cars existed sufficient to show, on any construction of the law, that some demurrage was due.

Exhibit P. 16 was a letter from the general solicitor of the plaintiff to the defendant, dated May 16, 1917, enclosing a proposed agreed statement of facts. The letter said in part (Case, p. 156):

"I am sending herewith a copy of a proposed agreed statement of facts to be submitted to the Board of Public Utility Commissioners of New Jersey in the above-entitled matters. * * * This company is willing to submit its claim to the Board in the manner suggested in the agreed statement. I have not attached to the agreed statement the tariff publications, or the average agreement, as you are familiar with the same. Will you kindly return this draft with any suggestions you have in reference thereto at an early date, as the amount outstanding against your company is so large that we must take immediate steps toward the settlement of the same."

The agreed statement of facts appears (Case, pp. 157-161). After reciting and quoting from the demurrage rules, tariffs and average agreement hereinabove referred to, it went on to say: (Case, p. 160.)

"(4) The Railroad Company contends that the Maas & Waldstein Company, by the signing of the said agreement, made it unnecessary to keep separate accounts of cars delivered to the said Company in interstate

traffic and cars delivered in intrastate traffic; that by the signing of the said agreement the Maas & Waldstein Company waived the provisions of the Statute of the State of New Jersey, in reference to demurrage, Pamphlet Laws, 1907, page 648. The said Statute is as follows:

'When the consignee of property transported by railroad to any point in this State cannot be found, or refuses to receive and pay charges and remove such property, the Company may make and collect a reasonable charge not exceeding \$1.00 per day, for the detention of any railroad car containing such property, or for the use of the railroad car containing such property, or for the use of the railroad track occupied by such car, or for both such detention and use.' The Maas & Waldstein Company contends that by the signing of the said average agreement it waived the time provisions of the said act only, and agreed that instead of being allowed 72 hours' free time on cars moving in intrastate traffic it should be allowed only 48 hours on such cars in accordance with the Interstate Commerce Commission's regulations and tariffs respecting interstate cars; that by signing the said agreement they did not waive the provisions of the said act to the effect that demurrage charges on intrastate traffic in the State of New Jersey shall be no more than one dollar per car per day.

It is agreed that if by signing the said average agreement the Maas & Waldstein Company waived the provisions of the New Jersey statute quoted above, the said Company is indebted to the Lehigh Valley Railroad Company in the sum of \$6,818.00 for demurrage assessed in accordance with the tariffs referred to above and made part of this statement, and that the said sum will be paid by the Maas & Waldstein Company, with such interest thereon as the Board may decide to be due, immediately upon the decision of the Board.

It is further agreed that if the Maas & Waldstein Company did not waive that provision of the Statute limiting demurrage charges to one dollar per day by the signing of the said agreement, the Maas & Waldstein Company will immediately pay to the Lehigh Valley Railroad Company, and the said Railroad Company will accept in full settlement of this claim, all demurrage charges found by the Board to be due the Railroad Company in accordance with the said average agreement and the said interstate tariffs of the said Railroad Company in effect during the said months at the rate of one dollar per day demurrage instead of the increased demurrage charges demanded by the Railroad Company and published in the said tariffs."

What did the defendant do about this agreed statement of facts? Its answer is Exhibit P. 14, the defendant's letter to the plaintiff of May 25, 1917, in which the defendant says (Case, p. 151):

"We have yours of May 16th with copy of the Proposed Agreed Statement of Facts to be submitted to the Board of Public Utility Commissioners of New Jersey, relative to your claim against our Company for Demurrage assessed at Newark during April, June, July, August and September, 1916. The Statement of Facts is correct and we are willing to submit the case to the Board upon this statement. However, we desire to direct your attention to the fact that we have not claimed that all the assessed charges arose on Interstate shipments. If you desire, for the purpose of adjusting the whole matter, to do so as outlined in the statement, we have no objection but wish you to understand that in so doing you waive a portion of your claim which in our opinion properly should be adjusted by other means. We are not returning the draft as we desire to preserve the copy for our records."

The defendant admits in writing the agreed statement of facts is correct, but that it is too favorable to the defendant in that it makes the whole right to demurrage depend upon the construction contended for by the plaintiff of the average agreement with respect to interstate traffic. Although the defendant points out that the agreed statement is thus too favorable to it, the defendant unequivocally says:

“The statement of facts is correct and we are willing to submit the case to the Board upon this statement.”

If, therefore, as a matter of law, the plaintiff's construction of the average agreement, Exhibit P. 1, is correct, the defendant has admitted that there is due from it to the plaintiff over \$6,000.

