

Decision No. 2280.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

J. G. BOSWELL COMPANY,
CALIFORNIA COTTON OIL COMPANY,
CHOWCHILLA COTTON OIL COMPANY,
(San Joaquin Cotton Oil Company,
Successor)
GLOBE COTTON OIL MILLS,
SAN JOAQUIN COTTON OIL COMPANY,
Complainants,

Case No. 2482.

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,
SOUTHERN PACIFIC COMPANY,
Defendants.

J. G. BOSWELL COMPANY,
CALIFORNIA COTTON OIL COMPANY,
GLOBE COTTON OIL MILLS,
LOS ANGELES SOAP COMPANY,
PACIFIC COTTONSEED PRODUCTS CORPORATION,
SAN JOAQUIN COTTON OIL COMPANY,
Complainants,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,
CALIFORNIA WESTERN RAILROAD AND NAVIGA-
TION COMPANY,
NORTHWESTERN PACIFIC RAILROAD COMPANY,
PACIFIC ELECTRIC RAILWAY COMPANY,
PERALUMA AND SANTA ROSA RAILROAD COMPANY,
SANTA MARIA VALLEY RAILROAD COMPANY,
SAN DIEGO AND ARIZONA RAILWAY COMPANY,
SOUTHERN PACIFIC COMPANY,
THE WESTERN PACIFIC RAILROAD COMPANY,
Defendants.

Case No. 2483.

GLOBE GRAIN AND MILLING COMPANY,
PACIFIC COTTONSEED PRODUCTS CORPORATION,
Complainants,

vs.

THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY,
SOUTHERN PACIFIC COMPANY,
Defendants.

Case No. 2591.

L. H. Stewart and F. A. Jones, for complainants.
James E. Lyons, A. Burton Mason and C. N. Bell for
the defendants Southern Pacific Company and other
lines not specifically represented.

ORIGINAL

Platt Kent and Berne Levy, for defendant The Atchison, Topeka and Santa Fe Railway Company.
Edson Abel and J. J. Deuel, for the California Farm Bureau Federation, interested shippers.
F. M. Hill, for the Fresno Traffic Association, interveners.
R. S. Sawyer and G. P. Rahe, for the Los Angeles Soap Company, in Case No. 2483.

BY THE COMMISSION:

O P I N I O N

Complainants are engaged in manufacturing, refining, buying, selling and shipping cottonseed and its products.

In Case 2482 it is alleged that the rates assessed on complainants' shipments of cottonseed oil moving subsequent to February 28, 1925, from Bakersfield to Los Angeles, from Corcoran to Berkeley, Oakland, San Francisco and Los Angeles, from Los Angeles to Fresno and from Chowchilla to Los Angeles were unjust and unreasonable, in violation of Section 13 of the Public Utilities Act. Reparation only is sought. The shipments here involved on which the cause of action accrued more than two years prior to the filing of the complaint, although registered with the Commission within the statutory period under our files I.C. 36518, 36519 and 37833, are barred from further consideration by reason of the decision rendered April 26, 1929, by the California Supreme Court in Los Angeles & Salt Lake Railroad vs. Railroad Commission et al., S.F. 13152, 77 Cal. Dec. 594.

The complaint in Case 2483, as amended, involves rates for the future on cottonseed oil, cottonseed oil foots and cottonseed cake, meal and hulls and transit privileges on cottonseed oil, cake and meal. It is alleged (a) that the rates for the transportation of cottonseed oil and cottonseed oil foots, in carloads, between origin mill points at Bakersfield, Brawley,

Calexico, Calipatria, Chowchilla, Corcoran, Fresno, Los Angeles and Potash, refining points at Bakersfield, Chowchilla and Los Angeles, and market destinations at Berkeley, Oakland, San Francisco, Los Angeles, Fresno, Stockton and Sacramento are unjust and unreasonable, in violation of Section 13 of the Act; (b) that the rates for the transportation of cottonseed cake, meal and hulls from Bakersfield, Brawley, Calexico, Calipatria, Chowchilla, Corcoran, Fresno, Los Angeles and Potash to all destinations on defendants' lines in California are unjust and unreasonable in violation of Section 13 of the Act; and (c) that the failure of defendants to establish refining and storing in transit privileges on cottonseed oil and grinding, sacking and storing privileges on cottonseed cake and meal is unduly prejudicial to complainants and unduly preferential of complainants' competitors in other states, and of shippers of grain and other commodities within the State of California.

