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Decision No. 20610

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Investigation on)
 the Commission's own motion into the)
 service, practices, and operations of)
 CALIFORNIA TRANSIT COMPANY, a corpora- Case No. 2478
 tion, between the points of Napa and)
 Vallejo and/or intermediate points.)

Earl A. Bagby, for California Transit Company

C. E. Brown and John T. York, for San Francisco,
Napa & Calistoga Railway Company, interested
party.

BY THE COMMISSION:

O P I N I O N

This is an investigation upon the Commission's own
 motion for the purpose of determining whether or not the ser-
 vice, practices, and operations, or any of them, of the Calif-
 ornia Transit Company are in any manner illegal or unlawful
 and relating in particular to the passenger transportation
 business conducted by it between Napa and Vallejo, and inter-
 mediate points.

A public hearing was held before Examiner Cannon at
 San Francisco, the matter was duly submitted, and is now ready
 for decision.

The record shows that California Transit Company during
 all of the times herein mentioned did not possess the right to
 transport passengers on its stages between the points of Vallejo
 and Napa and from either point to intermediate points.

ORIGINAL

In fact, the record shows that this service has been prohibited by formal and informal directions of the Commission. In Decision No. 12,483, Case 1626, June 9, 1927, this Commission made the following order:

California Transit Company is hereby directed to immediately cease the transportation of passengers by auto stage as a common carrier for compensation between the stations of North Vallejo (now Vallejo) and the stations of King, Napa, Florda (or Flodden), Napa Junction, Sacramento Junction, Soscol and Napa Hospital (also known as Napa State Hospital) and to and from points intermediate between and between intermediate points on its line between North Vallejo (Vallejo) and Napa; ***and to immediately cancel a, l rates applicable to the above points now appearing in its local tariffs."

Following the entering of this order California Transit Company issued instructions to its agents at Napa and Vallejo directing them not to offer transportation through from Vallejo to Napa, or Napa to Vallejo, as the case might be, but to sell tickets from either point to Sacramento Junction, commonly called the Wye, a point on the main highway approximately half way between Napa and Vallejo. The agents were further instructed to advise prospective passengers that they might purchase tickets from the Wye to destination. The information was not to be volunteered by the agents, neither was it to be withheld in case inquiry were made by the passenger. Subsequent to the rendition of the decision above referred to, and on September 19, 1927, the Commission issued its order and Decision No. 12820 which, among other things, provided:

"It is hereby ordered that California Transit Company, a corporation, successor in interest to Western Motor Transport Company, a corporation, by the authority contained in this Commission's Decision No. 10073, on Application No. 7340, as decided February 3, 1923, be and the same hereby is directed

to immediately discontinue the transportation of passengers locally between Vallejo (formerly North Vallejo) and Napa and the intermediate points of Flosda, (or Flosden), Napa Junction, Socol and Napa Hospital (or Napa State Hospital), and between any such intermediate points, and to cancel immediately all tariffs and time schedules as now filed with this Commission."

On November 8, 1927, the Commission by letter directed the California Transit Company to "immediately discontinue the practice of selling tickets or transportation or accepting cash fares at the Wye (Sacramento Junction) or any other points between Vallejo or Napa for Vallejo or any points between Vallejo and Napa, both inclusive, by means of which transportation or fares travelers may be transported on California Transit stages between Napa and Vallejo and points intermediate between Napa and Vallejo save and except between the Wye and Napa". The letter further directed California Transit Company to immediately issue a bulletin to its agents and drivers embodying the instructions necessary to carry out the above order.

Thus, it would appear that the Commission, upon at least three separate occasions, very definitely instructed and directed California Transit Company to discontinue the transportation of passengers between these points in the manner hereinabove set forth.

The record shows that W. F. Lemon, Service Inspector of the Commission, on December 29, 1927, purchased Ticket No. 30395, Form 1175, from the agent of the California Transit Company at Sacramento Junction for twenty-five (25) cents, and was transported on that date from Sacramento Junction to Vallejo on Stage No. 139, bearing State License No. 312-906.

On the same date said Lemon purchased Ticket No. 133-913, Form 346 for twenty-five (25) cents from the Company's agent at Vallejo, and was transported from Vallejo to Sacramento Junction on the Company's Stage No. 161, bearing State License No. 312-933, and upon arrival at that point purchased Ticket No. 1647, Form 986 for twenty-five (25) cents from the Company's agent, and was thereupon transported on the Company's Stage No. 377 from Sacramento Junction to Napa.

