

## Statement of the Case.

"1. No proper bond for appealing said cause to this court has been given; and none was required by said Circuit Court to be given, but in allowing this appeal, said court assumed to excuse and dispense with the bond required by law, whereby the allowance of appeal is rendered invalid and this court acquires no jurisdiction thereby.

"2. This appeal is not taken and prosecuted by the party against whom the decree of the court below was rendered.

"3. It is apparent upon an inspection of the record that said appeal is frivolous and utterly groundless, and was taken for the purposes of delay merely."

*Mr. Louis D. Johnson* for the motion.

No one opposing.

THE CHIEF JUSTICE: The appeal is dismissed. *Hohorst v. Hamburg-American Packet Co.*, 148 U. S. 262.

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INTERSTATE COMMERCE COMMISSION *v.* ATCHISON, TOPEKA AND SANTA FÉ RAILROAD COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

No. 1275. Submitted April 24, 1893. — Decided May 1, 1893.

No appeal now lies to this court from decisions of the Interstate Commerce Commission.

THIS was a motion to dismiss for want of jurisdiction.

The motion was also entitled in the following cases: Atlantic & Pacific Railroad Company; Burlington & Missouri River Railroad Company; California Central Railway Company; California Southern Railroad Company; Chicago, Kansas & Nebraska Railway Company; Missouri Pacific

## Opinion of the Court.

Railway Company; St. Louis & San Francisco Railway Company; Southern California Railroad Company. Accompanying the motion was the following "Statement:":

"May 22, 1889, complaint was filed before the Interstate Commerce Commission against the appellees by the Board of Trade of San Bernardino, California, alleging said companies' maintenance of freight rates discriminative against San Bernardino, and in violation of the act of February 4, 1887, to regulate commerce (24 Stats. 379).

"Upon hearing, order was entered by the Commission on July 19, 1890, requiring the appellees to change and modify such rates. The appellees failed to obey such order, whereupon the Interstate Commerce Commission commenced this proceeding to enforce such obedience in the U. S. Circuit Court for the Southern District of California, on May 1, 1891, pursuant to section 16 of the Interstate Commerce Act (amended act of March 3, 1889, 25 Stats. 859). That court decreed in favor of the appellees on April 25, 1892, on the sole ground that upon the proof presented the alleged unlawful discrimination in rates did not exist, (50 Fed. Rep. p. 295; Trans. p. 202,) and thereupon, on May 14, 1892, (Trans. p. 4163,) the Commission appealed to this court.

"Such decision was rendered and this appeal was taken after the creation of the Circuit Courts of Appeals. The question is whether such direct appeal lies to this court."

*Mr. George R. Peck, Mr. A. T. Britton and Mr. A. B. Browne* for the motion.

*Mr. W. A. Day* opposing.

THE CHIEF JUSTICE: The motion to dismiss is granted. *McLish v. Roff*, 141 U. S. 661; *Lau Ow Bew v. United States*, 144 U. S. 47; *Hubbard v. Soby*, 146 U. S. 56; *Railway Company v. Osborne*, 146 U. S. 354.

*Appeal dismissed.*