

ORIGINAL

Decision No. 3019-

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

J. H. MILLER and E. DONALDSON,
partners doing business under
the firm name and style of
MILLER & DONALDSON,

Complainants,

vs.

WILMINGTON TRANSPORTATION
COMPANY, a corporation,

Defendant..

Case No. 381.

Karl Ratzel and L. S. Kemper for complainants.
Gibson, Dunn & Crutcher for defendant.

Lucius K. Chase for The Freeholders Improvement Association of Avalon.

TEEBLEN, Commissioner.

O P I N I O N.

The issue in this proceeding is the reasonableness of the rates charged by Wilmington Transportation Company for transportation of persons and property between San Pedro and the town of Avalon on Santa Catalina Island.

The complaint alleges, in effect, that the complainants are merchants engaged in the business of selling groceries, meats, hardware and provisions at Avalon, Santa Catalina Island, Los Angeles County; that defendant is a common carrier of persons and property between the port of San Pedro and the port of Avalon; that the distance from the port of San Pedro to the port of Avalon is about 27 miles; that the defendant is the only common carrier of persons or freight whose vessels ply between said two ports; that the rate charged by defendant for the transportation of persons between San Pedro and Avalon is \$2.25 per round trip and \$1.50 each way; that the rates for certain classes of freight are

as specified in the complaint; that the rates charged by defendant for the transportation of passengers and freight are unjust and unreasonable; that the complainants are and for more than four years have been shippers of freight by means of the vessels operated by defendant; that the average paid by complainants to defendant has amounted to about \$2500.00 during each of the last four years, and that by reason of excessive freight rates charged by defendant, complainants have been damaged in the sum of \$1000.00 per year; and that the rate of \$2.25 per round trip and \$1.50 per single trip for passengers transported by defendant between San Pedro and Avalon is excessive and unreasonable, prevents a multitude of persons from visiting Avalon and thus deprives complainants of profits which otherwise would accrue to them. Complainants ask that the Railroad Commission reduce the defendant's passenger and freight rates to a just and reasonable basis.

Subsequent to the filing of the complaint herein, defendant filed its motion to dismiss the complaint on the ground that the Railroad Commission does not have jurisdiction over the subject matter of the complaint. Defendant took the position that the vessels of defendant plying between San Pedro and Avalon are engaged in commerce with foreign nations by reason of the fact that they sail beyond the three mile limit, and that jurisdiction over the rates charged by said vessels is hence vested exclusively in the Federal Government. After a public hearing on said motion, the Railroad Commission on July 9, 1913, made its order denying the motion to dismiss and directing defendant to satisfy the complaint or to answer it (Vol. 3, Opinions and Orders of the Railroad Commission of California, p. 42). On December 29, 1913, this decision was sustained by the Supreme Court of California on review proceedings initiated by the defendant. Wilmington Transportation Company vs. Railroad Commission, 166 Cal. 741.

On February 1, 1915, the decision of the Supreme Court of California was sustained by the Supreme Court of the United States. Wilmington Transportation Company vs. Railroad Commission, U.S. Adv. Ops. 1914-p 276

The effect of these proceedings has been to establish clearly the jurisdiction of the Railroad Commission of California over the rates of vessels plying regularly between California ports, and not touching at the ports of other states or nations, even though the vessels, in sailing from California port to port traverse the high seas ^{beyond the three mile limit} throughout a portion of their voyage.

On February 26, 1915, the defendant filed its answer. The answer denies that the rates charged by defendant for the transportation of either passengers or freight are unjust or unreasonable; avers that defendant in addition to the passenger rates set out in the complaint also maintains and charges a fare of \$2.00 for the round trip sold either on Saturday or Sunday and limited to the following Monday, as well as a party fare for regularly organized parties of 30 or more, limited to two days from the date of sale, at the rate of \$2.00 for the round trip; alleges that the complaint is in error with reference to certain of the freight rates therein specified; and denies that the complainants have been damaged. Defendant further answers that the Island of Santa Catalina, outside of the town of Avalon, is practically uninhabited and that no business is carried on thereon except farming of about 200 acres of land; that 95 per cent of the area included within the corporate limits of Avalon, exclusive of streets, and the entire territory of the island of Santa Catalina, outside of Avalon, is the property of Santa Catalina Island Company; that the capital stock of Santa Catalina Island Company is owned and held by the same persons and in the same proportions as the capital stock of Wilmington Transportation Company; that the Island of Santa Catalina and the town of Avalon have been for many years a pleasure and