The plaintiff's construction of the average agreement is correct. In the absence of the average agreement, we have seen that the difference between the lawful rates for demurrage in interstate and intrastate traffic prior to supplement #5, Exhibit P. 3, is: seventy-two hours of free time in intrastate traffic under the New Jersey statute as against forty-eight hours of free time in interstate traffic. After the going into effect of supplement #5, Exhibit P. 3, there was this difference and the additional difference of a charge of \$2.00 per day after the first three days, during which the rate was \$1.00 per day, following the expiration of free time, as against a flat rate of \$1.00 a day after the free time under the New Jersey statute. A reading, however, of the average agreement itself shows how different is the situation when it has been entered into. In and by this agreement, the defendant said to the plaintiff (Case, p. 76):

“Being fully acquainted with the terms, conditions and effect of the average basis

for settling for detention to cars set forth in Tariff * * * being the car demurrage rules governing at all stations and sidings * * * and being desirous of availing ourselves of this alternate method of settlement, we do expressly agree * * * that with respect to all cars which may, during the continuance of this agreement, be handled for our account * * * we will fully observe and comply with all the terms and conditions of said rules as they are now published or may hereafter be lawfully modified by duly published tariffs, and will make prompt payment of all demurrage charges accruing thereunder in accordance with the average basis as therein established or as hereafter lawfully modified by duly published tariffs (time on intrastate and interstate business to be computed in accordance with the rules set forth in the above named tariff or as said rules may be lawfully modified hereafter by duly published tariffs)."

The agreement is not limited to cars moving in other than intrastate traffic, but in so many words the plaintiff says:

"With respect to all cars which may, during the continuance of this agreement, be handled for our account at Newark."

As to *all* cars, therefore, in whatever traffic they may move, the defendant has expressly bound itself to pay all demurrage charges as established in the then existing demurrage rules or as afterwards duly modified. Of course, inasmuch as the only difference between the interstate and intrastate rules at the date of the execution of the average agreement was in the free time, it was natural that that difference should be the only one to which an express reference is made in the rules with respect to the effect of the average agreement (see instructions under Rule 2-A (Case, p. 80, l. 25), but, nevertheless, the defendant bound itself to pay

on all cars the demurrage charges assessed under the average agreement in accordance with the rules as thereafter duly modified. When, therefore, the rate was duly modified by Supplement #5, Exhibit P. 3, the defendant, by virtue of its express contract, obligated itself to pay those demurrage charges in accordance with the lawfully modified tariff. Undoubtedly, one of the desirable features of the average agreement from the railroad standpoint, inducing it to enter into the agreement, lies in the fact that under the agreement the railroad's accounting is simplified by not having in any way to discriminate between interstate and intrastate traffic. Since, therefore, the defendant was wrong in its contention that on intrastate traffic it did not have to pay the advanced rate called for by Exhibit P. 3, it has admitted that upwards of \$6,000 is due the plaintiff from it for demurrage. This, of course, makes a non-suit impossible.

But the defendant's admission, by its admission of the correctness of the agreed statement of facts, goes further. By the last paragraph of the agreed statement of facts (Case, p. 161), it is agreed that if the defendant's contention as to the meaning of the average agreement is correct, the defendant will still pay such demurrage at the rate of \$1.00 a day as the Board shall find to be due. This is an admission that even on the defendant's contention something was then due from the defendant to the plaintiff. Has that been paid? The evidence is the only payment had previously been made. Exhibit P. 10 shows that the defendant admitted that \$4,084 were due on November 21, 1916, and concluded (Case, p. 144)

"We shall request our Treasurer to remit this amount."

and in Exhibit P. 15, the defendant's letter of September 7, 1917, it writes (Case, p. 153):

"You will please note that on November 21, 1916, we remitted to your Treasurer the sum of \$4,084, this being the undisputed portion of your claim."

The agreed statement of facts was dated subsequent to this payment. The letter enclosing it, Exhibit P. 16, is dated May 6, 1917, and the letter admitting its correctness, Exhibit P. 16, is dated May 25, 1917. The payment, therefore, which is stated in those letters and which is admitted in the complaint, occurred prior to the admission by the defendant of the correctness of the agreed statement of facts. Under any construction of the average agreement, therefore, the defendant has admitted that something is due from it to the plaintiff.

The conclusive effect of the admission by the defendant of the correctness of the agreed statement of facts is in no wise weakened evidentially by the fact that the agreed statement of facts was never submitted to the Board of Public Utility Commissioners. The plaintiff refrained from submitting it because it unduly narrowed the issue, but the defendant's admission remains. This admission was in part, as we have seen, that if the plaintiff's contention as to the meaning of the average agreement was right, there was due the plaintiff from the defendant the sum of upwards of \$6,000. This, necessarily, involves the admission that enough cars had been detained sufficient days to earn that sum at the rates contended for by the plaintiff if those rates were legally justified. We have shown that those rates were legally justified, but if they were not then it was only a matter of computation what less sum was due. Which

method of computation was correct, and, therefore, which sum the admitted detention of the admitted number of cars for the admitted time made legally due, was for the Court to decide, but whichever way that question be resolved, something is, unquestionably due, and, therefore, there could not be a non-suit.

