

# ORIGINAL

Decision No. 44740

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation )	
into the rates, rules, regulations, )	
charges, allowances and practices )	
of all common carriers, highway )	Case No. 4808
carriers and city carriers relating )	
to the transportation of property. )	

### Appearances

Reginald L. Vaughan and Douglas Brookman, for petitioners.

Frank Loughran, Scott Elder, Clair W. MacLeod, Marvin Handler, Edward M. Berol, Frank Chandler, Clifton E. Brooks, Walter A. Rohde, A. M. Lewis, James L. Roney, Russell Bevans, T. H. Losce, Roger W. Anderson, Don Donofrio, John W. Crowe, Harold M. Hays, L. E. Binsacca, Dugald Gillies, Joseph C. Gill, J. M. Clodfelter, T. R. Dwyer, R. C. Ellis, Joseph Robertson and Ward G. Walkup, Jr., for interested parties.

### O P I N I O N

This opinion deals with minimum charges for the transportation of small shipments for distances of 150 constructive miles or less between points in California north of Gaviota Pass and the Tehachapi Mountains. It is anteceded by Decision No. 43861 dated February 28, 1950.

In that decision the Commission found that the then existing charges for small shipments were insufficient and improper for carriers engaged in general freight operations. Increased minimum charges were adopted. The Commission also found, in Decision No. 43861, supra, that the charges therein adopted would impair the ability of V. Fred Jakobsen, doing business as Transbay Motor Express,

to continue his certificated operations between San Francisco and East Bay points, and that they would act to injure shippers who availed themselves of this carrier's rates.<sup>1</sup> This specialized carrier, therefore, was not required to establish the increased charges. Rate equality for all classes of carriers was maintained by permitting the adopted rates to alternate with the lower charges maintained by the specialized carrier.

The historical background of the volume of the charges for the transportation of small shipments is outlined in the aforementioned decision. No good purpose would be served in recounting it here. It suffices to review the charges adopted by the Commission and also the alternate charges maintained by the specialized carrier.<sup>2</sup> They are as follows:

(a) Charges adopted by Decision No. 43861, supra:

For shipments weighing less than 15 pounds	70 cents
(1) For shipments weighing 15 pounds and over	105 cents

(1) This traffic is also subject to the charge, if higher, for 100 pounds at the applicable rate between the points involved.

(b) Rates of the Transbay Motor Express:<sup>3</sup>  
(Applying only on articles for resale.)

Minimum Weight (In Pounds)		Rates Per Shipment				
Over	Not Over	Number of Shipments 1 to 3	4 to 7	8 to 22	Tendered Per Week Over 22	
0	25	-----	\$1.00	\$0.75	\$0.58	\$0.54
25	50	-----	1.00	0.85	0.73	0.68
50	75	-----	1.30	1.15	0.88	0.83
75	100	-----	1.60	1.40	1.02	0.96

<sup>1</sup>Jakobsen conducts, between the points mentioned, a specialized parcel delivery service limited, except as to phonograph records, to shipments weighing 100 pounds and less. For convenience this carrier will sometimes be referred to as Transbay Motor Express.

<sup>2</sup>The charges adopted by Decision No. 43861, supra, are set forth in Highway Carriers' Tariff No. 2. Those of the Transbay Motor Express are published in its Local Freight Tariff No. 4, Cal.P.U.C. No. 3.

<sup>3</sup>This scale of rates will be referred to as "Multiple Shipment Rates."

Common carriers engaged in general freight operations but competitive with the Transbay Motor Express between San Francisco and East Bay cities for small shipment traffic established for articles for resale the multiple shipment rates to the extent that they were lower than the charges adopted by the Commission. For articles other than for resale these carriers established the charge of 70 cents for shipments weighing less than 15 pounds and the \$1.05 charge for heavier shipments. The latter charges were also established for all traffic handled elsewhere in California by these and other common carriers.

Subsequently, representations were made and petitions were filed asserting that the adopted charges were improper and that the specialized carrier exemption created conditions which were not workable.<sup>4</sup> For the purpose of inquiring into this matter further public hearings were had before Commissioner Craemer and Examiner Lake at San Francisco.