In Case 2591 complainants seek reparation only on shipments of cottonseed moving subsequent to March 9, 1928, from Los Angeles to Lamont, Fresno, Delano, Chowchilla, Madera, Tulare, Buttonwillow and Corcoran and on cottonseed hulls moving subsequent to December 9, 1927, from Calexico to Los Angeles.

The Fresno Traffic Association intervened in Cases 2482 and 2485 on behalf of complainants.

Public hearings were held before Examiner Geary at Los Angeles October 2, 3 and 4, 1928, and November 13, 14 and 15, 1928, and the proceedings having been submitted and briefs filed are now ready for an opinion and order.

By stipulation all three proceedings were heard upon a common record and will be disposed of in one decision. Rates will be stated in cents per 100 pounds.

Although of comparatively recent origin, the cotton industry in California has grown rapidly during the last past five years. In 1922 the total production amounted to 23,243 500-lb. bales, while in 1926 the production had increased to 131,211 bales, and it is estimated that the 1928-1929 crop will total about 157,000 bales. At present there are about 223,000 acres of land in California, principally in the San Joaquin and Imperial Valleys, devoted to cotton raising. Until a comparatively recent time the seed from the cotton after it was ginned was practically a waste product, but due to the perfection of manufacturing processes it is now converted into food products for human and animal consumption and has become a valuable by-product of the industry. During the 1926-1927 season California produced 58,000 tons of cottonseed, from which there were derived 3,511,893 gallons of oil, valued at \$2,054,000.00, 43,121 tons of cake and meal valued at \$1,188,000.00 and 19,153 tons of hulls, valued at \$178,000.00.

Complainants' activities are devoted entirely to the handling of cottonseed and its products. They have crushing mills at Los Angeles, Fresno, Oakland, Potash, Calexico, Brawley, Calipatria, Bakersfield, Corcoran and Chowchilla, and refineries at Chowchilla and Los Angeles. With the exception of cottonseed cake, meal and hulls the movement of the commodities here at issue is confined to a relatively few points. The cottonseed moves from the fields to the mills for crushing into crude oil. The crude product then moves from the mills to the refineries, where it is further processed and manufactured into cooking and salad oils, and the refined oils are subsequently transported to the principal consuming centers at Berkeley, Oakland, San Francisco, Stockton, Sacramento and Los Angeles. The residue, or foots,

from the cottonseed after the crude oils are drawn off is used chiefly in the manufacture of soap, and its movement is from the refineries to the same points as the refined oil moves. Cake, meal and hulls are used for stock food and potentially move from the crushing mills to practically all destinations in California. Complainants at the hearing, however, materially restricted the scope of the territory involved, as will be specifically described hereafter.

Complainants contend that the present rate adjustment in California on these commodities has restricted their markets and placed them at a disadvantage in disposing of their products in competition with distributors of cottonseed and its products located in Texas, Oklahoma and other states in the Southwest.

COTTONSEED

Complainants have no complaint with respect to the present rates on cottonseed inasmuch as satisfactory rates were voluntarily established effective April 15, 1928. The shipments of cottonseed on which they are seeking reparation based on the present rates (Case 2591) moved from Los Angeles to Lamont, Fresno, Delano, Chowchilla, Madera, Tulare, Buttonwillow and Corcoran. The total consignments consisted of 8 cars of seed used for planting purposes. The movement from Los Angeles to the San Joaquin Valley is sporadic as the normal movement is in the reverse direction. The rates assessed and collected varied from 41 cents at Delano, 201 miles, to 48½ cents at Corcoran, 345 miles. At the time the shipments moved defendants maintained for the southbound movement of ordinary cottonseed rates varying from 26½ cents to 36 cents, and subsequent to the time the shipments moved these same rates were established for the northbound movement.

The rates assailed were somewhat higher than the contemporaneously effective rates for comparable distances on flaxseed, cow peas, vetch seed, cottonseed cake and meal, and hay, applicable between various points in California, and also higher than rates prescribed by the Interstate Commerce Commission for the movement of cottonseed in the Southwestern cotton producing states. These comparisons however are not controlling as to the reasonableness of rates on complainants' shipments due to the sporadic nature of the movement and the further fact that seed for planting purposes has a somewhat higher value than cottonseed for crushing. Defendants state that the southbound rates are depressed by truck competition, and the voluntary reduction of the rates here at issue was subsequently established to that basis solely to assist the cottonseed industry.