But, this is not the defendant's only admission. We refer to Exhibit P. 10 (Case, p. 143), and to the statement therein referred to and thereunto annexed. This letter says, in part (Case, p. 144):

“We append hereto a statement showing the debits under our interpretation of the published tariffs, amounting to a total of \$4,200. The statement also shows debits as charged by your company amounting to a total of \$7,437.”

The statement (Case, pp. 144-146), is in seven columns. The first column contains the initial of the car; the second its number; the third the date on which the car was constructively placed; the fourth the date on which it was released; the fifth, debits computed according to the defendant's contention; the sixth, the debits computed according to the plaintiff's contention; and the seventh, the overcharge resulting from the difference between the two sets of debits. A comparison of the car initials and numbers in this statement with those claimed for in the further bill of particulars (Case, p. 165-a to g, inclusive), shows that all of the cars on the statement annexed to Exhibit P. 10, except the first three and the next to the last, are among the cars demurrage on which was asked for by the plaintiff. Exhibit P. 10, therefore, is an admission by the defendant that the cars in Exhibit P. 10 were detained from the dates on which they were therein stated to have been

constructively placed to the dates on which they were therein stated to have been released. An examination of the body of Exhibit P. 10 shows that the difference between the defendant's debits and the plaintiff's debits, as expressed in the statement annexed to Exhibit P. 10, is simply the old contention as to the effect of the average agreement. Since we have shown that the plaintiff's construction of the average agreement is correct, then the admission by the defendant in Exhibit P. 10 that the cars in the statement were detained as therein set forth is, as a matter of law, an admission that the defendant is indebted to the plaintiff for the debits claimed by the plaintiff and described in the statement annexed to Exhibit P. 10 as the railroad debits. But the admission goes further. The defendant's contention for the lower debits is, necessarily, limited to cars moving in intrastate traffic only. It apparently claimed that all of the cars set forth in the statement annexed to Exhibit P. 10 moved in intrastate traffic. There is no evidence to this effect. Indeed, the evidence is to the contrary. The defendant was served with interrogatories, and its answer to interrogatory #4 was put in evidence (Case, p. 64). By its answer to this interrogatory, the defendant produced notices of constructive placement received by it, which are printed (Case, pp. 168-183, inclusive). These notices so printed show car initial and number, and in the third column (Case, p. 168), the points of shipment. A comparison of the list annexed to Exhibit P. 10 with the cars enumerated in the answer to the interrogatory, Exhibit P. 20, shows that at least nineteen of the cars listed in P. 10 are the same as the cars listed in Exhibit P. 20. An examination of the point of shipment of those cars shown in Exhibit P. 20, which, it will be remembered,

is a statement by the defendant, shows that not one of them originated at a point within the State of New Jersey. The defendant has admitted that those nineteen cars were detained for the dates set forth in Exhibit P. 10. It has, by Exhibit P. 20, admitted that the point of shipment of those cars was outside of the State of New Jersey. It has, therefore, on the facts, admitted itself out of court with respect to the legal contention.

On the whole case, therefore, the non-suit was obviously improper. For this reason, alone, the judgment must be reversed and a new trial ordered.

Since the judgment must be reversed on this ground, it is unnecessary to take up the Court's time in considering the questions of evidence raised by the other grounds of appeal.

Respectfully submitted,

G. W. C. McCARTER,
Of Counsel with Appellant.

October term, 1925.

New Jersey Court of Errors and Appeals

LEHIGH VALLEY RAILROAD COM-
PANY,
Plaintiff-Appellant,

vs.

MAAS & WALDSTEIN COMPANY,
Defendant-Respondent.

Action at Law.
On Appeal from
Supreme Court.

BRIEF FOR DEFENDANT-RESPONDENT.

Statement of Facts.

This is an appeal from a judgment of nonsuit entered in an action tried at the Essex Circuit before his Honor, Judge Mountain, and a jury.

The complaint is in two counts. The first count is brought to recover demurrage, which is alleged to have accrued during the months of April, June, July, August and September, 1916, under plaintiff's Tariff ICC F-17 and Supplement #5 to Tariff ICC F-17. A schedule is annexed to the complaint and referred to therein which purports to show the amount of debits and credits accruing to the defendant on account of demurrage during said months under an agreement made between plaintiff and defendant pursuant to said tariff and designated the average agreement. The count alleges that as shown by this schedule \$10,902 became due and owing from the defendant to the plaintiff on account of demurrage charges during said months and that the defendant has paid \$6,250 on account of said charges but has failed and refused to pay the balance of \$4,652.