Petitioners contended that the force of competition between San Francisco and East Bay cities necessitated the establishment of the lower multiple shipment scale of rates. Their experience under this scale, they alleged, showed that it created discrimination against small shippers and against shippers whose products are not for resale. They asserted further that the rates are prejudicial against shippers in the San Francisco Bay area and nearby points not located within the territory in which they could be applied. In addition, they contended that the rates created problems in the billing of the shipments, quoting of

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<sup>4</sup> Two petitions were filed. One of them was filed by Merchants Express Corporation which operates a general freight service between San Francisco and East Bay cities and between other points in the Bay region, including Santa Rosa and Healdsburg. The other petition was filed by a group of 8 common carriers, 2 of which conduct general freight operations similar to, but not as extensive as those of Merchants. The balance conduct operations between San Francisco and East Bay points. The second petition referred to included, when it was filed, Canton Transbay Express. At the hearing, however, this carrier withdrew its participation in the petition.

rates and in the collection of charges, all of which added materially to the cost of performing the service and make difficult the rendering of efficient services. The charges adopted by the Commission, they alleged, were too high for shipments weighing less than 50 pounds.

Petitioners seek adoption of a scale of minimum charges applicable for all carriers and between all points applicants are authorized to serve. The scale of proposed charges is set forth in the following tabulation:<sup>5</sup>

<u>Weight Groups</u>	<u>(1) Proposed Charges</u>
0-14	60
15-29	75
30-49	90
50 pounds and over	105

(1) In cents per shipment

According to petitioners the suggested charges for shipments weighing less than 50 pounds are as high as the traffic will permit. Higher charges, they contended, cause a diversion of traffic to parcel post and proprietary carriage.

Officers of Kellogg Express and of Merchants Express submitted operating and revenue studies of their companies for the period May 1 to May 5, 1950, inclusive.<sup>6</sup> These studies include statements showing the number and weight of small shipments handled, segregated by weight groups and type of traffic. Additionally, revenues under the present rate bases are compared with those which would accrue under the proposed scale.

<sup>5</sup>

The petitions were amended at the hearing. The proposed changes are materially different from those originally sought. Merchants, in their petition, sought extension of the multiple shipment scale for application to all points on its lines. No evidence, however, was submitted in support of this proposal. It was abandoned in favor of the revised charges proposed by the other petitioners.

<sup>6</sup>

Similar studies were introduced by Merchants' witness for the period March 6 to March 10, 1950, inclusive.

The studies show that for both carriers minimum charge shipments comprised approximately 40 percent of the total number of shipments handled during the period under consideration. An analysis of these shipments segregated by type of traffic is set forth in the following table:

Percent of Small Shipment Traffic

<u>Type of Traffic</u>	<u>Kellogg</u>	<u>Merchants</u>
Transbay (Subject to Multiple Shipment Rates.)	25.1	8.4
Other Transbay *	31.9	12.4
Total Transbay	57.0	20.8
Intercity *	43.0	79.2
Total	100.0	100.0

\* Traffic now subject to the 70-cent and \$1.05 minimum charges.

The effect upon the revenues of these carriers under the proposed rates, as calculated from the data submitted is, percentage-wise, as follows:

Percent of Revenue Change

<u>Type of Traffic</u>	<u>Kellogg</u>	<u>Merchants</u>
Transbay (Subject to Multiple Shipment Rates.)	/ 1.2	- 1.2
Other Transbay *	- 6.3	- 11.0
Total Transbay	- 3.2	- 7.5
Intercity *	- 6.9	- 9.3
Total	- 4.8	- 8.9

/ Increase in small shipment revenue.

- Reduction in small shipment revenue.

\* Traffic now subject to the 70-cent and \$1.05 minimum charges.

The difference in the percentages of total revenue reductions of these carriers is primarily attributable to the fact that the higher rated intercity traffic for Kellogg, comprised only 43 percent of the small shipment traffic, whereas it was 79.2 percent for Merchants.