health resort and that the transportation business of Wilmington Transportation Company arises directly or indirectly from and is dependent upon the maintenance of such pleasure and health resort in such a manner as to attract considerable numbers of persons thereto; that the larger portion of the travel to Santa Catalina Island is in the summer months of each year; that in order to maintain said island and town as an attractive pleasure and health resort, large sums of money must be expended in furnishing the means of public entertainment, attractions and amusement, in improving and maintaining roads, streets and parks, in providing and maintaining adequate supplies of water and electricity and an adequate system of sewerage and garbage disposal, and in policing and patrolling beaches and other public places; that most of said expenses must be paid by private enterprise; that for many years last past, except during the year 1914, these expenditures have been paid by Santa Catalina Island Company, which company has been reimbursed by Wilmington Transportation Company from the proceeds of the latter company's transportation business; that unless such expenditures are thus reimbursed out of the proceeds of the transportation business of Wilmington Transportation Company, the island and town can not be maintained as an attractive resort and the entire business dependent thereon, including the transportation business of Wilmington Transportation Company, will cease to be profitable and ultimately must be discontinued; that the moneys which have heretofore been expended or will hereafter be expended by Wilmington Transportation Company for the maintenance of the island and town, as hereinbefore stated, are not excessive or more than is reasonably necessary for the purpose; that the rates of Wilmington Transportation Company are not excessive or unreasonable and that the total net profit derived therefrom, after providing for the aforesaid expenditures necessary for the maintenance

of the island and town as a resort, have not exceeded a fair return upon the capital actually and necessarily invested; and that if the rates of Wilmington Transportation Company should be reduced it would be impossible to provide the necessary expenditures for the maintenance of the island and town as a resort and that Wilmington Transportation Company's revenues would accordingly be still further reduced. Defendant asks that the complaint be dismissed.

A petition in intervention was thereafter filed by the Freeholders Improvement Association of Avalon. The petition alleges, in effect, that petitioner, hereinafter referred to as the Association, is a California corporation organized for the purpose of providing for entertainment at Avalon for the members of the Association, their patrons and guests; that 90 per cent of the property owners of Avalon and 90 per cent of the shippers of Avalon are members of the Association; that the business of the Association and its members depends upon the maintenance of Avalon as a high class pleasure resort; that except during the year 1914, a contract has been in existence between the Association and Santa Catalina Island Company, under the terms of which contract Santa Catalina Island Company expended a large sum of money in furnishing, for the benefit of the citizens of Avalon, their patrons and guests, bands, dancing pavilions, and other forms of attractions, amusement and public entertainment, in maintaining adequate supplies of water, ^{and} electricity, in providing for the disposition of sewage and garbage, and in furnishing police and fire protection; that Santa Catalina Island Company has ^{been} reimbursed by Wilmington Transportation Company for the sums thus paid by Santa Catalina Island Company; that the expenditure of such sums is necessary in order that the town of Avalon may be maintained as a high class pleasure resort; that in the year 1914, no such contract was in effect between the