The second count is brought for the recovery of \$9,456 as car storage charges. It alleges that the defendant caused to be shipped over the lines of the plaintiff and caused to be stored in the freight cars of the plaintiff, certain dangerous commodities, to wit, acid and nitrate of soda; that under an agreement then subsisting between the plaintiff and defendant and pursuant to paragraph B of the plaintiff's Tariff No. ICC-C4031, it was provided that a storage charge of \$2.00 should accrue on such shipments for each day that such commodities should remain in storage in the freight cars of the plaintiff after the expiration of the free period allowed for such shipments.

A bill of particulars of plaintiff's claim under its first count was served by the plaintiff on the defendant showing the particular cars upon which the debits and credits in question were alleged to have accrued and the amount of such debits and credits. This appears at page 165 of the State of the Case. The plaintiff offered in evidence the car demurrage rules contained in Tariff ICC F-17, which appears as Exhibit P-2, Case, p. 77, and also Supplement #5 to such Tariff, which appears as Exhibit P-3, Case, p. 92, *et seq.* The particular rule upon which plaintiff's case is based is Rule 5, Section A of Tariff ICC F-17, which provides as follows:

“Rule 5—Placing Cars for Unloading.

Section A.—When delivery of cars consigned or ordered to any other than public delivery tracks or to industrial interchange tracks *cannot be made on account of the act or neglect of the consignee, or the inability of the consignee, to receive, delivery will be considered to have been made when the cars were tendered.* The agent of this Company must send or give the consignee written notice of all

cars he has been unable to deliver because of the condition of the private or interchange tracks, or because of other conditions attributable to consignee. This will be considered constructive placement. See Rule 4 (Notification).''

Rule 7 (Ex. P-3, Case, p. 92) fixed the rate of demurrage during the time when it was effective and after that time the rate was fixed by Rule 7 on page 95. The average agreement is provided for by Rule 9 of Tariff ICC F-17 (Case, pp. 89 and 90) as modified by Supplement #5 (Case, pp. 94 and 97).

The only other evidence in the case, with the exception of proof of plaintiff's tariff schedules and of the correspondence between plaintiff and defendant which will be hereinafter mentioned, consisted of the testimony of the witnesses Goodmanson and Quinn which was offered for the purpose of showing the congestion on defendant's private siding and the testimony of Miss Riedel that certain notices which appear as Exhibits P-5 and P-6 (Case, pp. 103-141) were mailed by her to the defendant.

The plaintiff failed to offer any testimony showing that any particular cars were detained by the defendant within the meaning of any of the demurrage rules. Plaintiff's counsel apparently concedes that unless plaintiff's case was established by certain correspondence between the plaintiff and the defendant, which was received in evidence, the motion for nonsuit on the first count was properly granted.

The correspondence above mentioned has no application to the second count and apparently plaintiff concedes the propriety of the nonsuit on that count. He has not, in his brief, attempted to show that such nonsuit was erroneous. At all

events, there is no question but that plaintiff failed to prove a *prima facie* case under this count and as plaintiff has not attacked the nonsuit as to the second count, we regard any argument in support thereof as unnecessary.

I.

The nonsuit was properly granted.

The plaintiff was obliged, in order to establish its case under Section A of Rule 5 (Case, p. 85) to show

First, that the cars in respect to which demurrage was claimed, which are the cars mentioned in the bill of particulars, were consigned or ordered to some other than public delivery tracks or industrial interchange tracks.

Second, that delivery could not be made of such cars within the free time on account of the act or neglect of the consignee or the inability of the consignee to receive the same.

Third, that the plaintiff sent or gave to the consignee written notice of all cars which it had been unable to deliver because of the condition of defendant's private or interchange tracks or because of other conditions attributable to the defendant.

Fourth, the respective dates when such cars were actually released.

Because of the average agreement, it was also necessary to show by the proof, the cars which defendant released within the first twenty-four hours of free time and for which defendant was, therefore, entitled to a credit of one day.

As has above been stated, none of these facts were established *prima facie*.

Plaintiff's counsel asserts that plaintiff established, through witnesses Goodmanson and Quinn that the cars in question were all destined for the private delivery tracks of the defendant but fails to indicate any portion of the testimony upon which this assertion is based. The witness Goodmanson testified that the defendant had local delivery tracks at its plant where "they placed plaintiff's cars" (Case, p. 24, l. 30; p. 25, ll. 1-10) and the witness Quinn testified that the defendant had private tracks on which he placed cars as the freight conductor of the plaintiff. Neither of these witnesses, however, testified that any of the particular cars for the detention of which demurrage was claimed were in fact consigned or ordered to any other than public delivery tracks so as to come within Section A of Rule 5 (Case, p. 85) upon which the claim for demurrage was based.

