

OIL ON METAL CAUSES SUIT

Commerce Commission Must Decide When Machinery Is
Classed as Scrap.

DULUTH FIRM FIGHTS HIGH FREIGHT CHARGE

Superior Concern's Claim of
Overcharge on Hay Ship-
ment Is Heard.

Whether railroad companies will be required to refund to the Duluth Iron and Metal company \$1,242.80 as overcharged freight, will depend entirely upon the decision of the interstate commerce commission as to what classification belongs 11 carloads of abandoned machinery shipped from this city to Breckenridge, Pa., in 1911.

If the commission finds from testimony taken here yesterday by Charles F. Gerry, an examiner attached to the department, that the cargo was machinery, with a commercial value as such, as claimed by the transportation companies, then the Duluth Iron and Steel company has nothing coming.

If the commissioner concludes that the 11 cars contained scrap iron of no use except for its basic value to a foundry, as alleged by the claimants, then the metal company will have the amount of its claim turned back by the railroads.

On the witness stand yesterday H. Y. Josepha, member of the firm of Zalk & Josepha, doing business as the Duluth Iron and Metal company, gave a complete history of the transaction by going back to the time the old Ironton steel plant was built in 1894 and abandoned within a week after operations had been begun.

Sold As Scrap Iron.

In 1908 the plant was destroyed by fire. Trustees sold the machinery as scrap iron to Mr. Josepha's firm for \$8,000 in 1911 he testified, and after building a sidetrack to the mill site at a cost of \$800 the dismantled machinery was loaded aboard 11 cars and shipped east, after the local concern had been required to pay the regular freight tariff on machinery.

The shipment was handled by the Northern Pacific and the Soo lines as initial carriers from Duluth to Chicago. These roads were represented at yesterday's hearing by H. E. Still, assistant general freight agent for the Northern Pacific. The other carriers made parties to the proceeding, the Pennsylvania railroad, the Indiana Harbor Belt line, The Elgin, Joliet & Eastern, Baltimore & Ohio and Chicago Terminal companies were not represented.

Mr. Still testified that the shipment left Duluth under the regular tariff schedule as scrap iron, but the transportation inspectors at Chicago claiming they found evidence of some of the machinery having been oiled to protect it from the weather, thereupon reclassified it, sending it on to its destination as saleable machinery.

Another Case Heard.

Examiner Gerry, at the conclusion of the metal company's claim took up that of St. John & Co., of Superior against the Union Pacific railroad company and the Chicago, St. Paul, Minneapolis & Omaha railroad company for alleged freight overcharges on hay shipments.

The Superior concern wants a refund of \$45.03 on three separate invoices, and alleges discrimination against that point in favor of hay shipping points in Nebraska along the line of the Union Pacific and the Chicago & North Western roads.

Testimony in each case was taken by the examiner and will be forwarded to the interstate commerce commission from which a decision may be expected in a few weeks.