

INTERSTATE COMMERCE COMMISSION v.
SOUTHERN PACIFIC COMPANY.

APPEAL FROM THE COMMERCE COURT.

No. 98. Argued January 14, 15, 1914.—Decided June 8, 1914.

Los Angeles Switching Case, ante, p. 294, followed and applied to similar switching charges made by railway companies in the City of San Francisco.

188 Fed. Rep. 241, reversed.

THE facts, which involve the validity of an order of the Interstate Commerce Commission relative to switching charges within the yard limits of San Francisco, California, are stated in the opinion.

Mr. Blackburn Esterline, Special Assistant to the Attorney General, with whom *The Solicitor General* was on the brief, for the United States.¹

Mr. P. J. Farrell for the Interstate Commerce Commission.¹

Mr. Fred H. Wood and *Mr. Gardiner Lathrop*, with whom *Mr. Robert Dunlap*, *Mr. T. J. Norton*, *Mr. C. W. Durbrow*, *Mr. W. F. Herrin* and *Mr. J. P. Blair* were on the brief, for appellees.¹

MR. JUSTICE HUGHES delivered the opinion of the court.

The Pacific Coast Jobbers' and Manufacturers' Association complained before the Interstate Commerce Commission of a switching charge of \$2.50 per car maintained by the respondents for delivering and receiving carload freight to and from industries located upon spurs and sidetracks within the carriers' switching limits in San Fran-

¹ For abstracts of arguments in this case see abstracts in preceding case which was argued simultaneously herewith.

cisco. The Commission, finding the facts to be similar to those found in the case of the complaint of the Associated Jobbers of Los Angeles with respect to switching charges in the latter city (18 I. C. C. 310), entered a similar order prohibiting the carriers from continuing the charge. This suit was thereupon brought in the Circuit Court of the United States for the District of Kansas, first division, against the Interstate Commerce Commission to restrain the enforcement of the order. Upon its transfer to the Commerce Court, the United States intervened and moved to dismiss the proceeding. This motion was denied and upon the application of the petitioners an injunction was granted.

The questions presented on the appeal from this order are the same as those which have been considered in the opinion of the court in No. 98, *Los Angeles Switching Case*, ante, p. 294, decided this day, and for the reasons there set forth the order of the Commerce Court is reversed and the cause is remanded to the District Court of the United States for the Northern District of California with instructions to dismiss the bill.

It is so ordered.