

Decision No. 21283

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

THE CITY OF STOCKTON, a municipal corporation,  
and the COUNTY OF SAN JOAQUIN, a political  
subdivision of the State of California,

Complainants,

-vs-

L. GUZMAN, Y. GUZMAN, M. LAVALLA,  
PEDRO CASTILLANO, A. ALBUR, APOLINARIO A FELIS,  
J. B. MARTIN, ROBERT BAER, W.M.REEVES, R.L.MORRIS,  
H. W. SHEPARD, EUGENE PAUL, JAS. J. MARTYN,  
BUD MEEK, LEOPOLDO IHARA, N. OROPESA, E.L. PETISME,  
MARY ACAR, H. TICON, C. BACOLE, TEODARO ROSARIO,  
R. BORILLA, ROBERT CASIL, G.A.CORRALIS, W.G.KIRSTEN,  
S.F. CATALONIA, MANUEL CARRUSCO, BEN F. MYERS,  
PAUL MITCHELL.

Defendants.

Case  
No.2477

J. Le Roy Johnson, City Attorney, City of Stockton,  
by C. A. Grant, Asst. City Attorney, for  
Complainants.

C. Kenyon, for S. F. Catalonia, Defendant.

C. H. Vance, for L. Guzman and Y. Guzman, Defendants.

Mc Noble and Arndt, by Stanley Arndt, for Robert  
Baer, W. M. Reeves, R. L. Morris, H. W. Shepard,  
Eugene Paul, W. C. Kirsten, M. Lavalla, and Ben  
F. Myers, Defendants.

L. J. Smallpage, for California Transit Co. and  
Colberg Bros., Intervenors.

H. C. Stanley, Assistant District Attorney, for  
County of San Joaquin, Complainant,

Apolinario A. Felis, in propria persona, Defendant.

H. Ticon, in propria persona, Defendant.

Manuel Carrusco, in propria persona, Defendant.

BY THE COMMISSION -

O P I N I O N

The City of Stockton, a municipal corporation, and the  
County of San Joaquin, a political subdivision of the State of  
California, have filed a complaint against L. Guzman, Y. Guzman,  
M. Lavalla, Pedro Castellano, A. Albur, Apolinario A. Felis,  
J. B. Martin, Robert Baer, W. M. Reeves, R.L.Morris, H.W.Shepard,

Eugene Paul, Jas. J. Martyn, Bud Meek, Leopoldo Ihara, N. Oropesa, E. L. Petisme, Mary Acar, H. Ticon, C. Bacole, Teodoro Roscio, R. Borilla, Robert Casil, G. A. Corralis, W. G. Kirsten, S. F. Catalonia, Manuel Carrusco, Ben F. Myers, and Paul Mitchell, alleging that defendants, and each of them, have operated automobiles for the transportation of persons, for compensation, upon the public highways in this state without first having obtained from the Railroad Commission a certificate that public convenience and necessity require such operation, and that all of the operations and acts of said defendants, as herein alleged, are contrary to the provisions of the Auto Stage and Truck Transportation Act, (Chapter 213, Statutes of 1917 and amendments thereto) and the Public Utilities Act (1915 Statutes, p. 115).

Answers denying the material allegations of the complaint were filed by defendants L. Guzman, Y. Guzman, M. Lavalla, Apolinario A. Felis, R.L.Morris, H. W. Shepard, Eugene Paul, Mary Acar, H. Ticon, Robert Casil, G. A. Corralis, W. G. Kirsten, Manuel Carrusco, Ben F. Myers, Robert Baer and W.M.Reeves.

Public hearings on this complaint were conducted by Examiner Handford at Stockton, the matter was duly submitted upon the filing of briefs by counsel, and is now ready for decision.

C. E. Wilkinson, a witness for complainants, testified that on October 27, 1927, he was transported by defendant James J. Martyn from Stockton to Sacramento, paying \$1.00 for the trip, also returning on the same day from Sacramento to Stockton and paying \$1.25 for the return trip. Receipts for the amounts paid for the foregoing transportation were given to witness by defendant Martyn and were received in evidence as Exhibits Nos. 1 and 2. On October 5, 1927, this witness was transported from Sacramento to Stockton by defendant Bud Meek, making the

trip in a Hudson Touring car, license 218-929 and commercial license 69-702, paying for the trip the sum of \$1.25 for which a receipt was given, said receipt being received in evidence as Exhibit No.3. Seven passengers were transported with the witness on this trip.

On September 26, 1927, witness secured transportation, Stockton to Sacramento from defendant J. B. Martin, the trip being made in a Hudson Touring car, having commercial license No.196-187, paying a fare of \$1.25 for which he obtained a receipt signed by defendant, which was received in evidence as Exhibit No.4.

On October 12, 1927, witness again secured transportation from defendant J. B. Martin from Stockton to Sacramento, being transported in a Hudson Touring car for a fare of \$1.25, for which a receipt was given by defendant, said receipt having been received in evidence as Exhibit No.5.

On September 26, 1927, witness was transported from Sacramento to Stockton by defendant H. W. Shepard in a Chandler sedan, License No.196060, paying as fare the sum of \$1.25 for which he received receipt (Exhibit No.8); on September 27, 1928, witness was transported from Stockton to Sacramento by defendant H. W. Shepard in a Chandler sedan paying a fare of \$1.25 for which he received a receipt (Exhibit No.9); and again on September 28, 1927, witness was transported from Sacramento to Stockton by defendant H. W. Shepard, paying a fare of \$1.00 for which he obtained a receipt (Exhibit No.10).