Association and Santa Catalina Island Company, with the result that Santa Catalina Island Company did not make the expenditures which it had theretofore made, as a consequence thereof, the public entertainments, amusements and attractions were not provided, the streets were not properly maintained, and the city was not maintained as a high class pleasure resort, by reason whereof the number of persons visiting Avalon was ^{SO} greatly diminished that the merchants and business men of Avalon suffered severe financial losses; that in order to remedy this condition, a contract in general similar to the contract theretofore in effect was negotiated in January, 1915, between the Association and the Santa Catalina Island Company, but that Santa Catalina Island Company would not adhere to ^{such} a contract unless it were certain of being reimbursed for its expenditures by Wilmington Transportation Company; that on February 1, 1915, the Supreme Court of the United States rendered its decision in the case of Wilmington Transportation Company vs. Railroad Commission, supra, holding that the Railroad Commission has jurisdiction over the rates charged by Wilmington Transportation Company, and that Santa Catalina Island Company cannot continue said contract in effect unless it is assured that Wilmington Transportation Company will be allowed rates sufficiently high to enable it to reimburse Santa Catalina Island Company for the expenditures to be incurred by the latter company, in accordance with the contract with the Association; and that the Association makes no complaint of either the passenger or freight rates charged by Wilmington Transportation Company but, on the contrary, avers that by reason of the unique and unusual situation of Avalon as a pleasure resort and the necessity of making the expenditures hereinbefore referred to for maintaining the Island of Santa Catalina and the town of Avalon as a high class pleasure resort, the rates of Wilmington Transportation Company are reasonable. Freeholders Improvement Association of Avalon accordingly asks that the

Railroad Commission establish such rates for the transportation of passengers and freight by Wilmington Transportation Company between San Pedro and Avalon as will enable Wilmington Transportation Company to furnish bands, dancing pavilions, amusements and attractions, to maintain, clean and light the streets of Avalon, to provide for sewage disposal, to provide parks and golf links, and otherwise to make the necessary expenditures to maintain Avalon as a high class pleasure resort. The Association further asks the Railroad Commission to find that the rates charged by Wilmington Transportation Company are just and reasonable rates as long as Wilmington Transportation Company continues to make the expenditures for the maintenance of the Island of Catalina and the town of Avalon as a high class pleasure resort.

On May 5, 1915, the complainants and defendant in the above entitled proceeding entered into a written stipulation to the effect that the trial of this case should be deferred until the first week in November, 1915. The parties stipulated that in case the Railroad Commission should reduce the ~~rate~~ freight rate charged by Wilmington Transportation Company, said company would refund to complainants and to all other shippers of freight the difference between the freight rate charged to such shippers and the rate as finally established by the Railroad Commission, from May 18, 1915 to the effective date of the rates thus to be established.

A public hearing in this case was held in Los Angeles on November 3, 1915. Evidence was presented at this hearing in behalf of the complainants, the defendant, the intervener, and the Railroad Commission. Mr. J. L. Morkey, Chairman of the Board of Trustees of Avalon, also presented a petition signed by most of the leading business men of Avalon, reading as follows:

"We the undersigned business men and property owners of the City of Avalon, County of Los Angeles, State of California do petition your honorable Board

that in considering the rates from the mainland to Santa Catalina Island, that you will take into consideration the dependence of Avalon, on the support and protection granted by the Wilmington Transportation Company.

"We believe that it would be impossible for the taxpayers and citizens of Avalon to support the town as a high class pleasure resort without receiving assistance from the Wilmington Transportation Company.

"We understand that the Santa Catalina Island Co's business is so interwoven with that of the W.T.Co, that should the transportation company withdraw their support, the value of our property and business would undoubtedly depreciate."

In accordance with the request of the parties, permission was given to file briefs. The briefs have been filed and the case is now ready for decision.

For many years, Wilmington Transportation Company has been operating its vessels for the transportation of passengers and freight between the port of San Pedro and the port of Avalon, on Santa Catalina Island. This company is the only common carrier which has operated throughout the entire year from the mainland to the Island of Santa Catalina.

The rate charged by Wilmington Transportation Company for the transportation of passengers is \$2.25 per round trip between San Pedro and Avalon, and \$1.50 for a single trip. The company also has in effect a rate of \$2.00 per round trip, good from Saturday or Sunday to Monday, and a party fare rate of \$2.00 per round trip, limited to two days from the date of sale, for regularly organized parties of 30 or more. The freight rates of Wilmington Transportation Company are based upon a rate of 20 cents per 100 pounds, with variations in said base rate generally dependent upon the floor space in the hold of the vessel necessary to accommodate the particular commodity.

