

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA.

ORIGINAL

.....
CLAYBURGH AND GEORGE, et al.,
Complainants,
vs.
SOUTHERN PACIFIC COMPANY,
Defendant.
.....

Case No. 247

J. O. Bracken, representing complainants.
George D. Squires, representing defendant.

EDGERTON, Commissioner:

O P I N I O N .

Complainants allege that they are entitled to award of reparation because of certain alleged excessive charges collected by the defendant company upon carload shipments of live-stock moving between points within this state. The shipments in question all moved between February 10, 1910, and November 15, 1910. Complainants base their claim to reparation upon the fact that the through commodity rates, as published by defendant company's schedules C. R. C. 108 and C. R. C. 1725, were collected, and that these rates are greater than a combination of intermediate class and commodity rates; and complainants, ~~therefore~~, allege that the rates collected were unreasonable to the extent that they exceeded combinations of intermediate class and commodity rates.

The basis of the claim for reparation, therefore, is that the rates collected were unreasonable. This Commission has already announced in the case of Scott, Wagner & Miller, et al. vs. Western Pacific Railway Company, Case No. 283, decided on

April 15, 1913, that prior to October 10, 1911, there was no substantiative right to reparation solely because the rate charged was found to be unreasonable, the remedy of the shipper being to apply to the Commission and obtain a reduction in the rate applicable to future shipments.

It appears, therefore, that complainants in this case have no right to the reparation which they seek, and I accordingly recommend that the complaint be dismissed, and submit the following form of order:

ORDER.

This case having come on regularly for hearing, and the Commission being duly advised in the premises,

IT IS HEREBY ORDERED That the complaint in this proceeding be and the same hereby is 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 29th
day of July, 1913.

John MacArthur
Max Thelen
Edwin D. Edgerton

Commissioners.