It further appears from the record that Wm. H. Gorman, Assistant Engineer of the Commission, on December 23, 1927, purchased Ticket No. 135899, Form 336, for twenty-five (25) cents from the Company's agent at Vallejo, and was thereupon transported from Vallejo to Sacramento Junction on the Company's stage No. 160, and after arriving at that point purchased from the Company's agent Ticket No. 1619, For, No. 986, and was thereupon transported from Sacramento Junction to Napa on the Company's Stage No. 377. After arrival at Napa said Gorman purchased a Ticket numbered either 01510 or 01518, Form No. 1519, from the Company's agent at Napa, and was thereupon transported from Napa to Sacramento Junction on Company's Stage No. 377, and after arrival at that point purchased a Ticket from the Company's agent, and was thereupon transported on one of the Company's stages from Sacramento Junction to Vallejo.

The record further shows that Leo C. Paul, an employe in the Stage Department of the Commission, on December 27, 1927, purchased Ticket No. 135927, Form 336, for twenty-five (25) cents from the Company's agent at Vallejo, and was thereupon transported from Vallejo to Sacramento Junction, and after arrival at that point said Paul purchased a ticket for twenty-five (25) cents from the Company's agent, and was thereupon transported on one

of the Company's stages to Inola. On December 28, 1927, said Paul purchased Ticket No. 01532, Form 1519, from the Company's agent at Napa, and was thereupon transported to Sacramento Junction, and after arrival at that point purchased Ticket No. 30394, Form 1175 from the Company's agent and was thereupon transported on one of the Company's stages to Vallejo.

Mr. Earl A. Bagby, attorney for California Transit Company, admitted that the testimony of the three Commission witnesses relating to the acts above described was correct in every respect.

The record further shows that the Company's agents were instructed not to give information voluntarily to patrons as to how they might go directly by auto stage from Vallejo to Napa, but not to withhold such information when questioned, and not to refuse to sell tickets over this route in the manner above described. The Company was thus attempting to accomplish, and actually did accomplish, by indirection and subterfuge, what it was expressly prohibited from doing directly.

From the foregoing it is apparent that California Transit Company has, on several occasions, transported passengers for compensation between Napa and Vallejo, and vice versa, and from either point to intermediate points in violation of law. On each occasion when these witnesses were transported the Company did so willfully, deliberately, and knowingly in violation of the Public Utilities Act, and the orders of this Commission.

It is our opinion that the most outstanding and flagrant violations consist in the carriage of these witnesses between Vallejo and Sacramento Junction, and vice versa. The record discloses that transportation between these points occurred on six different occasions, and as to these, we believe the Company

should be penalized as a means of punishment, and to warn it that future violations will not be countenanced by us.

The attorney for the Commission will be instructed to bring an action in the name of the People of the State of California in the Superior Court in and for the County of Alameda, for the recovery of penalties for these latter violations.

O R D E R

An investigation as above numbered and entitled having been instituted by the Commission upon its own motion; the matter having been heard and duly submitted, and being now ready for decision,

IT IS HEREBY ORDERED that Carl I. Wheat, Attorney for the Railroad Commission of the State of California be, and he is hereby instructed and directed to commence or cause to be commenced an action in the Superior Court of the State of California, in and for the County of Alameda, in the name of the People of the State of California, against California Transit Company for the recovery of penalties for the following violations of law committed on the part of the said California Transit Company.

1. For transporting on or about December 29, 1927, by means of an automotive vehicle, one Wm. F. Lemon, for compensation, over the public highway from Sacramento Junction, California, to Vallejo, California.
2. For transporting on or about December 29, 1927, by means of an automotive vehicle one Wm. F. Lemon, for compensation, over the public highway from Vallejo, California to Sacramento Junction, California.
3. For transporting on or about December 23, 1927

by means of an automotive vehicle one Wm. H. Gorman, for compensation, over the public highway from Vallejo, California, to Sacramento Junction, California.

4. For transporting on or about December 25, 1927, by means of an automotive vehicle one Wm. H. Gorman, for compensation, over the public highway from Sacramento Junction, California, to Vallejo, California.

5. For transporting on or about December 27, 1927, by means of an automotive vehicle one Leo C. Paul, for compensation, over the public highway, from Vallejo, California, to Sacramento Junction, California.

6. For transporting on or about December 28, 1927, by means of an automotive vehicle one Leo C. Paul, for compensation, over the public highway from Sacramento Junction, California, to Vallejo, California.

Dated at San Francisco, California, this 19th day of December, 1928.

Leon A. Russell
W. H. Gorman
Leo C. Paul
Wm. H. Gorman
Wm. H. Gorman
Commissioners