Wilmington Transportation Company has at times been subject to competition during certain seasons of the year on the part of other vessels plying between San Pedro and Avalon or Long Beach and Avalon. These vessels have not undertaken to carry

freight but ^{have} confined themselves to the transportation of passengers. During portions of the year 1913, two vessels operated by gasoline, the "Nellie" and the "San Diego," competed with Wilmington Transportation Company in the transportation of passengers. Mr. A. C. Malone, owner of the "Nellie", testified that there was not business for two vessels and that the "Nellie" dropped out on or about September 15, 1913. The "Nellie" started with a round trip fare of \$1.00 in 1913, but reduced its fare to 50 cents and 60 cents when the "San Diego" commenced operations. The "San Diego" charged a round trip fare of \$1.00, while the "Nellie" was charging 50 cents. The "Nellie" has a gross tonnage of 47.7 and has a length somewhat less than 60 feet. The vessel plies between Long Beach and Avalon, over a course of some 27 1/2 nautical miles. Persons desiring to visit Santa Catalina from Los Angeles do so by going ^{via} either ~~XXXX~~ San Pedro or Long Beach.

During portions of the year 1914, the "Nellie" and the "San Diego" both operated. In 1915, the "Nellie" continued to run between Long Beach and Avalon. The rate charged in 1915 was \$1.10 per round trip. A small boat known as the "Calypso" also ran during a portion of the year 1915, between San Pedro and Avalon. It follows that persons desiring to travel by common carrier between the mainland and Avalon have been able during the years 1913, 1914 and 1915, to travel in the smaller vessels herein referred to, at rates much lower than those charged by Wilmington Transportation Company for transportation in its larger and more commodious vessels.

In 1913, Avalon was incorporated as a city of the sixth class.

From 1909 to 1915, inclusive, except the year 1914, the expenses of maintaining Avalon as a pleasure resort, including expenditures such as taking care of the streets, policing the town and disposing of the sewage, which are ordinarily regarded

as municipal functions, have been to a considerable extent paid by Santa Catalina Island Company, which company, in turn, was reimbursed by Wilmington Transportation Company from the revenue derived from the transportation of passengers and freight between San Pedro and Avalon.

At the hearing, the complainants introduced in evidence the freight rate schedules of a number of common carriers by water between San Francisco and certain points on San Francisco Bay and in the rivers tributary to San Francisco Bay. No evidence was introduced with reference to passenger rates or ocean going transportation of either passengers or freight. ^{No} evidence was introduced to show a similarity of conditions surrounding the transportation under the rates introduced in evidence, on San Francisco Bay, with the conditions governing the ocean going transportation ^{along this} between San Pedro and Avalon. The evidence/line introduced by complainants is not of such a character as to be of assistance to the Commission in determining just and reasonable rates to be charged by Wilmington Transportation Company for the transportation of either passengers or freight.

Comprehensive reports covering the value of the operative property, the maintenance and operating expenses and the allowances for depreciation in connection with the operation of Wilmington Transportation Company and a portion of the operations of Santa Catalina Island Company were prepared by the Railroad Commission's experts and were introduced in evidence in this proceeding.

I shall refer first to the Wilmington Transportation Company and then to Santa Catalina Island Company.

The following table shows the estimated reproduction cost new, the estimated annual depreciation and the estimated depreciated reproduction cost of the property of Wilmington Transportation Company, used and useful in connection with the Company's

freight and passenger business between San Pedro and Avalon, as of June 30, 1915, as prepared and introduced in evidence by Mr. Paul Thelen, one of the Commission's engineers:

Table I.

REPRODUCTION COST, ANNUAL DEPRECIATION
AND
DEPRECIATED REPRODUCTION COST.

	<u>Reproduction Cost</u>	<u>Annual Depreciation</u>	<u>Depreciated Reproduction Cost</u>
Cabrillo.....	\$207,593.72	\$ 4,700.00	\$155,893.72
Hermosa.....	90,337.87	2,950.00	51,987.87
Listo (Tubgoat).....	9,712.51	860.00	7,992.51
Yard Launch.....	780.00	40.00	460.00
Water Barge.....	2,650.87	73.00	1,774.87
Extra Equipment for Vessels.....	8,974.82	500.00	5,974.82
Shop Machinery & Tools..	12,544.64	501.79	8,459.48
Miscellaneous Shop Buildings.....	8,466.34	262.21	6,140.07
Docks and Wharves	5,226.20	134.43	4,352.15
Stores and Supplies.....	3,332.69	-----	3,332.69
General Office Fixtures.	861.50	-----	861.50
Interest During Construc- tion.....	6,623.95	-----	6,623.95
Administrative and General.....	7,500.00	-----	7,500.00
Working Cash Capital....	12,500.00	-----	12,500.00
Grand Total..	\$377,105.11	\$10,021.43	\$273,853.63

