

Decision No. 35433.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Harry See, the Brotherhood of
Railroad Trainmen, by Harry See,
its State Representative,

Complainant,

vs.

Southern Pacific Company,

Defendant.

ORIGINAL

(Case No. 3360.

Harry See, for the complainant.

Henley C. Booth, for the defendant.

BY THE COMMISSION:

O P I N I O N

The complainants herein seek an order from this Commission against defendant in accordance with the law and the facts concerning the running of a passenger train of four cars on defendant's main line designated as the Coast Division between San Jose and San Francisco on the 17th day of September, 1932, with a train crew consisting of one conductor, one engineer, one fireman and one brakeman, in violation of Section 1 of the California Full Crew Act.

Defendant in its answer sets up a first defense that the complainant is seeking an order beyond and in excess of the powers of this Commission, namely an order enforcing the Full Crew Act and inflicting a penalty under said statute. As a second defense the defendant claims that this Commission is asked to make an order in excess of its jurisdiction, and as a third defense the defendant claims that the complainant is not authorized to complain under Section 60 of the Public Utilities Act.

A public hearing upon the issues as joined was held by Examiner Johnson at San Francisco on November 22, 1932. At this hearing the facts alleged in the complaint were stipulated as true, the attorney for the Southern Pacific Company, Henley C. Booth, presenting a copy of a letter from F.L. Burckhalter, General Manager, to Guy V. Shoup, General Solicitor of the company, admitting the violation of the Full Crew Law as charged. It was stipulated and ordered that this letter be introduced and filed in lieu of paragraph 2 of the answer of the Southern Pacific Company.

The facts therefore being admitted and the various pleas as to jurisdiction having been previously ruled on by this Commission in favor of the jurisdictional rights to decide the question involved here, there must be a finding in favor of the complainants.

We therefore find as a fact that said defendant did on the 17th day of September, 1932, run and permit to be run, a passenger train of four cars on its main line designated as the Coast Division, between stations on that railroad designated as San Jose and San Francisco, a distance of approximately 46.9 miles, with a train crew consisting of one conductor, one engineer, one fireman and one brakeman, such train being designated as train No. 107, leaving San Jose at or about 5:40 a.m. and arriving at San Francisco at or about 7:15 a.m., said operation being in violation of Section 1 of the law known as the California Full Crew Law, Statutes of 1911, and the statutes amendatory thereof and supplemental thereto.

O R D E R

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

IT IS HEREBY FOUND AS A FACT that on the 17th day of September, 1932, in the operation of a passenger train of four cars, defendant did violate the provisions of the full crew law, all as more particularly set forth in the foregoing opinion; and

IT IS HEREBY ORDERED that the Secretary of the Railroad Commission forward to the District Attorney of Santa Clara County a certified copy of this Opinion and Order, together with the request that appropriate proceedings be instituted against defendant or its responsible officers under the provisions of the Full Crew Law.

Dated at San Francisco, California, this 18th day of December, 1932.

J. C. Kearney

W. H. Cline

W. B. Harris

Frederic H. Stewart

Commissioners.