Plaintiff's counsel also insists that these same witnesses showed a condition within the above mentioned rule justifying and requiring the giving of written notice of constructive placement called for in that rule. Both witnesses did testify generally to a congested condition of defendant's siding but such congested condition did not justify or require giving notice of constructive placement except as to cars consigned to such tracks and not then unless by reason thereof the railroad was unable to place such cars on the siding. Neither witness claimed to have any knowledge as to whether the delivery of the particular cars for which demurrage was claimed was in any way delayed by the congestion on the siding to which they testified. The witness Goodmanson had no

personal knowledge of the condition of defendant's siding except that gained by him on visits made thereto on an average of twice a month during the period in question (Case, p. 27, ll. 1-20). He admitted that he only knew what was told him by the conductors and that his testimony was not based upon his own knowledge (Case, p. 29, l. 15). He was unable to specify any particular cars which could not be delivered to defendant because of the congestion of its siding (Case, p. 31, l. 20) or any dates on which such congestion occurred (Case, p. 29, l. 31). He also said that on the occasions when he was at defendant's track some of the congestion was caused by empty cars awaiting removal by the defendant (Case, p. 32, l. 4, *et seq.*).

The witness Quinn, who was a Freight Conductor for the plaintiff, testified that he visited the defendant's plant almost daily and that its private tracks always had as many cars as they could hold and that the plaintiff held cars at East Oak Island awaiting delivery to defendant's siding. He was, however, unable to state that any particular cars were not delivered on defendant's siding within the free time allowed.

Miss Riedel, a clerk in plaintiff's employ, testified that she mailed to defendant the so-called notices of constructive placement which appear as Exhibits P-5 and P-6. She said, however, that she did not know whether or not the defendant was able to immediately receive the cars in question (Case, p. 46, l. 13). Neither did she know whether the cars named in the notices actually were at the East Oak Island yard on the respective dates of the notices (Case, p. 46, l. 24). The notices, comprising Exhibits P-5 and P-6, pages 103 to 141, are unintelligible as they merely con-

tain car numbers and abbreviations which are in no way explained.

The plaintiff concedes that no proof was received concerning the date when the cars in question were released and in view of the absence of such proof it cannot be assumed that any or all of them were not released before the expiration of the free time allowed.

The plaintiff insists, however, that notwithstanding its failure to prove the detention of any cars so as to entitle it to demurrage under its tariffs filed with the Interstate Commerce Commission, it did establish *prima facie*, by defendant's admissions, that some demurrage was due to it and that, therefore, it was error to grant the nonsuit. It insists that if, from all the evidence including the correspondence, there appeared facts showing that even \$1.00 was due, the nonsuit was erroneous. This, we will concede, provided it appeared that such sum was due in accordance with the filed Tariff ICC F-17 and Supplement #5 thereto, referred to in paragraph 4 of the complaint (Case, p. 2) for the detention of a car mentioned in the bill of particulars. The so-called admissions, however, do not show that any specific sum was due for the detention of any car. At the most they show that a controversy had arisen between the plaintiff and the defendant concerning demurrage; that the defendant insisted that the demurrage charge for the month of April was not due because a part, if not all of the delay in the receipt of cars, was attributable not to it but to the plaintiff (see Ex. P-9, Case, p. 142). The defendant also insisted that the demurrage for the other months was improperly charged because at least a part of it had been assessed on cars moving only in intrastate business in excess of the maxi-

num rate prescribed by the Act of 1907, P. L. 1907, page 648, which permits a railroad to collect demurrage *not exceeding* \$1.00 per day. See letter addressed by defendant's President to the plaintiff under date of November 21, 1916 (Ex. P-10, Case, p. 143 *et seq.*), in which this objection is stated and in which it is also stated that check will be sent for the amount conceded to be due, namely \$4,084. It appears from the letter of September 7, 1917 (Ex. P-15) addressed by the defendant's President to the General Solicitor of the plaintiff that a check for this amount was mailed to the plaintiff on November 21, 1916 (Case, p. 153, l. 1, *et seq.*). Certainly neither of these letters admits that any amount was due from the defendant to the plaintiff on account of demurrage, except the sum which was paid prior to the institution of this suit. Plaintiff concedes the receipt of this check and asserts, in its brief, that it is included in the credit of \$6,250. given to the defendant in the complaint (Case, p. 2, paragraph 6).