Seed for planting purposes normally moves under class rates, and there is nothing in this record to show that the rates charged were improper for the shipments here at issue. The subsequent reductions voluntarily made by defendants cannot be construed as an admission that the rates assessed complainants' shipments were unreasonable. Walsh Fire Clay Products vs. Director General, 73 I.C.C. 410. Dubois Mill Co. vs. S.P.& S.Ry., 80 I.C.C. 31. Sprague Tire & Rubber Co. vs. Director General, 80 I.C.C. 298.

We are of the opinion and so find that the assailed rates on this cottonseed were not unjust and unreasonable and reparation is therefore denied.

COTTONSEED OIL

The movement of cottonseed oil (Case 2483) as previously stated, is restricted to a comparatively few points. There is a movement of crude oil from the crushers at Bakersfield, Corcoran, Chowchilla and Fresno in the San Joaquin Valley, Bran-

ley, Calexico and Calipatria in the Imperial Valley, and Potash on the San Diego and Arizona Railway, to refineries at Los Angeles and Chowchilla, and a movement of refined oil from the refining points just named to the principal markets at San Francisco, Oakland, Berkeley, Los Angeles, Fresno, Stockton and Sacramento. Both the crude and refined oil loads to an average weight of about 60,000 pounds per car, and moves entirely in tank cars on which it is conceded there is an empty haul of approximately 100 per cent.

The rates here sought are based largely upon the rates on cottonseed and its products, including cottonseed oil, established by the Interstate Commerce Commission in Docket 14150, Oklahoma Corporation Commission vs. Abilene & Southern Railway et al., 98 I.C.C. 183, 267, for application in the cotton producing states of the Southwest. In that proceeding the Interstate Commerce Commission established two scales for the commodities here at issue, one for application in the so-called common point territory, comprising Southern Missouri, Western Louisiana, Arkansas, Oklahoma and Texas (east of Amarillo and San Antonio), hereafter referred to as the 14150 common point scale, and the other, hereafter referred to as the 14150 differential scale, for application from, to or between points in the so-called Texas differential territory, comprising that part of Texas west of Amarillo and San Antonio. The differential scale is approximately 20% higher than the common point scale.

The present rates on cottonseed oil in California are in most instances higher than the 14150 common point scale and in some cases higher than the differential scale. From the San Joaquin Valley points to San Francisco Bay points, Sacramento, Stockton and Los Angeles, and from Los Angeles to the San Joaquin Valley, complainants seek rates based approximately 85% of the

14150 common point scale, and from the Imperial Valley to Los Angeles they ask for rates about the same as the common point scale. From Los Angeles to Sacramento and Stockton a rate of $31\frac{1}{2}$ cents is requested, which is the same as now in effect, non-intermediate in application, from Los Angeles to San Francisco, Oakland and Berkeley. The reasonableness of the present rate from Los Angeles to the San Francisco Bay points is not questioned. From Potash complainants ask for rates 8 cents over those requested from Los Angeles when the traffic is destined to San Joaquin Valley points, and $9\frac{1}{2}$ cents over the Los Angeles rates on shipments moving to Sacramento and Stockton. Refining in transit privileges are sought under these rates, but as the question of transit is also at issue in connection with the cake and meal rates, this subject will be disposed of separately.

Complainants in arriving at a basis of 85% of the 14150 common point scale have taken the average of the 10 class rates from Corcoran, Bakersfield and Chowchilla to San Francisco, Stockton and Sacramento, and compared these rates with the average of the class rates for comparable hauls prescribed by the Interstate Commerce Commission in the Consolidated Southwestern Cases, 123 I.C.C. 203. The latter rates were prescribed for application in the Southwestern common point territory. In some cases the California class rates are more than 85% of the common point rates and in other cases less. The record however shows that the class rates from the San Joaquin Valley to San Francisco were predicated upon depressed water-compelled class rate factors from Stockton to San Francisco, resulting in a lower basis of class rates than applicable throughout this state as a whole. These class rates therefore are not indicative of the general level of the rates in California.