NOTE: The Vivo is considered in the same class as the Warrior and the Custom House Lighter, namely not engaged in the business between San Pedro and Avalon. The Listo is included above on the assumption of one full tug to towage and one full tug to the Avalon business.

As will be noted, the estimated reproduction cost new of this property is \$377,105.11, and the estimated depreciated reproduction cost based on the straight line method, is \$273,853.63. The estimated annual depreciation, similarly based on the straight line method, is \$10,021.43. It becomes unnecessary in this proceeding to pass on the question of the method to be pursued in estimating depreciation, for the reason that the estimates prepared by this Commission's engineering department as well as the reports of its auditing department, have been accepted in full by Wilmington Transportation Company.

The following table shows the profit and loss account for the years ending December 31, 1911, 1912, 1913 and 1914, in connection with the operation of the vessels of Wilmington Transportation Company engaged in the public service, as reported by Mr. T. G. Hughes, one of the Railroad Commission's auditors, to be shown by the books of Wilmington Transportation Company, with the exception that the expenditures for the operation of Captain Banning's yacht have been eliminated:

Table No. II

PROFIT AND LOSS ACCOUNT FOR THE YEARS ENDING
December 31, 1911, 1912, 1913 and 1914.
WILMINGTON TRANSPORTATION COMPANY.

	1911	1912	1913	1914
Earnings	274,731.68	258,732.07	237,688.42	155,008.52
Expenses				
Operating Steamers	55,977.12	54,390.86	54,812.53	49,632.24
Repairs Avalon Wharf	---	214.98	495.14	3,440.63
General Repairs	3,689.42	3,425.66	2,012.92	1,474.60
Handling Freight San Pedro	6,999.08	9,004.07	7,624.91	6,802.66
" " Avalon	1,908.74	3,292.94	2,974.15	1,874.88
Bar Supplies	3,691.58	3,298.54	4,521.94	2,818.23
Shop and Yard Expense	1,054.32	498.24	957.14	545.11
Freight and Express on Material	404.95	502.10	149.78	297.27
Salaries -				
Manager & Superintending Engineers	6,600.00	6,600.00	6,600.00	6,600.00
Clerks San Pedro & Avalon	1,422.15	2,484.95	2,422.50	2,664.70
" Los Angeles	3,962.50	3,760.00	3,315.00	3,285.00
Meals provided employees	---	2,998.15	2,829.44	2,450.50
Rent San Pedro Office	---	---	---	120.00
Stationery	622.85	375.32	614.03	504.27
Telephone	520.50	583.50	555.00	555.00
Taxes	6,825.95	4,997.09	4,879.39	6,197.32
Insurance	5,531.25	5,134.50	5,949.90	4,015.10
Franchises & Licenses	---	---	---	275.00
Attorney Fee	---	---	---	210.68
Loss and Damage	136.41	260.14	561.97	238.76
Miscellaneous	162.00	928.77	510.32	---
Total Expense -	99,508.82	102,769.81	101,786.06	94,001.95
Profit before charging Depreciation and ex- penses incurred by Island Co.	175,222.86	155,962.26	135,902.36	61,006.57
Deduct expenses incurred by Santa Catalina Island Co.	39,984.51	54,783.81	39,751.48	16,301.42
Profit before charging Depre- ciation -	135,238.35	101,178.45	96,150.88	44,705.15

The following table shows in detail the expenditures incurred by Santa Catalina Island Company and deducted in Table II:

Table III.

EXPENDITURES INCURRED BY
SANTA CATALINA ISLAND COMPANY AND RE-
IMBURSED IN ENTIRETY BY WILMINGTON
TRANSPORTATION COMPANY.