Counsel for Transbay Motor Express stated that the multiple shipment rates were, for his client, proper, workable and profitable. He stated that this carrier conducts a specialized delivery service with equipment and terminal facilities which are particularly designed to accord shippers of small packages efficient and fast service. He further stated that the proposed charges were "probably higher than they ought to be for the type of operation" conducted by his client but that, in the interest of carriers and shippers, uniformity of rates was desirable. His client,<sup>7</sup> he stated, was willing to join in petitioners' proposal and to abandon the multiple shipment rates.

The attorney for Nielsen Freight Lines, Peninsula Delivery Service and Peninsula Motor Express supported petitioners' proposal, and urged that the proposed rates be adopted for application to all points his clients are authorized to serve.<sup>8</sup>

Adoption of petitioners' proposed scale of minimum charges for application between points other than between San Francisco and East Bay cities was opposed by the Truck Owners Association. A witness for this protestant testified that a reduction in the present charges from 70 cents and 105 cents for shipments weighing less than 50 pounds to those proposed by petitioners would cause a substantial reduction<sup>9</sup> in the revenues of carriers not engaged in transbay operations.

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<sup>7</sup> The record contains no costs for the transportation of small shipments by specialized carriers.

<sup>8</sup> Nielsen conducts a common carrier service between San Francisco, on the one hand, and points between Novato and Santa Rosa, inclusive, on the other hand. Peninsula Delivery Service and Peninsula Motor Express are also common carriers. They operate, as their names imply, between San Francisco and San Francisco peninsula points.

<sup>9</sup> Three common carrier witnesses testified that the revenue reductions which their companies would experience if the proposed charges were adopted would amount to \$1,370, \$1,122 and \$1,322 per month, respectively.

He stated that carrier members of the Association had represented that their operating ratios were close to 100 percent and that the reductions in revenues which would be occasioned by application of the sought charges would have a disastrous effect upon their financial stability. The Association suggested as an alternative to petitioners proposal a scale of minimum charges that was identical to petitioners' scale for shipments weighing less than 50 pounds but somewhat higher for heavier shipments. The alternate scale is set forth below:

<u>Weight Group</u> <u>(In Pounds)</u>	<u>(1) Proposed Charges</u>
0 - 14	60
15 - 29	75
30 - 49	90
50 - 74	*110
75 and over	*120

(1) In cents per shipment

\* For these weights, petitioners' proposal was 105 cents per shipment.

The witness for the Association testified that charges identical with those sought by petitioners for shipments of less than 50 pounds were suggested to meet the needs of the transbay package carriers. The charges of \$1.10 and \$1.20 for heavier shipments were proposed, he stated, to offset the loss in revenue which would result if petitioners' scale was approved in its entirety. He alleged that the alternate scale would reasonably preserve the overall revenues to carriers handling small shipments.

Adoption of the Association's proposal was not opposed by petitioners or other carriers supporting the lower scale of proposed charges. They urged, however, that the scale suggested by the Association, if approved, be made applicable to all carriers and between

all points within the 150 mile scope of the proceeding.

A permitted carrier engaged in the transportation of property between points in the San Francisco Bay area sought exemption from the proposed minimum charges for the transportation of liquors and wines. He testified that the proposed charges would drive the traffic he now enjoys to proprietary carriage.

Representatives of the Vallejo and Santa Rosa Chambers of Commerce protested the establishment of rates which would be different for transportation of small shipments from or to their communities than those from or to other areas. They urged that their communities be accorded the same rates as may be established for the transportation of small shipments between San Francisco and East Bay cities.

Two shipper witnesses testified in opposition to the proposed scales of minimum charges. One of them asserted that any increase in the present charges would cause a diversion of small shipment traffic to parcel post and other competitive means of transportation. The other witness opposed, except as to transbay traffic, adoption of either scale of minimum charges. He stated that the proposed charges, to the extent that they were below the direct costs of performing the service, would cast a burden upon other traffic.

The costs of transporting shipments weighing less than 100 pounds were introduced in evidence at a prior hearing by a senior engineer of the Commission's staff and by the traffic manager of a highway common carrier operating generally throughout northern California. The cost evidence is summarized in Decision No. 43861, supra. As shown therein, the average cost developed by the traffic manager for shipments of less than 100 pounds was \$1.36.<sup>11</sup> The costs developed

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Counsel for Transbay Motor Express stated that only a comparatively small percentage of that carrier's shipments exceed 50 pounds and that, therefore, the Association's scale would have little or no effect on its revenue.