Complainants urge that in any event the rates here at issue should not exceed those applicable in the common point

territory. They point to the fact that the present cottonseed oil rates are generally higher than the common point scale, and in many cases higher than the differential basis. This they claim is unwarranted when consideration is given to the fact that the density of traffic and population, volume of traffic, average haul and revenue and other transportation factors are as favorable or more favorable in California than they are in the Southwestern States. In 1926 the traffic density on the Southern Pacific Company (Pacific System) was 4,056 net ton miles per mile of road per day, and on The Atchison, Topeka and Santa Fe Railway 3,939 net ton miles per mile of road. This is contrasted with the traffic density of the Southern Pacific Company (Louisiana Lines), St. Louis and Southwestern Railway, St. Louis & San Francisco Railway, Missouri, Kansas & Texas Railway, Texas and Pacific Railway and Gulf Colorado & Santa Fe Railway, lines operating in the Southwestern States, where in 1926 the net ton miles per mile of road operated per day was 2,628, 2,558, 3,055, 3,339, 2,955 and 4,854 respectively. In point of density of population California exceeds the Southwestern States, having in 1925 an estimated population per mile of railroad of 484 persons, while during the same year the population per mile of road in Missouri was 430 persons, in Arkansas 377 persons, in Louisiana 370 persons, in Oklahoma 340 persons and in Texas 316 persons. The average length of haul for revenue freight in 1926 on the Southern Pacific Company (Pacific System) and The Atchison, Topeka and Santa Fe Railway was 251.3 and 314.0 miles respectively, with an average per car mile revenue 27.1 cents on the Southern Pacific and 25.2 cents on the Santa Fe. The average length of haul on the Southwestern lines varied from 180.8 miles to 281.4 miles, and the average per car mile revenue from 24.0 cents to 29.5 cents. With the exception of the Gulf Colorado and Santa

Fe Railway the average per car mile revenue was less on the Southern Pacific or Santa Fe than on the Southwestern lines, indicating, complainants contend, that the general level of rates should be as low in California as in the Southwestern common point territory. This conclusion, they contend, is strengthened by the fact that in many cases defendants maintain between various points in California class rates and commodity rates on beet pulp, alfalfa meal, fertilizers, hay, fruits, vegetables, canned goods and beverages which are lower than the rates in the Southwestern territory on the same commodities for comparable distances.

Defendants claim that this showing with respect to the transportation conditions is not just, as we are here dealing only with the movement of cottonseed and its products, while complainants' statistics are the averages for all traffic. The 14150 scale, they state, was prescribed for application in a territory where the movement of cottonseed and its products is greatly in excess of the volume of traffic in California and should not therefore be used as the sole criterion for the rates in California. They point to the fact that in 1927 there were only 12 mills in California crushing cottonseed, while in Texas and Oklahoma in the same year there were 226. In 1927 the California mills produced 3,511,893 gallons of oil, 43,121 tons of cake and meal, and 19,153 tons of hulls, as compared with a total production in Texas and Oklahoma during the same period of 93,192,464 gallons of oil, 1,152,416 tons of cake and meal and 735,579 tons of hulls. It is apparent that the volume of movement of cottonseed oil in California is not comparable with that in the Southwestern territory and this fact has been given due consideration in reaching our conclusions.

In addition to the comparisons drawn from the Southwest territory complainants have compared the present rates on cottonseed oil with somewhat lower rates applicable on other commodities moving in tank cars between various points in California, such as vinegar, cider, calcium chloride, molasses, lime and sulphur solutions, wine and sulphuric acid.

Complainants also refer to a rate of 31½ cents applicable on vegetable oils, including cottonseed oil, between San Francisco and Los Angeles which yields a per ton per mile revenue of 13.46 mills. The rate is nonintermediate in application, published under appropriate authority of this Commission to enable the rail carriers to meet water competition and cannot therefore be used as a measure of the cottonseed oil rates here at issue.

The record on the whole however is convincing that the general level of the cottonseed oil rates between the points here involved needs revision. We are of the opinion and so find that for the future the cottonseed oil rates will be unreasonable to the extent they exceed the following:

| F R O M : | T O | | | |
|-------------|-------------------------------|---------|----------|-------------|
| | (Rates on cents per 100 lbs.) | | | |
| | San Francisco | Oakland | Berkeley | Los Angeles |
| Bakersfield | 34 | 34 | 34 | 26 |
| Corcoran | 31 | 31 | 31 | 31½ |
| Chowchilla | 24 | 24 | 24 | 34 |
| Fresno | 27½ | 27½ | 27½ | 32 |
| Brawley | 50½ | 50½ | 50½ | 28½ |
| Calxico | 50½ | 50½ | 50½ | 28½ |
| Calipatria | 50½ | 50½ | 50½ | 28½ |
| Potash | -- | -- | -- | 25½ |

