

Decision No. 28924

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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CHARLES P. COOLEY,

Complainant,

vs.

ALAMEDA AIRPORT, INC. a corporation, and California Air
Terminals Co., Ltd., a corporation,

Defendants.

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) Case No. 3808
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BY THE COMMISSION:

ORDER OF DISMISSAL

Complainant, an aviator, alleges that each of defendant corporations operate airports and are subsidiaries of Curtis-Wright Airports Corporation; that the latter, through subsidiaries, including defendants, owns and operates three airports located in Alameda, San Mateo, and Los Angeles Counties; and that "said airports are so owned and operated by said subsidiaries as public utilities."

Complainant further alleges that, as an air transport pilot, he is engaged in the business of instructing pupils, transporting passengers for hire, piloting private airplanes, and towing advertising banners through the air; that he has based his airplane at the San Mateo airport; that in February, 1934, defendants leased the lands of said airport for a horserace course, without first obtaining authorization and in violation of the Public Utilities Act, section 51(a); that on March 1, 1934 de-

defendants notified complainant that the airport was closed, caused long poles to be driven in the ground across the landing field, and later planted trees therein, all without the permission of this Commission.

The three airports are alleged to be public utilities for the following reasons: (1) An airport requires a large flat area of land and an expenditure of large sums of money which an individual could not afford, and in this respect may be likened to street railways and railways; (2) Defendants advertise that they will receive pupils in air navigation schools at such airports; (3) Defendants advertise that their airports are open to the public generally for landing of aircraft, for use by air pilots instructing pupils, and for those operating privately owned aircraft; (4) Defendants list their airports with publishers and dispensers of directories and maps, thereby advising the public that the airports may be used as landing fields and hangers by public and private aircraft; and (5) that the general public, particularly complainant, accepted defendants' offer and used the airport in conducting the business of transporting passengers for hire and in instructing pupils.

The prayer is that the Commission take jurisdiction, compel defendants to reopen and maintain the San Mateo airport as a public utility, and declare the purported lease of grounds for a race track to be null and void.

Defendants, appearing specially, have filed a motion to dismiss on the grounds that the Commission has no jurisdiction of the defendants or of the subject matter of the complaint. Public hearing appears unnecessary. Good cause appearing, IT IS

ORDERED that the complaint is hereby dismissed for lack of jurisdiction.

Dated at San Francisco, California, this 29
day of April 1934.

CC L. H. H. H.
Leon C. H. H. H.
W. A. H. H.
W. B. H. H.

Commissioners