

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
C. S. STEWART, J. NEWMAN and H. J.)
WILKIN, a co-partnership, for a cer-)
tificate of public convenience and)
necessity to operate auto stage)
transportation service from Los Ange-)
les to various points in State of)
California, as far north as San Fran-)
cisco on Coast Route, Manteca on Val-)
ley Route, Mono Lake on Owens Valley)
Route, Victorville, Oro Grande and)
Big Bear Dam, and points in Imperial)
Valley, to handle laborers in parties)
of six (6) or more.)

APPLICATION NO. 10599

ORIGINAL

C. E. Tribit, Jr., for Applicants.

C. W. Cornell, for Pacific Electric Railway, Southern Pacific Company, San Diego & Arizona Railway Company and Trona Railway Company. Protestants.

E. T. Lucey and E. W. Beck, for Atchison, Topeka & Santa Fe Railway Company, Protestant.

H. B. Ellison, for Union Pacific System, Protestant.

L. J. McKim and Bodie K. Smith, for Western Pacific Railway, Protestant.

Warren E. Libby, for Pickwick Stages, N. D., Pickwick Stages, Inc., and Packard Stage Line, Protestants.

H. W. Kidd and G. E. T. Delamer, for California Transit Company, Motor Transit Company, Valley Transit Company, United Stages, Inc., and Merchants' and Manufacturers' Association of Los Angeles, Protestants.

Thomas Barker, for Labor Commissioner of the State of California, Interested Party.

J. E. McCurdy, for Peninsula Rapid Transit Company, Pacific Auto Stages, Inc., and Auto Transit Company, Protestants.

R. V. Crowder, for Los Angeles Steamship Company, Protestant.

BY THE COMMISSION:

O P I N I O N

C. S. Stewart, J. Newman and H. J. Wilken, co-partners, have made application to the Railroad Commission for a certificate of public convenience and necessity to operate auto stage transportation service from Los Angeles to various points in California, over fixed routes, for the purpose of transporting laborers and their baggage from employment agencies to various destinations, in parties of six or more. By stipulation entered into at the time of hearing, applicants are restricted to the movement of six or more passengers originating at employment offices in the city of Los Angeles, to any one destination, and also are restricted to the transportation of male passengers only.

A public hearing herein was conducted by Examiner Williams at Los Angeles.

The service proposed by applicants herein is in a large measure exclusive in its character and is not intended to be available to passengers between Los Angeles and any other point, except passengers tendered to applicants by employment agencies. Two of the applicants, Stewart and Newman, have been engaged in this business in Los Angeles for approximately twelve years, and until recently their right to conduct the operation without certificate has not been questioned. Applicant Wilken has been engaged in the business about three years. When question arose as to the validity of the service

being performed, applicants formed a co-partnership and filed the application now under consideration.

The facts as disclosed by the record herein appear to be that certain employment agencies in the city of Los Angeles procure labor for more or less distant industrial enterprises, on the condition that the employer pay transportation charges for all laborers delivered at the point selected by the employer. This means that the carrier of this labor is either paid in advance by the laborer himself at the time of beginning the trip, or the fare is advanced by the employment agency or is collectible from the employer at the point of destination, but is collectible only at the latter point when the laborer is actually delivered to the employer. This method is in vogue largely with indigent laborers, principally foreign, and is established for the purpose of assuring the employer that the men will reach their destination, and to prevent such laborers or others from obtaining free transportation. Much stress was laid by applicants on the statement that this is the only method by which employment agencies and employers may be certain that the laborers will reach their destination; that the vehicles used to transport such laborers are in charge of drivers who have the laborers in custody and take all due precautions that none abandon the journey before delivery at the place designated by the employer. Each of the applicants denied that any force was used in this process, but testified rather that skillful persuasion and a continuous journey practically insured the delivery of full loads at destination. Applicants contended that indigent laborers provided with railroad tickets or other means of transportation used them a part of

the distance only, and that frequently both the employer and the employment agency were the victims of this practice. While applicants were positive that the use of force or restraint, except moral suasion, was never necessary to insure delivery of full loads, it is significant that the arrangement between the employment agency and the employer is usually based on a fare paid upon delivery of the employee, and failure to deliver means a loss of the fare to the carrier.

Applicants were supported in their application by the testimony of E. Valhoff, manager of the Murray & Ready Employment Agency at Los Angeles for the past fifteen years. Mr. Valhoff testified that applicant Newman had been transporting labor for their agency for eight years, that he did not, to the knowledge of the witness, conduct any back-haul of passengers, and that no commissions had ever been paid for the business procured through this agency. The witness further testified that this agency used rail carriers and authorized stage lines as a general rule, and used Newman and other labor carriers only when the destinations were off railroad stops. Mr. Valhoff testified that frequently whole carloads of laborers had disappeared in transit. He stated that transportation as proposed by applicants was required only in emergencies, for indigent laborers whose fare must be advanced by the employer. This agency handles between 15,000 and 20,000 men each year, according to Mr. Valhoff's testimony, and does not on the average require a daily stage service.