| F R O M : | T O | | | |
|-------------|-------------------------------|------------|----------|------------|
| | (Rates in cents per 100 lbs.) | | | |
| | Fresno | Chowchilla | Stockton | Sacramento |
| Bakersfield | 20 | 25½ | 29½ | 32 |
| Corcoran | 13 | -- | 26 | 31 |
| Chowchilla | 12 | -- | 17½ | 23 |
| Fresno | -- | 12 | 22 | 26 |
| Brawley | 43 | 45 | 50½ | 50½ |
| Calxico | 43 | 45 | 50½ | 50½ |
| Calipatria | 43 | 45 | 50½ | 50½ |
| Potash | 40½ | 42 | -- | 47½ |
| Los Angeles | 32 | 34 | -- | -- |

We are of the further opinion and so find that the present rates from Los Angeles to San Francisco, Oakland, Berkeley, Stockton and Sacramento and from Potash to San Francisco, Oakland, Berkeley and Stockton are not unjust and unreasonable.

COTTONSEED OIL FOOTS

The movement of cottonseed oil foots (Case 2483) in California is relatively light as only approximately 5% of crude oil is converted into foots in the refining process. The movement is from the refining points to the principal markets at San Francisco, Oakland, Berkeley, Los Angeles, Fresno, Stockton and Sacramento. Like the crude and refined oils it is transported in tank cars on which there is an empty haul of about 100%.

The present rates in California are the same as applicable on the oils. In the Southwestern territory foots move under rates based 75% of the oil rates, and complainants ask that this basis be established in California. Their request rests primarily upon the fact that the value of foots is lower than either crude or refined oils. The record shows this to be true, but value of the commodity, while important in testing the level of rates, can not be used alone to determine the reasonableness of the rates. Western Felt Works vs. Wabash R.R.Co., 40 I.C.C. 7, 8. N.& G.Taylor Company vs. Director General, 81 I.C.C. 663.

The record does not support complainants' proposal that the rates on foots should be 75% of the contemporaneously effective rates on cottonseed oil. We are however of the opinion and so find that for the future the rates on foots will be unreasonable to the extent they may exceed those herein prescribed for cottonseed oil.

COTTONSEED CAKE AND MEAL

Cake and meal (Case 2483) are used chiefly for fattening

livestock and are marketed by complainants in competition with hay, grain, corn and other stock foods. While there is a possible movement from the mills at Bakersfield, Brawley, Calxico, Calipatria, Chowchilla, Corcoran, Fresno, Oakland, Los Angeles and Potash to practically all points in California, complainants have narrowed the territory involved to embrace rates from Bakersfield, Fresno, Corcoran, Chowchilla, Brawley, Oakland and Los Angeles to representative points on the Southern Pacific Company, Atchison, Topeka and Santa Fe Railway, California Western Railroad and Navigation Company, Northwestern Pacific Railroad, Santa Maria Valley Railroad and Western Pacific Railroad, and from Potash to Southern Pacific and Pacific Electric destinations in Southern California.

Complainants have no particular complaint to make with respect to the cake and meal rates from Oakland and Los Angeles, for the reason that cake and meal some years ago were included in the grain description of defendants' tariffs and have since then automatically received the lower grain rates from these two points where grain mills are maintained. The other cottonseed mills however are located at points where there are no grain mills, hence with few exceptions specific grain rates have not been published from these points.

Complainants are here seeking specific rates from all the mills based in part upon the grain rates now in effect from Oakland and Los Angeles and in part upon the rates on cottonseed cake and meal prescribed by the Interstate Commerce Commission in the 14150 common point scale.

With the exception of the Oakland and Los Angeles rates the present rates on cake and meal are higher than the 14150 common point scale, although defendants have established the 14150 differential basis from Bakersfield, Corcoran and Chowchilla to

Western Pacific destinations and between local points on the Southern Pacific. They state they are willing to establish this basis to the other points involved, although they claim the differential rate was published solely to assist the cottonseed industry, and considering the traffic involved is now lower than a reasonable basis. The movement of cottonseed and its products, including cake and meal, in the Southwest, as we have heretofore stated, is greatly in excess of the movement in California.

