

Decision No. _____

ORIGINAL

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA

Decision No. 3867

ELVINA S. BEALS et al.,

Complainants,

-vs-

SAN FRANCISCO-OAKLAND TERMINAL
RAILWAYS, a corporation,

Defendant.

Case No. 985.

Vincent Surr for Complainant
W. E. Smith for Defendant

LOVELAND, Commissioner:

O P I N I O N

In this complaint the Commission is asked to order San Francisco-Oakland Terminal Railways to put into effect in the cities of Oakland and Berkeley a special rate for children attending the public schools, which rate shall be one-half the regular fare of five cents. The defendant railway in its answer claims that the Railroad Commission does not have jurisdiction to grant the relief requested, and accordingly prays that the complaint be dismissed.

The question of jurisdiction of the Railroad Commission to grant the relief prayed in this proceeding was briefed by the parties to the proceeding and has been given careful consideration by the Commission. The Commission

has heretofore taken the position that it is an unlawful discrimination to grant a special fare to children attending public schools. (Vol. 2, Opinions and Orders of the Railroad Commission of California, p. 910.) The Interstate Commerce Commission has taken the same view in Conference Ruling No. 99, adopted October 12, 1908, and In the Matter of regulations governing sale of commutation tickets to school children, 17 I.C.C.144.

In 1915 the Public Utilities Act of California was amended in section 17, to permit the "Issue of reduced rate transportation by common carriers to children attending an institution of learning." Under this section the carriers may voluntarily grant reduced rate transportation to children attending public schools. We can find, however, no authority in the Commission to compel the carriers to put in a reduced rate in such instances. A class of persons cannot be given a special rate when the only distinguishing characteristic of the class is the purpose for which the people in the class are traveling. The service performed by carriers in transporting children attending public schools is the same as that in transporting other children and other persons. The only distinguishing characteristic, as shown by the pleadings and evidence herein, is the purpose for which these particular children are being transported.. This distinguishing characteristic cannot warrant the Commission in making a special rate in such cases.

Accordingly, the complaint must be dismissed.

O R D E R.

This case coming on regularly for hearing, and it appearing that the Railroad Commission has no jurisdiction to grant the relief prayed,--

IT IS HEREBY ORDERED that the complaint herein be, and the same is hereby, dismissed.

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

Dated at San Francisco, California, this 14th day of November, 1916.

W. H. Leland
W. H. Leland
W. H. Leland
Commissioners.