In the course of the correspondence between the plaintiff and the defendant it was suggested that the controversy be submitted to the Public Utility Board for decision and Mr. Bowles, the General Solicitor of the plaintiff, undertook the preparation of a submission agreement. This agreement was forwarded by him to defendant's President with a letter bearing date May 16, 1917 (Ex. P-16, p. 156). He designates it in the letter as a proposed agreed statement of facts. In the first paragraph of the agreement he asserts that the Lehigh Valley Railroad Company claims of the Maas & Waldstein Company \$6,818. After reciting the claim made by the Railroad Company that under the average agreement both intrastate and interstate demurrage was subject to the rates

fixed in the tariff filed by plaintiff with the Interstate Commerce Commission and the claim of the defendant that the rates for intrastate demurrage were limited by the New Jersey Statute, P. L. 1907, page 648, the agreement provides:

"It is agreed that if, by signing the said average agreement the Maas & Waldstein Company waived the provisions of the New Jersey Statute quoted above, the said company is indebted to the Lehigh Valley Railroad Company in the sum of \$6,818. for demurrage assessed in accordance with the tariffs referred to above and made a part of this statement and that the said sum will be paid by the Maas & Waldstein Company with such interest thereon as the Board may decide to be due immediately upon the decision of the Board."

The defendant acknowledged the receipt of this proposed agreement in a letter dated May 25, 1917 (Ex. P. 14, Case, p. 151), referring to it as a proposed agreed statement of facts to be submitted to the Board of Public Utility Commissioners and stated:

"The statement of facts is correct and we are willing to submit the case to the Board upon this statement. However, we desire to direct your attention to the fact that we have not claimed that all the assessed charges arose on interstate (evidently intended to be intrastate) shipments. If you desire for the purpose of adjusting the whole matter to do so, as outlined in the statement, we have no objection but wish you to understand that in doing so you waive a portion of your claim which, in our opinion, properly should be adjusted by other means."

It is upon this letter that the plaintiff bases its claim that the defendant admitted that if the

plaintiff's contention as to the effect of the average agreement upon intrastate demurrage, notwithstanding the maximum rate fixed by our statute, was correct it was indebted to the plaintiff in the sum stated. It is apparent, however, from the form which the correspondence took, that the letter sent by Mr. Bowles to the defendant was merely an offer to agree upon certain facts for submission to the Public Utility Board; that the defendant stated that it would agree to such facts if the plaintiff would agree to them and that the plaintiff then withdrew its offer. The letter of May 25, 1917 (Ex. P. 14) addressed by the defendant to the plaintiff was, therefore, nothing but an indication of the assent of the defendant to submit the case to the Board of Public Utility Commissioners on the basis outlined in the plaintiff's letter and since the plaintiff's offer was withdrawn an agreement was never reached and the proposed agreed statement of facts never became effective for any purpose.

We submit, therefore, that the correspondence above mentioned does not show an admission of any fact by the defendant but merely a proposed admission which, under certain circumstances, would be made but which never actually was made.

Defendant did not waive the provisions of the New Jersey Statute fixing rates of demurrage.

Conceding, however, for the purpose of argument only, that Exhibit P-14 is an admission by the defendant, it in no event is an admission of indebtedness unless the defendant, by signing the average agreement, waived the provisions of the New Jersey Statute. This, we submit, it did not do. The average agreement refers to Tariff ICC F-17 and supplements thereto and provides that

with respect to all cars which may, during the continuance of this agreement, be delivered for defendant's account at Newark, defendant will observe and comply with the terms and conditions of said rules as they are now published or may hereafter be modified by duly published tariffs and "will make prompt payment of all demurrage charges accruing thereunder in accordance with the average basis as therein established or as hereafter lawfully modified by duly published tariffs (time on intrastate and interstate business to be computed in accordance with the rules set forth in the above named tariff or as said rules may be lawfully modified hereafter by duly published tariffs". (See Ex. P-1, Case, p. 76.)

Plaintiff's counsel argues that the agreement which obligated the defendant "to fully observe and comply with all the terms and conditions of Tariff ICC No. F-17 supplements thereto and re-issue" with respect to all cars which may, during the continuance of this agreement, be handled for our account at Newark necessarily required the defendant to pay demurrage on cars moving in intrastate traffic in accordance with the rates fixed in the interstate commerce commission tariffs notwithstanding the maximum rate fixed by our statute. He overlooks, however, the fact that the tariff itself applied only to *interstate* shipments and had been filed with the Interstate Commerce Commission pursuant to the Act of Congress governing interstate transportation. (See Ex. P-22, Case, p. 197; also testimony of Mr. Caskey, Case, p. 16, l. 40; p. 17, l. 1; also p. 18, l. 18, *et seq.*) Since the tariff necessarily only applied to interstate shipments its terms would be fully complied with by applying the rates fixed thereby to all cars moving in interstate traffic. There is nothing in the tariff or in the average agreement mentioned

therein which indicates a purpose to apply the interstate *rates* to intrastate traffic.

