

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

THE BOARD OF TRUSTEES OF THE  
TOWN OF FAIRFIELD,

Complainant,

vs.

SOUTHERN PACIFIC COMPANY,  
(a corporation),

Defendant,

TOWN OF SUISUN CITY,  
(a municipal corporation),

Defendant.

Case No. 253.

GORDON and EDGERTON, Commissioners:

O P I N I O N

In this case the Board of Trustees of the town of Fairfield complain of the inadequacy of the train service of the Southern Pacific Company and of the refusal of that company to provide adequate station facilities for the proper accommodation of passengers and the transaction of freight business, in violation of Section 13 (b) of the Public Utilities Act, which is as follows:

"Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable."

The complaint was originally directed against the Southern Pacific Company alone, but in its answer, that company requested the Commission to issue an order and serve same upon the governing body of the Town of Suisun, making it a co-defendant in the case, which action was taken by the Commission.

Decision No. 498

The material allegations in the complaint are to the effect that when the line of railroad now controlled by the defendant was constructed through Solano county, a depot was established at Fairfield and that the depot remained at Fairfield until 1877. The complaint alleges that the defendant Southern Pacific Company recently constructed a small shelter shed within the boundaries of the town of Fairfield, but only stops two trains a day at this point and that passengers desiring to go to Fairfield are obliged to leave or board other trains at the station in the town of Suisun, necessitating a trip of about one mile to Fairfield, also that while the construction of this shelter and the stopping of two trains a day affords the residents of Fairfield and those desiring to visit that town some kind of passenger service, no provision is made for the receipt and delivery of freight in less than carload lots at that point.

It is further alleged by the complainant that Solano county has a population of about 27,000, many of whom are land owners and tax payers, and that they have from time to time considerable business in the county seat, and that the failure of the defendant to stop trains at Fairfield and provide adequate facilities is the cause of a great deal of inconvenience to such persons as desire to do business at the Court House.

It is not necessary at this time to consider all of the allegations of the complaint concerning the probable amount of business which would be done at a station if established by the defendant within the confines of Fairfield. It is sufficient to say that the complainant prays for an order of the Commission directing the Southern Pacific Company to erect and maintain a passenger and freight depot within the limits of the town of Fairfield, for which purpose the citizens of Fairfield propose to donate a block of land, known as Block ninety-nine (99), in the town of Fairfield.

The defendant Southern Pacific Company in its answer admits that its service and facilities for passengers at the town of Fairfield are inadequate and should be extended, changed and improved, but denies that the town of Fairfield is the most convenient shipping and receiving point for freight in that vicinity, except the vicinity lying to the east and north of the town of Fairfield.

The defendant Southern Pacific Company for a further and separate defense avers that the town of Suisun and the town of Fairfield are communities of about the same size, same character of population and business interests; that both are located on the defendant's main line of railroad and that because of the close proximity to each other, business does not justify the maintenance of two separate depots, —one at Fairfield and one at Suisun, and in short, that the removal of the depot from its present location at Suisun to the junction of Union avenue and its present main line, which would be near the dividing line between the two towns, would adequately serve both communities.

The defendant Southern Pacific Company prays for an order of this Commission permitting it to establish and maintain a freight and passenger station at, or near, the intersection of its main tracks with Union Avenue, in the town of Suisun near the town of Fairfield, and to abandon the present station facilities at the town of Suisun. It is pointed out that fully ninety per cent of the freight handled at the present Suisun station is freight in carload lots which is loaded or delivered, as the case may be, on industry tracks or private sidings, without reference to the location of the freight station and, therefore, the inconvenience of handling less than carload freight is the only point at issue, so far as freight traffic is concerned. Of this less than carload freight, the defendant Southern Pacific Company states that it is about equally divided between the two towns.

The answer of the defendant town of Suisun denies that no freight service is given to the town of Fairfield, or to its inhabitants, and alleges that the freight traffic is handled at the station of Suisun and maintains that to move the depot from its present location at Suisun to the junction of Union Avenue and the main line of the defendant Southern Pacific Company, as suggested by that company in its answer, would result in serious loss to the inhabitants of the town of Suisun and that a depot located at Union Avenue would not adequately serve the town of Suisun. The defendant town of Suisun bases its right for a continuance of the depot of the Southern Pacific Company at its present location in Suisun on the present needs and requirements of that town, as well as on the terms of a contract entered into on the 8th day of October, 1877, between the Northern Railway and certain citizens of Solano county, which contract, in consideration of securing a free right of way between Cordelia Slough, in Solano county, to the point of junction of the proposed railroad with the California Pacific Railway, easterly of Fairfield station, provided by its terms, among other things, that the Northern Railway would within three months after the completion of its line of railroad between Fairfield and Benicia, "establish and maintain a station at or near the junction of said spur with said Northern Railway at or near Suisun City, for the transaction of the usual railroad business."

Defendant town of Suisun prays that the complainant's prayer that the Southern Pacific Company be required to erect and maintain a freight and passenger station in Fairfield and to extend its Vallejo Branch Line tracks to said depot be denied.

