

Counsel for Appellant.

232 U. S.

law clause of the Fourteenth Amendment, to forbid the sale by itinerant vendors of "any drug, nostrum, ointment or application of any kind intended for the treatment of disease or injury," although allowing the sale of such articles by other persons? That it did have such authority is so clearly the result of a previous ruling of this court (*Emert v. Missouri*, 156 U. S. 296), or at all events is so persuasively made manifest by the authorities cited and the reasoning which sustained the ruling of the court in the case just stated, as to leave no room for controversy on the subject (pp. 306-307). Moreover, the power which the state Government possessed to classify and regulate itinerant vendors or peddlers exerted in the statute under consideration is cumulatively sustained and made if possible more obviously lawful by the fact that the regulation in question deals with the selling by itinerant vendors or peddlers of drugs or medicinal compounds, objects plainly within the power of government to regulate.

Affirmed.

TEXAS & PACIFIC RAILWAY COMPANY *v.*
RAILROAD COMMISSION OF LOUISIANA.

APPEAL FROM THE CIRCUIT COURT OF APPEALS FOR THE
FIFTH CIRCUIT.

No. 186. Argued January 23, 1914.—Decided February 24, 1914.

Findings of fact concurred in by two lower courts will not be disturbed by this court unless shown to be clearly erroneous.
192 Fed. Rep. 280, affirmed.

THE facts are stated in the opinion.

Mr. Thomas J. Freeman for appellant, submitted.

Mr. Wylie M. Barrow, with whom Mr. Ruffin G. Pleasant, Attorney General of the State of Louisiana, was on the brief, for appellees.

MR. CHIEF JUSTICE WHITE delivered the opinion of the court.

Appellant, a corporation organized under the laws of the United States, filed its bill in equity in the Circuit Court for the Eastern District of Louisiana to restrain the enforcement of an order of the Louisiana Railroad Commission fixing rates for the carriage of cotton-seed and its products, on the ground that the order exceeded the powers conferred upon the Commission by the state law, indeed, was so unreasonably low as to be a violation of the due process clause of the state constitution. After issue joined the testimony was heard by a special master who found for complainant. The Circuit Court on exceptions filed by respondents to the master's report after reviewing the facts gave judgment sustaining the exceptions, setting aside the report and dismissing the bill on the ground that the evidence did not support the master's report—in other words, that the complainant had failed to prove its case. On appeal to the Circuit Court of Appeals the evidence was again reviewed, and the judgment affirmed. (192 Fed. Rep. 280.) This appeal was then taken.

Both the courts below passed on the facts and agreed in holding that appellant failed to establish by the evidence its right to the relief demanded, and the rule is well settled that findings of fact concurred in by two lower courts will not be disturbed by this court unless shown to be clearly erroneous. *Chicago Junction R. Co. v. King*, 222 U. S. 222; *Dun v. Lumbermen's Credit Ass'n*, 209 U. S. 20. As from an examination of the record we find no ground for concluding that there was plain error, the decree must be and is affirmed.

Affirmed.