Complainants however urge that the maximum reasonable rates in California should not exceed the 14150 common point scale as the transportation conditions prevailing in common point territory are more nearly comparable with the conditions in California. Their showing with respect to this contention is the same as advanced in connection with the cottonseed oil rates, to which consideration has already been given. In fact, complainants' main showing as to the cottonseed cake and meal rates rests upon the rate adjustment in the Southwest territory. While they have drawn freely from the Southwest in comparing the rates here under attack, they have also relied somewhat upon the general level of the grain rates in California in effect from and to the points where there is a movement. In some cases the grain rates are lower than the 14150 common point rates on cottonseed cake and meal, while in other cases the converse is true. Defendants contend the grain rates should not be used as the basis for reasonable rates on cake and meal inasmuch as the former rates over a long period of years have been depressed below a reasonable basis by water competition on San Francisco Bay and its tributaries and along the California coast line. In the early days when grain was grown extensively in the Sacramento and San Joaquin Valleys the Sacramento River was navigable as far north as Red Bluff and the San Joaquin River as far south as Herndon. While the latter

competition does not now exist it is claimed that the rates originally established to hold some of the tonnage to the rails are for the most part still in effect, modified only by the general wartime increases and reductions.

Due to the influence of water competition on many of the grain rates in California we are not justified in using them entirely as a basis for reasonable rates on cake and meal. Counsel for complainants on brief urges that unless this is done the cottonseed mills not located at Oakland and Los Angeles will be unduly prejudiced by the lower rates applying from these two points. While there may be some merit to this contention the pleadings only bring into issue the reasonableness of the cake and meal rates and do not present for consideration the question of undue preference and prejudice as between the competing mills.

After careful consideration of all the facts of record with respect to the present cottonseed cake and meal rates we are of the opinion and so find that for the future they will be unjust and unreasonable to the extent they exceed or may exceed the following:

| T O | F R O M | | | | | |
|-----------------|-------------------------------|--------|--------|----------|---------|---------|
| | (Rates in cents per 100 lbs.) | | | | | |
| | Bakers- | Chow- | | | | Los |
| | field | chilla | Fresno | Corcoran | Brawley | Angeles |
| El Centro | 33 | 38½ | 37½ | -- | 7 | # |
| Banning | 26½ | 33 | 32½ | -- | 17½ | 15 |
| San Bernardino | 25½ | # | 31 | 28½ | 20 | # |
| Ventura | 23 | # | 28½ | -- | 27½ | 14½ |
| Lompoc | 28½ | 34 | 33 | -- | 33 | # |
| San Luis Obispo | 31 | 32 | 33 | -- | 34 | # |
| King City | 34 | 26½ | 28½ | -- | 38½ | # |
| Salinas | 32 | 24 | 26½ | -- | 39½ | # |
| Hollister | 31 | 23 | 25½ | -- | # | 33 |
| Tehachapi | 11 | # | 21 | -- | 31 | 18½ |
| Famoso | # | # | # | -- | 33 | 23 |
| Exeter | # | # | # | # | 35 | # |
| LeRoy | 19½ | # | 15½ | -- | 38½ | # |

| T O | F R O M | | | | |
|-----|-------------------------------|--------|--------|----------|-----------------|
| | (Rates in cents per 100 lbs.) | | | | |
| | Bakers- | Chow- | | | Los |
| | field | chilla | Fresno | Corcoran | Brawley:Angeles |

| | | | | | | |
|-------------|-----|-----|-----|-----|-----|-----|
| Fresno | # | # | -- | # | 37½ | 27½ |
| Los Banos | # | # | # | — | 38½ | # |
| Merced | # | # | # | # | 38½ | # |
| Modesto | # | # | # | — | 39½ | # |
| Oakdale | # | # | # | # | 39½ | # |
| Lodi | # | 15½ | # | — | # | # |
| Placerville | 31 | 23 | 24 | — | 42 | 37½ |
| Willows | 32½ | 25½ | 26½ | — | 43 | # |
| Redding | 35 | 28½ | 31 | — | 45 | # |
| Fort Bragg | 39½ | 33 | 34½ | 37 | 47 | 42½ |
| Ukiah | 36 | 29½ | 31½ | 34 | 46 | 41½ |
| Willits | 37 | 30½ | 33 | 35 | 47 | 42½ |
| Santa Maria | 31½ | 34½ | 36 | — | 36 | 26 |
| Bloomer | 34 | 26 | 28½ | 30½ | 45 | 40½ |
| Howells | 35 | 28½ | 30½ | 33 | 46 | 41½ |
| Brawley | 38½ | 31½ | # | 36 | 47 | 42½ |

Present rates have not been shown to be unjust and unreasonable.

| FROM | T O | Rate |
|--------|-----------------|-------------------------|
| | | (in cents per 100 lbs.) |
| | (Artesia | 22 |
| | (La Habra | 22 |
| | (El Monte | 22 |
| Potash | (Ontario | 24 |
| | (Chino | 24 |
| | (Banning | 24 |
| | (Santa Barbara | 27½ |

Because of the scope of the territory here involved it is impracticable to prescribe rates to each individual point. Defendants will establish rates to points not specifically named in harmony with those set forth.