Plaintiff's counsel further argues that as the only difference between the interstate and intrastate rules at the date of the execution of the average agreement was in the free time allowed, it was natural that that difference should be the only one to which an express reference is made in the average agreement. To this argument there are several answers,

First, If plaintiff's first argument is sound and the agreement to comply with the interstate tariff made it applicable to intrastate shipments, there was no occasion to specifically require that *time* on intrastate shipments should be computed in accordance with the interstate rules because the agreement would have had such effect without such requirement. The fact, therefore, that the agreement specifically requires that time on intrastate shipments shall be computed in accordance with the interstate tariffs shows that the parties did not intend that rates on intrastate traffic should be so computed; otherwise the agreement would have so specified.

Second, It does not appear that at the time the agreement was made the interstate rates and the intrastate rates were the same. The agreement refers to supplements to Tariff ICC F-17 and no supplement except Supplement 5 is in evidence. (See Ex. P-1, Case, p. 76, l. 11). Whether other supplements were in effect at the time the average agreement was made and if so, what rates they provided, does not appear. Furthermore, if the plaintiff assumed that the interstate rate and the intrastate would always be the same and therefore did not, for that reason, provide in the average agreement that rates on intrastate shipments should be computed in accordance with the inter-

state tariff it is plain that the agreement should not now be given that effect. The language of this agreement was framed by the plaintiff as it is a part of its filed tariff (Case, p. 91, l. 10). It should, therefore, be construed most strongly against plaintiff. If plaintiff intended to apply the interstate rates as then or thereafter fixed, as well as the free time fixed in the interstate tariff and amendments to intrastate shipments, it would have been very easy to so state. The fact that time was specified and no mention was made of rates is a strong indication that the intrastate rates were not intended to be affected.

See

Stone's Adm'rs. v. United States Casualty Co., 34 N. J. L. 371, at page 375.

Snyder v. Insurance Co., Court of Errors and Appeals, 59 N. J. L. 544, at page 550.

Fletcher v. Interstate Chemical Co., 94 N. J. L. 332, at page 334, affirmed on opinion below, 95 N. J. L. 543.

In the case last cited the court said:

"And this view is strengthened by the fact that the ambiguous words in question were the words of the defendant, and the rule is, that where a contract is ambiguous, it will be construed most strongly against the party preparing it or employing the words concerning which doubt arises (*American Lithographic Co. v. Commercial Casualty Insurance Co.*, 81 N. J. L. 271), the reason for the rule being that a man is responsible for ambiguities in his own expressions and has no right to induce another to contract with him on the supposition that his words mean one thing, while he hopes the court will adopt a construction by which they would mean another thing more to his advantage."

The agreement, if construed as contended by the plaintiff, would be against public policy.

The Act of the Legislature of New Jersey, P. L. 1907, page 648, Compiled Statutes 4242, Section 47 provides that railroads may "make and collect a reasonable charge *not exceeding \$1.00 per day* for detention of any railroad car," etc. This is an express prohibition against charging any rates in excess of this sum which was lawfully enacted by the Legislature and any contract made by the plaintiff in violation thereof is invalid and unenforceable.

We respectfully submit that the average agreement, therefore, if construed independently of the statute, shows no intention to affect intrastate rates for demurrage and that, when considered in connection with the statute, it cannot lawfully affect either intrastate rates or free time allowed on intrastate shipments.

If, therefore, the average agreement affected and could lawfully affect charges for demurrage on interstate traffic only, it is clear that the evidence before the trial court did not show any indebtedness from defendant to plaintiff for demurrage even though the so-called agreed statement of facts is regarded as an admission because all that the defendant agreed to do under those circumstances was to pay such demurrage as was found to be due the plaintiff without conceding that any demurrage would be found to be due. Plaintiff's contention that an admission that \$6,818 was due if intrastate shipments were subject to the interstate rates, is an admission that cars were detained a sufficient length of time to make such sum due on the basis of the interstate rates and that, therefore, it is a simple matter to

calculate the amount due under the intrastate rate is unsound,

First, because it does not appear which of the shipments were intrastate and which were interstate, and

Second, even on the assumption that all were intrastate it would be impossible to determine how much is due because the number of cars detained and the period of detention of each car does not appear. Under the interstate tariff effective during at least a substantial part of the time in question, the rate for detention after the expiration of free time is \$1.00 per car per day for the first seventy-two hours and \$2.00 per car per day after the expiration of seventy-two hours (See Case, p. 92, l. 30). Under the average agreement the increased rate applied after a car had accrued five debits (Case, p. 94, l. 22). Without information as to the number of cars detained or the period of detention of each car, it would be impossible to determine the amount which would be due at the flat rate of \$1.00 per day.