	<u>1911</u>	<u>1912</u>	<u>1913</u>	<u>1914</u>
Advertising	12,591.82	21,900.87	16,214.56	13,851.24
Attractions-band	14,559.82	16,778.35	14,418.39	-----
Collecting and burning garbage on Island	1,285.55	105.54	73.15	75.10
Maintenance of golf course	315.19	557.25	-----	-----
Police patrol	1,152.00	1,607.98	1,481.21	668.47
Maintenance of streets and lawns	10,080.13	13,821.62	7,564.17	1,706.61
Miscellaneous	---	12.30	----	----
	<hr/>	<hr/>	<hr/>	<hr/>
	39,984.51	54,783.81	39,751.48	16,301.42

During the year 1914, during which year there was no contract in effect between the Freeholders Association and Santa Catalina Island Company, the expenditures of Santa Catalina Island Company were much smaller than those of preceding years. During this year, Santa Catalina Island Company did not supply a band, while the town of Avalon, incorporated in 1913, paid in whole or in part for certain expenditures which are generally regarded as municipal expenditures, but which had theretofore been paid by Santa Catalina Island Company.

Referring now to allowances for depreciation, Wilmington Transportation Company set up no allowance in 1911 and 1912, but set aside \$20,100.00 during each of the years 1913 and 1914. Mr. Paul Thelen made an estimate, which was accepted by Wilmington Transportation Company, of \$10,021.43 as a proper annual allowance for depreciation.

As already indicated, Wilmington Transportation Company has been under contract with Santa Catalina Island Company to pay ~~year~~ to Santa Catalina Island Company each year 80 per cent of the company's net earnings, after deducting in addition to Wilmington Transportation Company's own operating and maintenance expenses, such amounts as Santa Catalina Island Company should expend for "advertising said island and the different resorts thereon as places of resort and recreation; in furnishing suitable attractions and amusements thereon; in operating and maintaining the garbage plant at Avalon; in maintaining the golf course and golf club at Avalon; and in sprinkling, cleaning and electric lighting the streets and public places in Avalon." These provisions are contained in contract dated February 1, 1904, between Wilmington Transportation Company and Santa Catalina Island Company, introduced as defendant's Exhibit "A" in this proceeding. This contract expired by limitation on February 1, 1914, but Wilmington Transportation Company and Santa Catalina Island Company have continued to abide by its terms in the same manner as though the contract were still in effect.

The following table shows passenger and freight earnings and expenses, depreciation, earnings after depreciation, ~~xxx~~ 80 per cent payment to Santa Catalina Island Company and the net profit of Wilmington Transportation Company from its public utility business for the years ending December 31, 1911, 1912, 1913 and 1914, and the total for the four years:

TABLE IV.

EARNINGS AND EXPENSES - 1911, 1912, 1913 and 1914-
WILMINGTON TRANSPORTATION COMPANY.

<u>I T E M</u>	<u>1911</u>	<u>1912</u>	<u>1913</u>	<u>1914</u>	<u>Total</u>
Passenger and Freight Earnings.....	274,731.68	258,732.07	237,688.42	155,008.52	926,160.69
Passenger and Freight Expenses	139,493.33	157,553.62	141,537.54	110,303.37	548,887.86
Earnings over Expenses.....	135,238.35	101,178.45	96,150.88	44,705.15	377,272.83
Less depreciation	10,021.43	10,021.43	10,021.43	10,021.43	40,085.72
Earnings after depreciation..	125,216.92	91,157.02	86,129.45	34,683.72	337,187.11
Less 80% to S.C.I. Co.....	100,173.53	72,925.62	68,903.56	27,746.98	269,749.69
NET PROFIT....	25,043.39	18,231.40	17,225.89	6,936.74	67,437.42

The 80 per cent payments to Santa Catalina Island Company shown in the foregoing table do not correspond with the actual payments reported by Mr. Hughes as appearing on the books of Wilmington Transportation Company, for a number of reasons, including the item for the operation of Captain Banning's yacht, and also the fact that proper allowances for depreciation have not heretofore appeared on the books of Wilmington Transportation Company.