COTTONSEED HULLS

Cottonseed hulls are used chiefly as a soil conditioner although if mixed with other ingredients they have some value as a stock food. They potentially move between the same points as cottonseed cake and meal, and with few exceptions the present

rates are the same as the cake and meal rates.

Complainants take the position that the relatively low value of hulls entitled them to rates 75% of those applicable on cake and meal. They point to the fact that this basis now applies in the Southwestern territory. From a transportation standpoint however there is no reason why hulls should be accorded a lower basis than cake and meal. The lower value of the hulls as compared with cake and meal is more than offset by their lighter loading. The average loading of cake and meal is about 54,000 pounds per car, while hulls load to an average weight of approximately 40,000 lbs. per car. Thus if the rates on hulls were established at 75% of the cake and meal rates the revenue per car from hulls based on these average weights would be only about 56% of the per car revenue on cake and meal.

Complainants have cited a few instances where rice hulls and other comparatively low grade articles have been accorded relatively low rates but the evidence shows that for the most part these rates were established to meet special conditions which are not pertinent to the movement of hulls.

The present basis for the rates on cottonseed hulls has not been shown to be unjust and unreasonable except that for the future the rates on this commodity will be unjust and unreasonable to the extent they may exceed the rates herein prescribed for cottonseed cake and meal.

TRANSIT PRIVILEGES

Complainants, as previously stated, are seeking refining in transit privileges in connection with the rates on oil and also transit privileges permitting grinding, storing and sacking of commodities on the cottonseed cake and meal rates.

The record shows that transit privileges are now accorded shippers of cottonseed oil, cake and meal in the Southwest, that in California the grain, lumber and steel rates carry with them somewhat the same privileges, and that shipments of vegetable oils imported through California ports and moving to transcontinental destinations may be stopped in transit for refining at a charge of 2 cents per 100 pounds. Complainants contend that the absence of transit privileges in California on cottonseed oil, cake and meal has resulted in undue prejudice to them and undue preference to shippers of cottonseed cake and meal in the Southwest and to shippers of other commodities in California.

Complainants however admit that in so far as cottonseed oil is concerned they are not injuriously affected by the transit privileges accorded grain and other commodities nor on shipments of imported vegetable oils. They are mainly concerned with the effect these privileges have on them when accorded shippers in the Southwest. While it is true transit privileges prevail in the Southwest territory they are not in effect when the oil is moving from that territory to California. Whatever competition complainants encounter from oil moving from the Southwest has not been shown to be the result of the rate situation. In fact, the principal competition comes from the surplus oil moving from Texas and Oklahoma to California which is shipped to this territory regardless of the freight rate. For example, the testimony of one of complainants' witnesses showed the quoted price of Texas oil was 9 cents per pound F.O.B. Dallas on September 28, 1928, and on the same day the same grade of Texas oil was sold in Los Angeles at 9.25 cents per pound and in San Francisco at 9-3/8 cents per pound. The Texas oil rate is 80 cents to Los

Angeles and 90 cents to San Joaquin Valley and San Francisco Bay points. Neither of these rates carries transit privileges.

Complainants concede that this situation exists to some extent but they state this is not the sole cause of their alleged inability to advantageously market their products. They state their greatest obstacle is caused by the fact that their Texas competitors are enabled to move their products between intrastate Texas points at lower rates than in California and can avail themselves of transit privileges under these rates. This, they contend, gives the Texas producer a decided advantage in reaching the Pacific Coast market. The record however shows the contrary to be true, for in no instance is the producer in the Southwest in a position to dispose of his products in the common markets in California at a lower aggregate freight charge than the complainants in this proceeding. It does not follow that lower rates and privileges accorded shippers in other states prejudice the shippers in this state. Rivers Bros. vs. Southern Pacific Co., 26 C.R.C. 306. Furthermore, it has been shown that these defendants do not control in any manner the intrastate rate situation in the Southwest territory and can not therefore be charged with unjust preference and prejudice. Salt Cases of 1923, 92 I.C.C. 388 and cases cited therein. The privilege of refining and storing of cottonseed oil in transit is denied.