Furthermore, the complaint admits that payments have been made by the defendant of \$6,250 on account of the amount due, whereas only \$4,084 was paid prior to the approval of the so-called statement of facts. If the amount of \$6,818 (the amount named in the proposed statement of facts) is added to \$4,084 (the amount mentioned in the correspondence as having been paid prior thereto), we have \$10,902, the total amount of demurrage which the plaintiff claims accrued. But plaintiff concedes that \$6,250 of this amount was paid prior to the commencement of the suit. This shows that an additional payment of \$2,166

was made after the date of the approval of the so-called statement of facts and this may well have discharged the entire amount due.

Plaintiff also relies on Exhibit P-10 (Case, p. 143) as an admission of indebtedness on the part of the defendant to it and insists that the statement annexed to this exhibit is an admission by the defendant that the cars therein mentioned were tendered on the dates on which they were stated to have been constructively placed and were held until the dates on which they were therein stated to have been released. If we assume, however, that this is true and plaintiff's conclusion that it is an admission of indebtedness is well founded, it does not show any indebtedness at the time the suit was instituted, as it appears that by that exhibit (P-10) the defendant conceded only that the sum of \$4,084 was due which sum was paid as is conceded by the plaintiff. That this sum was paid also appears from letter of September 7 (Ex. P-15, Case, p. 153, l. 3).

Plaintiff's counsel seeks to show, however, that some of the cars listed on the statement annexed to Exhibit P-10 moved in interstate traffic and were, therefore, subject to the higher rate of demurrage and insists that this is established *prima facie* by defendant's answer to the fourth interrogatory (Case, p. 64). His argument is that the notices produced in response to such interrogatories show that at least nineteen of the cars mentioned in the list annexed to Exhibit P-10 were the same cars mentioned in the notices and that the statement of the point of shipment in the notices is *prima facie* proof that such was the point of shipment. We fail to see how, under any circumstances, the production of a notice given by the plaintiff to the defendant could be considered

prima facie proof of the statements contained in the notice. If this were true it would be exceedingly easy to establish *prima facie* any case. All that the plaintiff would need to do would be to write a letter to the defendant stating the facts which he desired to prove and then establish by evidence that the defendant received the letter.

We submit, therefore, that there is neither admission or proof that anything was due from the defendant to the plaintiff on account of demurrage at the time suit was instituted but that even though it could be inferred from the correspondence that something was due it is utterly impossible to determine from the evidence how much was due or for the detention of what cars it was due or whether it was due for the detention of cars moving in intrastate traffic or interstate traffic. Under these circumstances what verdict could the jury have rendered if the case had been submitted to them? It is, we believe, obvious that the jury could not, from the evidence submitted, have determined that any amount was actually due. Neither could the jury have properly found a verdict for nominal damages only because of the peculiar nature of an action to recover demurrage, a part of which, if any demurrage at all is due accrued on interstate traffic under the tariffs filed by the plaintiff with the Interstate Commerce Commission.

Under Section 6 of the Interstate Commerce Commission Act, 8 U. S. Comp. Stat., page 9128, subdivision 7 of Section 8569, the plaintiff is prohibited from charging, demanding, collecting or receiving for interstate service, a greater or less or different compensation than that fixed in the tariffs filed with the Interstate Commerce Commission.

See

Louisville & Nashville R. R. Co. v. Maxwell, 237 U. S. 94.

This section applies not only to rates for interstate transportation but to any terminal or other charges in connection therewith which include demurrage charges.

Lehigh Valley R. R. Co. v. United States,
Circuit Court of Appeals, Third Circuit, 188 Fed. 879.

The plaintiff, therefore, in a suit for interstate demurrage, must bring itself within its established tariffs or it can recover nothing. It failed to offer proof which brought its claim within such tariffs. Under these circumstances, even though something were admitted to be due, which we by no means concede, the jury could not give substantial damages because there was no basis for their calculation. They could not give nominal damages because, under the Interstate Commerce Act, the plaintiff must recover the amount shown to be due under its tariffs or nothing.

We respectfully submit that the judgment of nonsuit on the first count was proper and should be affirmed.

The motion for nonsuit on the second count was properly granted.

As stated in the statement of facts, plaintiff's counsel apparently concedes that the motion for nonsuit on the second count was properly granted, as none of the argument contained in his brief applies to that count.

The record discloses no evidence which, under any circumstances, can be regarded as establishing a *prima facie* case on such count. In view of plaintiff's apparent concession that this is true, we consider it unnecessary to include in this memorandum any argument on this point.

It is respectfully submitted that the judgment of the trial court should be affirmed.

Respectfully submitted,

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JOSIAH STRYKER,
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