<sup>11</sup>It was stated that this cost does not include provision for profit or income taxes.



by the engineer were the combined average costs for all weight brackets of less than 100 pounds. They were \$1.10 and \$1.20 for shipments of less than 100 pounds for 30 and 75 constructive miles, respectively. In addition, to the combined average costs for all weight brackets of less than 100 pounds, the engineer developed costs for small shipments for separate weight groups, for transportation within and between different areas in northern California.<sup>12</sup> The latter costs are summarized in the following tables:

Costs Per Shipment - Short Line Peddle Trip  
Operations - Average Round-Trip 60 Constructive Miles  
San Francisco - Oakland Areas

<u>Weight Group</u> (In Pounds)	<u>Costs</u>
Less than 25	\$0.8226
25 but less than 50	0.9010
50 but less than 75	1.0067
75 but less than 100	1.1526

Weighted Average Total Cost Per Shipment  
for Short Line Peddle Trips (one terminal)  
and Line Haul Operations (2 terminals) Be-  
tween San Francisco-Oakland Area and  
Other Areas

<u>Weight Group</u> (In Pounds)	<u>For 30</u> <u>Constructive</u> <u>Miles</u>	<u>For 75</u> <u>Constructive</u> <u>Miles</u>
Less than 25	\$0.9053	\$1.0338
25 but less than 50	0.9758	1.1168
50 but less than 75	1.0754	1.2318
75 but less than 100	1.2212	1.4023

The costs developed for similar weight groups for transportation between other areas in northern California were somewhat higher than those for the San Francisco-Oakland area but were approximately the same as those developed for transportation between San Francisco-Oakland and other points.

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The engineer's costs were expanded for an operating ratio of 93 percent before provision for income taxes.

The problem with which the Commission is now confronted stems primarily from the fact that the carriers of record necessarily are faced with varying traffic conditions and operating problems in the transportation of small shipments in northern California. For the purposes here in issue these carriers may well be classified into three distinct categories. These are (1) a specialized transbay carrier, who is engaged almost exclusively in the transportation of small shipments; (2) the transbay general freight carriers who are directly competitive with the specialized carrier and those who are competitive as to a large portion of their traffic but who are also engaged in the transportation of shipments in the package class beyond the territorial scope of their specialized competition; and (3) the general freight carriers conducting operations in northern California not competitive with the specialized carrier.

A uniform scale of minimum charges which will adequately preserve the proper relationship between costs and charges for all of the carriers should be the ultimate in disposing of this matter. Such a scale does not now prevail nor can it result from the record now before us. The charges adopted by Decision No. 43861, supra, are not suitable for the specialized carrier. The multiple shipment charges of that carrier are not practicable for the transbay carriers engaged in general freight operations who, by the force of competitive conditions, chose nevertheless to establish them. For transbay operations the charges proposed by petitioners are related to full costs of the freight carriers and for shipments of less than 50 pounds they are as high as the traffic will permit. The specialized operator offered no objection to this proposal. Adoption of the petitioners' charges for shipments moving in transbay service regardless of the class of service or the carrier rendering it will afford equal competitive opportunity to these carriers.

The extension of petitioners' scale to all points served by them beyond the area of specialized carrier competition or to carriers engaged elsewhere in northern California would, because of the greater distances involved, result in rates improperly related to costs. In addition, it would burden other traffic and would unduly depress these carriers' revenues. <sup>14,15</sup> On this record these considerations preclude extension of this scale beyond the immediate transbay area. It is the competitive situation obtaining in the transbay area and not in the rest of the territory involved that compels this conclusion.

Although the Association's scale would reflect to a greater degree the proper relationship between rates and costs for average movements of 75 constructive miles and would achieve uniformity between all carriers and territories in northern California, it cannot be adopted. Small shipments moving more than 150 constructive miles are subject to a \$1.05 as minimum. That amount, because of the limited scope of this phase of the proceeding, is necessarily the maximum amount which may be established on this record.