The absence of grading, storing and sacking privileges with respect to cottonseed cake and meal presents a different situation. Cake and meal, as we have already said, are used as a stock food and come in competition with certain of the grain and grain products. Defendants throughout California accord shipments of the latter commodities the privileges asked by complainants on cake and meal, but claim that generally the transit privileges on grain apply only in connection with rates where

there is a differential between the raw product and the manufactured product, thus affording a measure of compensation for the transit privilege. This is true of the rates on the whole grain on the one hand, and on the other flour and articles grouped therewith, but it is not true as to the whole grain and the stock feeds moving on common rates which come into competition with cake and meal. In view of the fact that cake and meal are sold in competition with grain feeds, the absence of transit is manifestly prejudicial to complainants and preferential of shippers of grain and grain products. An order will be issued requiring the removal of the undue prejudice and preference.

REPARATION

Complainants in Case 2482 are seeking reparation on cottonseed oil from Bakersfield to Los Angeles, from Corcoran to Berkeley, Oakland, San Francisco and Los Angeles, from Los Angeles to Fresno and from Chowchilla to Los Angeles, and in Case 2591 reparation is sought on cottonseed from Los Angeles to San Joaquin Valley points, hereinbefore referred to, and cottonseed hulls from Calexico to Los Angeles. The rates which we have found reasonable for the future are somewhat lower than those assessed on complainants' shipments. They are however a part of the general readjustment of the cottonseed products rates herein prescribed and for that reason we will adhere to our past practice with respect to reparation in such proceedings and deny reparation on the shipments here involved. Los Angeles Lumber Products Co. vs. Southern Pacific Company et al., 25 C.R.C. 217; Nordman vs. Aberdeen & R.R.Co., 153 I.C.C. 239.

O R D E R

These cases being at issue upon complaint and answer

on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order, which said opinion is hereby referred to and by reference made a part hereof,

IT IS HEREBY ORDERED that the defendants, The Atchison, Topeka and Santa Fe Railway Company, California Western Railroad and Navigation Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company, Santa Maria Valley Railroad Company, San Diego & Arizona Railway Company, Southern Pacific Company and The Western Pacific Railroad Company, according as they participate in the transportation, be and they are hereby notified and required to cease and desist on or before thirty (30) days from the effective date of this order and thereafter to abstain from publishing, maintaining, assessing and collecting rates for the transportation of cottonseed oil, cottonseed oil foots, cottonseed cake and meal and cottonseed hulls, in carloads, not in accordance with those set forth in the opinion immediately preceding this order.

IT IS HEREBY FURTHER ORDERED that the defendants, The Atchison, Topeka and Santa Fe Railway Company, California Western Railroad and Navigation Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company, Santa Maria Valley Railroad Company, San Diego & Arizona Railway Company, Southern Pacific Company and The Western Pacific Railroad Company, according as they participate in the transportation, be and they are hereby notified and required to establish on or before thirty (30) days from the effective date of this order upon notice to this Commission and to the general public by not less than five (5) days' filing and posting in the manner prescribed in Section

14 of the Public Utilities Act and thereafter to maintain and apply to the transportation of cottonseed oil, cottonseed foots, cottonseed cake and meal and cottonseed hulls, in carloads, the rates as set forth in the opinion immediately preceding this order.

IT IS HEREBY FURTHER ORDERED that defendants, The Atchison, Topeka and Santa Fe Railway Company, California Western Railroad and Navigation Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company, Petaluma and Santa Rosa Railroad Company, Santa Maria Valley Railroad Company, San Diego & Arizona Railway Company, Southern Pacific Company and The Western Pacific Railroad Company, according as they participate in the transportation, be and they are hereby ordered to cease and desist from assessing and collecting for the grinding, sacking and storing in transit of cottonseed cake and meal, charges in excess of those contemporaneously made for grinding, sacking and storing in transit shipments of grain and grain products.

IT IS HEREBY FURTHER ORDERED that in all other respects Cases 2482, 2483 and 2591 be and they are hereby dismissed.

Dated at San Francisco, California, this 28th day of June, 1929.

Thos D. Lott
C. Searcy
Wm. H. Smith
Leon Whittell
W. A. Lee
Commissioners.