We shall first consider the geographical location of the towns of Fairfield and Suisun. These two towns, as platted on the map, practically form one community, although there is a small portion of practically unoccupied territory separating the business and residential sections of the two towns. Union Avenue in

Fairfield runs about north and south from the court house in Fairfield, connecting with Main street in Suisun at its intersection with Common street. The Southern Pacific Company's main line passes through the westerly portion of the business and residential sections of Suisun and crosses Union Avenue in Fairfield, a distance of about 1700 feet from the court house. The passenger depot at Suisun is approximately 1150 feet from a point on Main street between Solano and Sacramento streets, which might be considered as a representative distance from the depot to the business section of Suisun. There is no available wagon road from the passenger depot at Suisun following the Southern Pacific Company's right of way in the direction of Fairfield. Therefore, persons leaving the train at Suisun, desiring to go to Fairfield, must travel through the town of Suisun on one of the cross streets; thence along Main street and Union Avenue to Fairfield, a distance of approximately one mile. Likewise, passengers desiring to travel from Fairfield, if they cannot accommodate themselves to either of the two trains which now stop at Fairfield, must travel approximately a mile to the Southern Pacific depot at Suisun.

The business section of Fairfield is located about 600 feet west of the court house, so that from the intersection of Union Avenue and the Southern Pacific Company's right of way to the business section of Fairfield, the distance would be about 2300 feet. From the intersection of Union Avenue and the Southern Pacific's right of way to the business section of Suisun the distance is approximately 2100 feet. From this it will be seen that, so far as distance is concerned, the contention of the Southern Pacific Company that the establishment of a depot at or about the intersection of Union Avenue and its right of way would serve both communities impartially, is correct. It was

claimed at the hearing, and no testimony was introduced to the contrary, that the population of Fairfield is 900 and that of Suisun 650. The complainant attempted to show that the Suisun Valley was naturally tributary to Fairfield and the large quantity of freight shipped from that section should be handled through a depot located at Fairfield.

The issues in this case should be confined to determining whether or not the town of Fairfield is adequately and reasonably served on the traffic in and out of that community and the contiguous territory and whether or not the Southern Pacific Company would be justified in establishing a new depot at Fairfield, operating the same as an independent agency and continuing to maintain their present depot at Suisun, or whether by moving the present depot at Suisun to the junction of Union Avenue and their main line would adequately serve, not only the people of Fairfield, but, also the people of Suisun.

At the outset, we believe it is proper to state that in our opinion the defendant Southern Pacific Company should not be required to maintain two separate agencies for the purpose of serving the town of Fairfield and the town of Suisun. On account of the close proximity of these two towns, it is apparent to us that one depot centrally located would adequately serve both communities.

It is not the duty of this Commission to prescribe the location of a railway depot, in order that one particular locality may enjoy advantages over some other district. Neither is it our duty to require carriers to maintain station facilities at certain points for the simple reason that to make any change might have a depressing effect on real estate values in that particular district. It is the duty of the Commission to see that the general public is reasonably and adequately served with transportation facilities and it must require the installation and maintenance of those facilities which are best calculated to serve the needs and requirements of the entire community, regardless of its effect on the

property values of one particular section, or the desire of any locality as against another to enjoy some trade advantages by reason of a depot's being located in its immediate vicinity.

In our opinion the town of Suisun does not enjoy commercial supremacy over Fairfield because of the fact that the Southern Pacific Company's depot is located in Suisun rather than in Fairfield. We believe but a very small percentage of the people who travel to Suisun by rail do so for the purpose of patronizing the local merchants. While a man may have business at the bank in Suisun, or at the court house in Fairfield, which would cause him to make a trip from his place of residence to Suisun by rail; we dare say his business would be practically confined to that which takes him to Suisun. In our judgment, the great volume of business done by the merchants of Suisun is with customers who travel to that point by teams and who will continue to go there regardless of whether the depot is in its present location or at Union Avenue. It may be true that a depot at Union Avenue would not serve the residential portion of Suisun as well as the one in its present location, but as we have stated before, we do not believe the Southern Pacific Company should be required to maintain stations at both Fairfield and Suisun. The Commission must consider the needs of the community as a whole and if a depot at the junction of Union Avenue and the Southern Pacific Company's main line will better serve the entire community, it is our duty to see that it is placed there.

The witnesses called by the town of Suisun were apprehensive lest the depot be moved to Block 99 in Fairfield, which the citizens of the latter town urge is the locality to properly serve them. Such an arrangement would place Suisun under the same disability which now confronts the town of Fairfield, and, in our

judgment, would be entirely unreasonable. The testimony shows that the drayage charges are no more for hauling freight from the present Southern Pacific depot at Suisun to Fairfield than they are to Suisun proper. Therefore, it is apparent to us that the drayage charges from a depot at Union Avenue to either town would be the same and neither community would have any particular advantage over the other.

