

Decision No. 25117

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

HARRY SEE, the Brotherhood of Railroad
Trainmen, by Harry See, its State
Representative,)
Complainant.)

vs.)

SACRAMENTO NORTHERN RAILWAY COMPANY,
Defendant.)

Case No. 3242

ORIGINAL

Harry See, for complainants.

L. N. Bradshaw, for defendant.

BY THE COMMISSION:

O P I N I O N

Complainant herein, Brotherhood of Railroad Trainmen, by Harry See, its State Representative, seeks an order from this Commission against defendant in accordance with the law and the facts concerning the operation of a freight train on its main line and between stations on that railroad designated as Oakland (Shafter Avenue) and Pinehurst, a distance of approximately eight and one-half (8½) miles, with the train crew consisting of one conductor two motormen and one brakeman, in violation of the law known as the "California Full Crew Law." (Stats. 1911, P. 65).

Defendant in answer denies the violation of the act charged in this complaint.

A public hearing was held before Examiner Johnson at San Francisco on June 30, 1932.

The facts adduced from the testimony are not disputed. Witnesses for both parties establish that on March 28, 1932, the Sacramento Northern Railway ran its freight train between Oakland

and Pinehurst, a distance of approximately eight and one-half (8½) miles, with a train crew of one conductor, two motormen and one brakeman, whereas the act known as the "California Full Crew Law", required two brakemen. The company explained that one motorman was performing the duties of brakeman leaving Oakland until after the train had crossed the Contra Costa hills to the valley grade.

While there is no doubt that there was a technical violation of the law here, in that W. J. Prairie, motorman was performing double duty for several miles, acting both in the capacity of a motorman and brakeman and being paid as a motorman, we do not deem it wise to recommend any punishment in this case. The infraction is too slight. The company has frankly confessed the error in fact, although disputing the legal interpretation thereof. The company has forbidden the practice pending the decision of this Commission. The company has used for nineteen (19) years the practice of running a motor in the rear of all freight trains on the 4% upgrade out of Oakland for safety purposes. There has never been any accident thereby. The use of rear motorman for brakeman was because his duties as motorman were not arduous and vision was better from rear motor than from caboose, where the brakeman would ordinarily stay.

The men as well as officials of the road were united in declaiming that Prairie acting in his dual capacity did not impair his duties as a motorman; nor did he as a brakeman. He was paid at the higher rate of pay. The offense seems trivial. While Prairie boarded the train as an extra motorman, he performed services as brakeman and served as brakeman.

We find as a fact that defendant on the 28th day of March, 1932, did run a freight train consisting of two electric locomotives, nine cars and a caboose over its main line and between Oakland and Pinehurst, a distance of approximately eight (8) miles, with a train

crew of one conductor, one brakeman, one motorman and one brakeman-motorman, without complying with the strict provisions of the "Full Crew Law" requiring two brakemen.

O R D E R

Complaint having been made to this Commission as above entitled, a public hearing having been held thereon, the matter having been duly submitted, and the Commission being fully advised in the premises:

It is hereby found as a fact, that on March 28, 1932, in the operation of a freight train of nine cars, two electric motors and a caboose, defendant did violate the provisions of the "Full Crew Law," all as more particularly set forth in the above opinion; and

IT IS HEREBY ORDERED, that the Secretary of the Railroad Commission forward to the General Manager of said defendant corporation a certified copy of this Opinion and Order, together with a request that defendant refrain from such practice in the future.

Dated at San Francisco, California, this 24th day of August, 1932

C. J. Harvey
Leon A. Whelan
M. J. [unclear]
W. B. Harris
Frederic G. Stewart
Commissioners.