Merchants Express Corporation's failure to pursue its petition for extension into the Counties of Contra Costa, Marin, Sonoma, Napa, Solano, Santa Clara and San Mateo of its originally proposed rates, its failure to offer testimony in support of its petition and its abandonment of such proposal, compels a warning to carriers adopting such procedure. Relief cannot be granted where such proof is lacking.

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Apparently it was for these reasons and in the interest of uniformity that the Association expressed a willingness to adopt petitioners' scale for application between all points in the 150-mile scope of this proceeding for shipments weighing less than 50 pounds, provided that higher charges were established for heavier shipments.

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The revenue reductions which would result from the application of the proposed charges to Kellogg and Merchants, transbay as well as other than transbay traffic, would be 4.8 and 8.9 percent, respectively. The proposed charges if confined to transbay traffic, however, would result in revenue reductions of only 1.8 and 1.5 percent for Kellogg and Merchants, respectively.

There remains for consideration the permitted carrier's request for exemption from the minimum charges to be adopted in connection with the transportation of liquors and wines. In a proceeding of this nature it is necessary that the Commission weigh the asserted inconveniences which may result from use of the established bases of minimum rates and regulations against the public benefits which are derived from the maintenance of stabilized transportation charges. In order to preserve for the public the benefits which are derived from rate equality for the transportation of like shipments regardless of the class of service or the carrier rendering it the Commission will not authorize deviations from the established rates and regulations in the absence of a clear affirmative showing that such rates and regulations would prove unduly burdensome. Such a showing has not been made on this record.<sup>16</sup>

Upon consideration of all of the facts and circumstances of record, we are of the opinion and accordingly find that the minimum charges sought by petitioners have been justified for application between San Francisco and East Bay cities and should be approved to the extent provided by the order herein, and that in all other respects the proposals herein made have not been justified on this record.

Common carriers have heretofore maintained the same rates, rules and regulations on commodities not subject to Highway Carriers' Tariff No. 2 as those maintained in the minimum rate tariff. Authorization of this character appears necessary to maintain the uniformity that has heretofore existed.

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Upon a proper showing relief for these permitted carriers is available under Section 11 of the Highway Carriers' Act.

O R D E R

Based upon the evidence of record, and on the conclusions and findings set forth in the preceding opinion,

IT IS HEREBY ORDERED that Decision No. 31606, as amended, be and it is hereby further amended by incorporating in Highway Carriers' Tariff No. 2 (Appendix "D" of said Decision No. 31606, as amended), the revised page attached hereto and by this reference made a part hereof, to become effective October 1, 1950, which page is numbered as follows:

Ninth Revised Page 20 cancels Eighth Revised Page 20

IT IS HEREBY FURTHER ORDERED that common carriers subject to the Public Utilities Act be, and they are, and each of them is hereby authorized, but not required, to establish in their tariffs increases in minimum charges in connection with transportation of commodities for which minimum charges have not been established by the Commission no greater in volume and effect than the increases established herein.

IT IS HEREBY FURTHER ORDERED that tariff publications required or authorized to be made by common carriers as a result of the order herein shall be made effective not later than October 1, 1950, and on not less than five (5) days' notice to the Commission and to the public.

IT IS HEREBY FURTHER ORDERED that common carriers be, and they are, and each of them is, hereby authorized to depart from the provisions of Section 24(a) of the Public Utilities Act

and of Article XII, Section 21 of the State Constitution, to the extent necessary to carry out the effect of the order herein.

IT IS HEREBY FURTHER ORDERED that in all other respects the petitions be and they are hereby denied.

In all other respects said Decision No. 31606, as amended, shall remain in full force and effect.

This order shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 29th day of August, 1950.

