

Decision No. 8286

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

H. P. Jones,  
Complainant.  
vs.  
Walker D. Hines, and  
Southern Pacific Company.)  
Defendants.)

CASE NO. 1462.

Alexander Gould, for Applicant.  
M.A. Cummings and F.B. Austin, for Southern Pacific Company.  
F. B. Austin, For the Director General of Railroads.

LOVELAND, COMMISSIONER:

O P I N I O N

Complainant, H. P. Jones, a buyer and shipper of live stock, with principal headquarters at Brawley, California, alleges by complaint duly filed that the freight charges collected by defendants for transportation of live stock in carloads moving from Lone Pine to Brawley on April 25, 1918, during the period of federal control, were unreasonable in that they exceeded a rate subsequently published between the same points.

The answer denies the jurisdiction of this Commission, on the plea that the federal government did, on December 28, 1917, assume control of defendants' properties and that Congress enacted laws under which the various States were deprived of the right to

exercise jurisdiction over the rates of the carriers and, therefore, authority was declared to rest solely with the federal government.

A public hearing was held at Los Angeles on September 7, 1920. From statements submitted it was shown that the shipments in question actually moved within the period of federal control, during which time it is claimed this Commission had no jurisdiction over the rates or charges. Complainants discussed the jurisdictional points involved, but presented no testimony. Attorneys for defendants, acting upon instructions, declined to introduce testimony, resting their defense upon the denial of this Commission's jurisdiction.

Transportation Act 1920, reads:

"Sec. 2- When used in this Act-

The term 'Commission' means the Interstate Commerce Commission.

"Sec. 206(a):

Complaints praying for reparation on account of damage claimed to have been caused by reason of the collection or enforcement by or through the President during the period of Federal control of rates, fares, charges, classifications, regulations, or practices (including those applicable to interstate, foreign, or intrastate traffic) which were unjust, unreasonable, unjustly discriminatory, or unduly or unreasonably prejudicial, or otherwise in violation of the Interstate Commerce Act, may be filed with the Commission, within one year after the termination of Federal control, against the agent designated by the President under subdivision (a), naming in the petition the railroad or system of transportation against which such complaint would have been brought if such railroad or system had not been under Federal control at the time the matter complained of took place. The Commission is hereby given jurisdiction to hear and decide such complaints in the manner provided in the Interstate Commerce Act and all notices and orders in such proceedings shall be served upon the agent designated by the President under subdivision (a)."

Under this provision of the Act of Congress, it is apparent

that the Interstate Commerce Commission and not this Commission has been authorized to hear and decide claims for reparation filed against the President's agent for the collection of unjust or unreasonable charges, whether interstate or intrastate, during the period of federal control.

The Interstate Commerce Commission, in General Docket No. 10835, George E. Franzen vs the Director General (58 I.C.C. 213) awarded reparation against intrastate shipments moved between points in Illinois January 1, 1918 to August 23, 1919. In a tentative report of recent date (The Traffic World Aug. 28, 1920, p. 388), Docket No. 11355, Central Pennsylvania Lumber Company vs. Pennsylvania Railroad Company, Attorney-Examiner Disque granted reparation on Pennsylvania intrastate shipments moving after the assumption of federal control, and prior to June 25, 1918, the date upon which rates were initiated by the President under General Order No. 28.

Upon careful consideration I am of the opinion this Commission now has no jurisdiction to award reparation against shipments moved by carriers during the period of federal control and, therefore, that this proceeding should be dismissed.

#### O R D E R

Complaint and answer having been filed in the above entitled proceeding, a public hearing having been held, the Commission being fully apprised in the premises and basing its

order on the findings of fact which appear in the foregoing opinion.

IT IS HEREBY ORDERED that the same be and it 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 26<sup>th</sup> day of October, 1920.

H. L. Shepard  
Paul R. Wiley  
H. B. Brundage  
Irving Masten