From Table IV it appears that the total net profit of Wilmington Transportation Company from its operations during the years 1911 to 1914, inclusive, after making the 80 per cent payment to Santa Catalina Island Company, was \$67,437.42, or an average of \$16,859.35. This net profit amounts to a return of 6 1/10 per cent on the estimated depreciated reproduction cost of \$273,853.63.

If nothing further appeared in this case, I have no doubt it would be generally admitted that the rates of Wilmington Transportation Company have not yielded an excessive return. Complainants herein, however, urge that Wilmington Transportation Company should not be allowed to pay to Santa Catalina Island Company the 80 per cent of its net profits hereinbefore referred to, in which event it would appear that Wilmington Transportation Company is making a very large return. It accordingly becomes necessary to give consideration to the position of complainants with reference to said payment by Wilmington Transportation Company to Santa Catalina Island Company. It is urged by complainants that such payment by Wilmington Transportation Company is ultra vires, and in any event is excessive. The articles of incorporation of Wilmington Transportation Company give to the company the right to carry on "a general transportation, towing, lightering, storing, wharfage and warehouse business." Under the power to carry on a general transportation business, Wilmington Transportation

Company would certainly have the right to establish the necessary terminals and also to do whatever is necessary as an incident to the transportation business to insure its success. Unless the Island of Santa Catalina and the town of Avalon are maintained as desirable pleasure and health resorts, there would be but little business for Wilmington Transportation Company. What Wilmington Transportation Company has the right itself to do under its articles of incorporation, it certainly has the right to cause to be done in its behalf by its agent, the Santa Catalina Island Company. I am convinced that Wilmington Transportation Company is entitled to credit as operating expenses whatever moneys are properly and reasonably expended by or on behalf of Wilmington Transportation Company in maintaining those portions of the Island of Santa Catalina which are used by and for the public. If any of the payments made by Wilmington Transportation Company have been technically ultra vires, the defect can be easily cured for the future by an amendment to the company's articles of incorporation.

It now becomes necessary to consider the operations of Santa Catalina Island Company in connection with the company's service to or for the public, to ascertain whether the payments made by Wilmington Transportation Company have been excessive.

In Railroad Commission's Exhibit No. 4, Mr. Paul Thelen reports that to reproduce new the property of Santa Catalina Island Company directly used and useful in connection with the attractions and facilities which Santa Catalina Island Company offers its patrons and those of Wilmington Transportation Company in Avalon, together with improvements on the Island, but excluding all land values outside of Avalon, would cost a sum in excess of \$1,800,000, and that the depreciated cost to reproduce this property would be a sum in excess of \$1,200,000. The principal items entering into the improvements which are used and useful in the public service building are - amphitheatre and band stand, aquarium and equipment, bath

house and equipment, Canvas City, cottages, electric plant, fresh water system, freight house, golf club, Island Villa, Island Villa Hotel, Isthmus and Howlands, Metropole Hotel and equipment, pavilion, roads, reservoir, sewer system, street lighting, shops and warehouse. The real estate allowed in the foregoing computation consists of only those parcels of real property in the town of Avalon which are actually used in connection with the attractions and facilities which the Santa Catalina Island Company offers to its patrons and those of Wilmington Transportation Company.

Santa Catalina Island Company derives no operating revenue except from its rentals in Avalon and its attractions on Santa Catalina Island. The following table is a summarized statement of the operating and other revenues and the operating expenses of Santa Catalina Island Company from October 27, 1902, to December 31, 1914, including the amounts actually paid by Wilmington Transportation Company under its contract providing for the payment of 80 per cent of net profits:

SUMMARIZED STATEMENT OF REVENUES AND EXPENSES FROMOCTOBER 27, 1902 TO DECEMBER 31, 1914.SANTA CATALINA ISLAND COMPANY.