R. E. [Signature]  
Justice F. [Signature]  
Harold [Signature]  
[Signature]  
Commissioners

Item No.	SECTION NO. 1 - RULES AND REGULATIONS OF GENERAL APPLICATION (Continued)																					
	<p>MINIMUM CHARGE</p> <p>The minimum charge per shipment shall be as follows: (Subject to Notes 1, 2 and 4).</p> <p>(a) When the constructive distance from point of origin to point of destination does not exceed 150 miles:</p> <p>(1) Between points south of the boundary line described in Note 3;</p> <p>(2) Between a point south of the boundary line described in Note 3 and a point north of said line;</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th colspan="2" style="text-align: center;"><u>Weight of shipment (in pounds)</u></th> <th style="text-align: center;"><u>Minimum Charge</u> <u>(In Cents)</u></th> </tr> <tr> <th style="text-align: center;">Over</th> <th style="text-align: center;">Not Over</th> <th></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">0</td> <td style="text-align: center;">25</td> <td style="text-align: center;">49</td> </tr> <tr> <td style="text-align: center;">25</td> <td style="text-align: center;">50</td> <td style="text-align: center;">62</td> </tr> <tr> <td style="text-align: center;">50</td> <td style="text-align: center;">75</td> <td style="text-align: center;">75</td> </tr> <tr> <td style="text-align: center;">75</td> <td style="text-align: center;">100</td> <td style="text-align: center;">87</td> </tr> <tr> <td style="text-align: center;">100</td> <td style="text-align: center;">.....</td> <td style="text-align: center;">93</td> </tr> </tbody> </table> <p>(3) Between points north of the boundary line described in Note 3:</p> <p>Shipments weighing less than 15 pounds..... 70 cents.            Shipments weighing 15 pounds and over shall be subject to the minimum charge provided in paragraph (b).</p> <p>(b) When the constructive distance from point of origin to point of destination exceeds 150 miles:</p> <p>(1) If classified 1st class or lower, for 100 pounds at the class or commodity rate applicable thereto; or</p> <p>(2) If classified higher than 1st class, for 100 pounds at the 1st class rate; or</p> <p>(3) If shipment contains different articles and no article is rated higher than 1st class, for 100 pounds at the class or commodity rate applicable to the article taking highest rate; or if any article is rated higher than 1st class, for 100 pounds at the 1st class rate; but</p> <p>(4) In no event shall the minimum charge be less than \$1.05.</p> <p>NOTE 1.—In no event shall the minimum charge be less than \$1.25 on shipments having point of origin or point of destination on steamship wharves or docks within the Los Angeles Harbor Pickup and Delivery Zone, as described in Item No. 260 series.</p> <p>NOTE 2.—For shipments transported beyond public highways to or from oil or gas well sites the minimum charge shall be \$1.25.</p> <p>NOTE 3.—Beginning at the shore line of the Pacific Ocean due south of Gaviota, thence northeasterly along an imaginary straight line to the point at which the boundaries of Santa Barbara, Ventura and Kern Counties intersect, easterly along the northerly boundary of Ventura and Los Angeles Counties to a point due south of the community of Tehachapi, northeasterly along an imaginary straight line to the point at which Highway U.S. 395 intersects the northerly boundary of Kern County, thence easterly along the northerly boundary of Kern and San Bernardino Counties to the California-Nevada line.</p>	<u>Weight of shipment (in pounds)</u>		<u>Minimum Charge</u> <u>(In Cents)</u>	Over	Not Over		0	25	49	25	50	62	50	75	75	75	100	87	100	.....	93
<u>Weight of shipment (in pounds)</u>		<u>Minimum Charge</u> <u>(In Cents)</u>																				
Over	Not Over																					
0	25	49																				
25	50	62																				
50	75	75																				
75	100	87																				
100	.....	93																				

\*150-G  
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NOTE 4.—For transportation between San Francisco or South San Francisco, on the one hand, and Alameda, Albany, Berkeley, El Cerrito, Emeryville, Oakland, Piedmont or San Leandro, on the other hand, the minimum charges shall be:

<u>Weight of shipment (in pounds)</u>		<u>Minimum Charge</u>
Over	Not Over	<u>(In Cents)</u>
0	14	60
14	29	75
29	49	90
49 . . . . .		105

\* Change  
 o Reduction } Decision No. **44740**

EFFECTIVE October 1, 1950

Issued by the Public Utilities Commission of the State of California,  
 San Francisco, California.  
 Correction No. 411