

Decision No. 21894.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

SYLMAR PACKING CORPORATION,
Complainant,

vs.

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

ORIGINAL

Case No. 2558.

BY THE COMMISSION:

ORDER OF DISMISSAL

This proceeding, filed June 18, 1928, prays for reparation in connection with carload shipments of olives from Cairns, Reedley and Visalia to Sylmar, moved during the period December 1, 1925, to January 31, 1926. Defendants in their separate answers to the complaint contended that the cause of action was barred by the provisions of the Public Utilities Act and particularly by Section 71 paragraph (b).

Under date of April 26, 1929, the Supreme Court of California in Los Angeles & Salt Lake Railroad Company vs. Railroad Commission, S.F. No. 13152, 77 Cal.Dec. 594 (commonly referred to as the Van Camp case), held that the statute provided only a period of two years for the inauguration of formal complaints to recover reparation and that such statute could not be estopped merely by the filing of informal letters or complaints.

In our Decision No. 21774, Case No. 2723, November 12,

1929, East-West Refining Company vs. Los Angeles & Salt Lake Railroad Company, we reviewed a similar situation to the one here under consideration and dismissed the proceeding because of the Supreme Court decision in the Van Camp case.

Upon further consideration of the record, and good cause therefor appearing,

IT IS ORDERED that the complaint in this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this 10th day of December, 1929.

Thos. S. Louette

A. Sweeney

Edmund Kelly

Leon Archibald

M. J. Carr
Commissioners.