

Decision No. 22932.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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SOUTHERN PACIFIC COMPANY,
Complainant,

vs.

L. A. THORNEWILL,
Defendant.

ORIGINAL

Case No. 2859.

Harry J. Bias for respondents H. H. Miller
and C. E. Hess.
W. S. Johnson for Southern Pacific Company.

LOUTTIT, Commissioner:

OPINION ON ORDERS TO H. H. MILLER, FRANK K. ROBERTS, O. W. EBERT AND C. E. HESS TO SHOW CAUSE WHY THEY SHOULD NOT BE PUNISHED FOR CONTEMPT

This is an opinion in four contempt proceedings heard and submitted on the 8th day of August, 1930, and ancillary to the complaint as above entitled and numbered. The respondents were cited to appear on the above date and show cause why they should not be punished for their failure to appear in response to subpoenas requiring their attendance as witnesses in the hearing in the principal case held at Santa Cruz on the 23rd day of May, 1930.

The respondents severally made their returns to said orders before Commissioner Louttit on the above date. Each testified that circumstances had prevented his appearance in response to the subpoena on the day and hour named and

disavowed any intention to ignore the process of this Commission. It appears also from the affidavits of service attached to the subpoenas, as well as from the testimony of the respondents themselves, that the subpoenas may not have been properly served. I am of the opinion, therefore, that each of the orders should be dismissed.

I recommend the following form of order.

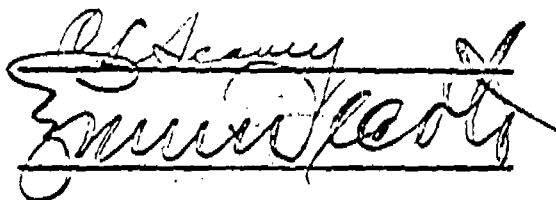
O R D E R

Orders having been issued on the 25th day of June, 1930, by the Railroad Commission of the State of California to H. H. Miller, Frank K. Roberts, O. W. Ebert and C. E. Hess to appear and show cause why they should not be adjudged guilty of contempt; returns to said orders having been made on the 8th day of August, 1930, the matters severally submitted and now being ready for decision,

IT IS HEREBY ORDERED that each of the orders issued to the respondents above named be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3rd day of October, 1930.





Commissioners.