The burden of the testimony was to the effect that Suisun had the greater number of mercantile establishments, banking institutions and the like, and that people from the surrounding territory came to Suisun to do their trading and in our judgment they will continue to do so, even if the depot is located at Union Avenue. We believe that if the travel could be thoroughly analyzed, it would be found that the majority of people who travel at present to Suisun by rail, do so for the purpose of transacting business with the banking institutions at Suisun, or at the court house in Fairfield, and not for the purpose of trading with the merchants of Suisun. The people of Vallejo, Bonicia, Dixon, Vacaville, and other towns in Solano County, do the bulk of their trading, we believe, in the immediate vicinity of their places of residence. We believe that the trips which they might make to and from Suisun would be for the purpose of transacting business at the court house or banking institutions, and that a depot located at the intersection of Union Avenue and the Southern Pacific Company's right of way would serve the public at large to much better advantage than its present location in Suisun, and at the same time would equally serve the combined communities of Suisun and Fairfield.

We shall now consider the contract entered into between the Northern Railway Company and certain citizens of Suisun which calls for the maintenance of a depot for the transaction of the usual railroad business at or near Suisun. Counsel for the town of Suisun has strongly urged that the contract referred to is legally enforceable, and relies, in this connection, principally



upon the decision of the Supreme Court of this state in the case of McCowen vs. Pew (153 Cal. 735-753). In that case the Supreme Court held that a contract for the location of a line of railroad along a particular route was not necessarily void per se. The court, however, clearly intimates that the public convenience and interest may be such as to make such a contract unenforceable. The court, at page 743 of the reporter, specifically states that as public agents, it is the duty of carriers to locate their depots and stations where the public wants and necessities demand their establishment, and to change them and provide others as future public necessities may require. Surely, should the entire town of Suisun be moved to another locality, this contract would not serve to require the railroad to maintain its depot at its present location when the public would be better served by a change. The weight of authority is that such contracts are not void per se and are enforceable so long as they do not conflict and interfere with the duty of the carriers to the public, but that where the rights of the public conflict with those of the contracting party under his contract, the latter must yield and such contracts must be deemed to have been made with reference to such contingency. (See Atlantic etc. Company vs. Camp--130 Ca. p.1, 60 S.E. 177--).

In 33 Cyc. 143, the principle is stated as follows: "The right to change the location of a station in a particular case cannot be controlled or prevented by contract (citing authorities), "or by the fact that private citizens in expectation of the continuation of a station at a particular place have made donation of land or money to the railroad company" (citing cases) "or purchased property or established business enterprises in the vicinity of the original location." (citing cases).

With this expression of the principle we agree.

The Southern Pacific Company has admitted in its answer that the town of Fairfield is not adequately served. This Commission would be derelict in its duty if it did not require that

company to install such facilities and provide such train service as will adequately accommodate that town.

We find as a fact, from the evidence in this case, that the convenience and necessity of the public do not demand at the present time, the location of one depot at Suisun and another in Fairfield. We find as a fact that the depot of the Southern Pacific Company at Suisun should be located at or near the junction of Union Avenue and the main line tracks of the Southern Pacific Company at Suisun, at which point said depot will more adequately and reasonably serve the public, including the communities of Suisun and Fairfield than at its present location. By what name the Southern Pacific Company shall designate the depot so located, the Commission is not interested, but tickets should be on sale at the various stations to Fairfield and passengers should be discharged at this depot. Likewise, freight consigned to Fairfield should be handled at this depot.

We recommend the following order:

O R D E R

Complaint having been made by the Board of Trustees of the town of Fairfield against the Southern Pacific Company, a corporation, that the train service and station facilities at the town of Fairfield are inadequate, and the town of Suisun City, a municipal corporation, having been made a co-defendant in the case, and a public hearing having been held on said complaint,

WE FIND AS FACTS (a) that the train service and station facilities of the Southern Pacific Company in the town of Fairfield for the handling of freight and passenger service are inadequate; (b) that the public convenience and necessity do not at the present time require the maintenance of two depots, one in Suisun and one in Fairfield; and (c) that the public convenience and necessity of the people of Suisun and of Fairfield

require that the site of the depot now in Suisun be changed to a point at or near the junction of Union Avenue with the Southern Pacific Company's main line in the town of Suisun. Basing our conclusion on these findings and on the further findings contained in the opinion which precedes this order,

IT IS HEREBY ORDERED that the Southern Pacific Company be and it is hereby directed to move its present Suisun depot to a point at or near the junction of Union Avenue and the Southern Pacific Company's main line in the town of Suisun, or to construct at or near said junction point a freight and passenger depot similar to that now located in the town of Suisun, and thereafter to stop at its depot at or near said junction point, its passenger trains which it has heretofore stopped at its present Suisun depot, and

IT IS FURTHER ORDERED that the Southern Pacific Company within ninety (90) days from the date of this order, prepare and submit to this Commission for its approval, plans showing the location of the proposed depot and the lay out of tracks to comply with this order. The depot at said junction point shall be completed within six (6) months from the date of this order.

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 this 12<sup>th</sup> day of March, 1913.

Wm M. Eastman  
W. H. Leland  
W. H. Leland  
Wm. H. Leland

Commissioners.