P e r i o d	Operating	80%	Total	Operating	Net Revenue
	Revenues	of Profit	Revenues	Expenses	of S.C.I.Co
	of	of		incl. Taxes	before
	S.C.I.Co.	W. T.Co.	S.C.I.Co.	S.C.I. Co.	Depreciation
Year to Sept. 30, 1903	278,856.65	—	278,856.65	241,208.95	37,647.70
" " " " 1904	260,713.12	—	260,713.12	249,434.38	11,278.74
" " " " 1905	249,328.30	56,621.79	305,950.09	223,403.58	82,546.51
" " " " 1906	320,852.44	33,753.59	354,606.03	288,682.04	65,923.99
" " " " 1907	340,610.61	125,472.34	466,082.95	319,488.54	146,594.41
" " " " 1908	222,457.14	84,599.36	307,056.50	207,938.70	99,117.80
" " " " 1909	234,706.75	117,397.96	352,104.71	225,239.35	126,865.36
" " " " 1910	309,696.80	116,147.03	425,843.83	332,122.61	93,721.22
Three mos. to Dec. 31, 1910	32,753.87	46,125.21	78,879.08	61,286.50	17,592.58
Year to " " 1911	322,573.86	127,769.10	450,342.96	338,611.03	111,731.93
" " " " 1912	295,315.79	78,436.86	373,752.65	300,598.64	73,154.01
" " " " 1913	249,012.70	62,247.89	311,260.59	240,578.98	70,681.61
" " " " 1914	160,900.25	19,985.12	180,885.37	169,200.98	11,684.39
T o t a l	\$ 3,277,778.28	\$ 868,556.25	\$ 4,146,334.53	\$ 3,197,794.28	\$ 948,540.25
T o t a l - last 4 years	\$ 1,027,802.60	\$ 288,438.97	\$ 1,316,241.57	\$ 1,048,989.63	\$ 267,251.94

NOTE:

The column of Operating Expenses above includes some considerable amounts for "Replacements", though not sufficient to equal an adequate allowance for depreciation.

Taking the last four years, it appears that Santa Catalina Island Company made a total profit, after receiving the 80 per cent payment from Wilmington Transportation Company, of \$267,251.94, or an average of \$66,812.98 per year. The estimated annual depreciation on the improvements of Santa Catalina Island Company is \$27,257.00. A part of this amount is already included as replacements under the operating expenses shown in Table V. However, making no allowance whatsoever for depreciation, the average annual profit of \$66,812.98 for the last four years would yield a return of between 5 per cent and 6 per cent on the sum of \$1,200,000.00, being the estimated depreciated reproduction cost of that portion of the property of Santa Catalina Island Company which is used and useful in its service to the public. Such a return is by no means unreasonable.

I do not mean, by anything herein said, to pass on the question whether certain expenditures in connection with the town of Avalon which would normally be municipal expenditures should be paid by the town through taxation or should be paid by a private concern. This is a matter which the town of Avalon must solve for itself. However, even subtracting from the operating expenses of Santa Catalina Island Company and Wilmington Transportation Company the sums heretofore paid for police patrol, sewerage and the maintenance of streets and other public places/ and other usual municipal expenditures, the return received by Santa Catalina Island Company and Wilmington Transportation Company would still be far from unreasonable.

As already pointed out, Wilmington Transportation Company is subject to competition in the transportation of passengers on the part of vessels the fares of which are far less than those charged by Wilmington Transportation Company. Hence there is a means available by which the public, if it so desires, can travel between San Pedro and Avalon at rates materially less than those charged

by Wilmington Transportation Company. It must be said, however, in this connection, that the service rendered by Wilmington Transportation Company is ~~xxx~~ superior to that rendered by its competitors.

After a careful consideration of all the evidence in this case, I find that the rates now charged by Wilmington Transportation Company for the transportation of passengers and freight are not unjust or unreasonable. The complaint should be dismissed.

I submit the following form of order:

O R D E R.

The above entitled proceeding having been submitted and being now ready for decision,

THE RAILROAD COMMISSION HEREBY FINDS AS A FACT that the rates now charged by WILMINGTON TRANSPORTATION COMPANY for the transportation of passengers and freight between San Pedro and Avalon are not unjust or unreasonable rates.

Basing its order upon the foregoing finding of fact and on the other findings of fact which are contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that the above entitled complaint 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 31st day of December, 1915.

Max Helen
H. J. [unclear]
[unclear]
Francis [unclear]
Commissioners.