Applicants were also supported by the testimony of Ricardo Rodriguez, conducting an employment agency at Los Angeles and handling Mexican labor principally. Mr. Rodriguez testified that his agency handled between 600 and 1000 laborers

a year, about two-thirds of whom have been transported by applicant Newman. This business was all conducted on the basis of collection of fares at destination, the employment agency advancing no money. This witness also testified that no commissions had ever been paid to the agency for the business procured.

Henry Watson, manager of the International Employment Agency at Los Angeles, testified that applicants Newman and Stewart had been transporting labor for this agency for the past five or six years, but none within the period immediately prior to the hearing.

Each of these witnesses regarded the service conducted by applicants as a benefit to the agency, to the employer and to the employee, particularly in cases where the foreign labor was unfamiliar with the geography of the country, or where the point of destination was not served by rail or stage carriers.

Protestants herein were supported in their attitude by Philip Playter, in charge of the office of Hummel Bros. Employment Agency in Los Angeles. During 1923 this agency, according to the testimony of witness, placed over 25,000 laborers at various points in California, and in 1924 placed approximately 18,000. Four-fifths of this number were transported by authorized carriers and the remainder by private stages. The witness testified that applicant Newman had transported some laborers from the agency, but not directly for it. This witness further testified that as a rule the service proposed by applicants was not needed, except to serve points off carrier lines or for the purpose of guaranteeing transportation charges.

R. Mojica, conducting an employment agency in Los Angeles for Mexican labor for the last ten years, testified that an intelligent selection of applicants would result in the choice of men who really intended to work, and that very little risk of loss in transit was taken. He further testified that men who must be guarded and kept under surveillance during transportation were hardly worth employing. This witness testified that he patronized regular stage lines and rail carriers because of their responsibility.

Edgar R. Perry, consulting engineer of the Merchants' and Manufacturers' Association of Los Angeles and also its assistant manager, testified that the maintenance and management of the Association's employment bureau in Los Angeles have been in his charge for the past three years. This Association has a membership of 8,000 and maintains this agency co-operatively, not only for its own membership but for all persons seeking employment. Witness testified that during the three years this bureau has been in existence, it has handled 275,000 men, and that of this number 98 per cent have been transported to places of employment over existing authorized facilities. He further testified that his records disclose that "very rarely does anyone ever fail to reach destination." The persons not transported over authorized facilities, witness explained, were sent, in emergencies, on trucks or other vehicles, and usually to points at no great distance from the city. Mr. Perry also testified that this agency delivers laborers to points as far north as San Francisco.

We believe the record as so far disclosed to be ample for the purpose of determining the necessity and convenience of the service proposed by applicants herein, without going into

detail as to the effective showing made by protestants relative to their equipment or their ability to conduct transportation to points on their lines. As to points off their lines to any great distance, the demand is shown by the record to be only occasional and sporadic, and deliveries to such points may be arranged for without the necessity of equipping carriers with a certificate such as is sought in the present proceeding, especially as the possession of such a certificate permits the transportation of passengers without payment of fares before destination is reached, and countenances a known purpose on the part of the certificate-holder to exercise some sort of restraint upon the passenger in order to collect the fare proposed to be charged. If need has been shown, it has been a private need on the part of the employment agency or the employer, and not a public necessity on the part of the passenger. The situation presented in the record herein appears to be analogous to the one presented in Application No. 8671, Houck and Smith, determined by Decision No. 13265, dated March 14, 1924, in which decision the Commission disposes of this feature of the application in the following language:

"Moreover, the evidence shows that this proposed service is based wholly upon the plan and desire of applicants to secure and load in their stages at the employment offices in Sacramento and Marysville, these mill laborers and lumberjacks, and transport them to Westwood or Susanville in a sort of quasi-custody, in order to insure their arrival there to the private advantage or benefit primarily of said applicants and the two or three lumber companies operating at these towns.

"This Commission does not consider public necessity and convenience to be based upon any such scheme or purpose as herein indicated by applicants.

"The Commission has, in its previous decisions, clearly established the doctrine that certificates

"to operate auto stage service shall be granted or withhold upon the basis that the rights, welfare and interest of the general public will be advanced by the authorization and prosecution of the enterprise, but not upon the private benefit or advantage that may accrue to any carrier, shipper or consignee."

We therefore find as a fact, upon the record herein, that public convenience and necessity do not require the service proposed by applicants herein, and that the application should therefore be denied. An order will be entered accordingly.

O R D E R

C. S. Stewart, J. Newman and H. J. Wilken, co-partners, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate auto stage transportation service from Los Angeles to various points in California, over fixed routes, for the purpose of transporting laborers in parties of six or more from employment agencies to various destinations, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity do not require the service as proposed by applicants herein, and

IT IS ORDERED that the application be and the same is hereby denied.

The effective date of this order shall be twenty
(20) days from and after the date hereof.

Dated at San Francisco, California, this 1st
day of June 1925.

H. A. Brundage

C. C. Seavey

George D. Iguine

Commissioners.