On September 22, 1927, witness was transported from Stockton to Sacramento by defendant R.L.Morris, paying fare in amount \$1.25 for which he received a receipt, (Exhibit No.11); on September 27, 1927, witness was transported from Sacramento to Stockton by defendant R.L.Morris, being charged a fare of \$1.25 for which he obtained a receipt (Exhibit No.12); on October 7, 1927, witness was transported from Sacramento to

Stockton by defendant R.L.Morris, paying a fare of \$1.25 for which he was furnished a receipt in the name of R. A. Naise, said receipt having been so signed by defendant Morris, (Exhibit No.13); on October 5, 1927, witness was transported from Stockton to Sacramento by defendant R.L.Morris, paying a fare of \$1.00 and obtaining a receipt in the name of R.A. Moore, said receipt having been so signed by defendant, Morris (Exhibit No.14); and on September 22, 1927, witness was transported from Sacramento to Stockton by defendant R.L.Morris, paying a fare of \$1.25 and obtaining a receipt therefor (Exhibit No.15).

On September 23, 1927, this witness was transported from Stockton to Sacramento by defendant Eugene Paul, paying a fare of \$1.25 for which a receipt was given (Exhibit No.16). Other trips made by this witness on which fares were paid to defendants herein are set forth in the following tabulation:

<u>Date</u>	<u>From</u>	<u>To</u>	<u>Defendant</u>	<u>Fare Paid</u>	<u>Exhibit Number</u>
Sept.23,1927	Sacramento	Stockton	Eugene Paul	\$1.25	17
Sept.27,1927	Stockton	Sacramento	Eugene Paul	1.25	18
Oct.6, 1927	Stockton	Sacramento and return	Eugene Paul	2.25	19
Oct.7,1927	Stockton	Sacramento	Eugene Paul	1.25	20
Sept.21,1927	Stockton	Sacramento	R. Baer	1.25	21
Sept.21,1927	Sacramento	Stockton	R. Baer	1.25	22
Oct. 3,1927	Stockton	Sacramento and return	R. Baer	2.25	23
Sept.29,1927	Stockton	Sacramento and return	W.M.Reeves	2.25	24
Sept.30,1927	Stockton	Sacramento and return	W.M.Reeves	2.25	25
Oct.4, 1927	Stockton	Sacramento	W.M.Reeves	1.25	26
Oct.4, 1927	Sacramento	Stockton	W.M.Reeves	1.00	27
Oct.26,1927	Stockton	Sacramento and return	W.M.Reeves	2.25	28

J. B. Smith, a witness for complainants, testified that during the month of July, 1927; he was employed by the police department of the City of Stockton; that on July 17, 1927, he observed a passenger transported from Stockton to Holt via the Borden Highway, said passenger being transported by an automobile operated by defendants A. Albur and Pedro Castellano; that witness observed the payment of one dollar for the trip; and that witness after observing the collection of fare followed the automobile to Holt where the passenger alighted. On November 2, 1927, witness observed passengers being transported from Stockton to Terminus Corner in an automobile, license No.1-525-850 registered in the name of defendant H. Orpesa, and observed passengers paying a fare of \$2.50, witness having followed the car from Stockton to Terminus Corner. On November 5, 1927, witness observed a Haynes Touring car, license No.464-206, leaving Stockton with five passengers for Terminus. A fare of seventy-five cents was observed by witness as being paid to the driver before leaving Stockton, witness having followed the car to Terminus Corner. This car is registered under the name of defendant Mary Acar.

On November 2, 1927, witness observed three passengers transported from Terminus to Stockton in a Chevrolet Touring car, bearing license No.1-570-216, said passengers being observed to pay a fare of seventy-five cents each before leaving Terminus. Witness followed car into Stockton. Automobile in which passengers were carried is registered in name of Leopoldo Ihara.

On November 3, 1927, witness observed Chevrolet automobile, License No.1-570-216, leaving Stockton for Terminus with five passengers, two of whom were observed to pay a fare of seventy-five cents each. Witness followed car out of town and had ascertained that the automobile was registered in the name of Leopoldo Ihara.

On July 19, 1927, witness observed Star touring car, License No.1-112-326, leaving Stockton for Terminus with four passengers,

two of whom were observed to have paid a fare of \$1.25. Witness followed the car out of Stockton and had ascertained that the car was registered in the name of Apolinario Felis.

On November 17, 1927, witness observed a Dodge touring car, License No.433-354 at Terminus Corner carrying passengers into Stockton, and saw driver of car accept two fares of \$1.00 each for transportation. Defendants H. Ticon and C. Bacole were operating the automobile at the time witness observed the foregoing.

P. B. Quyle, a witness for complainants, testified that he was a police detective employed by the City of Stockton; that on December 13, 1927, he saw defendant Castellano in the city of Stockton driving a Reo Truck, bearing License No.287-068, registered under the name of Dizon Ninonuevo; that he observed passengers loading on the truck; that on making inquiry of the driver was told that the truck made trips to Merced; and that he observed truck driving away after passengers had boarded same. Witness on the same date in Stockton observed a Dodge Truck bearing commercial license No.159-605 driven by Manuel Carrusco, loading passengers; that he questioned the driver and was told the truck made trips to the country; and that he saw the truck drive away after the passengers were loaded. Witness at the same time in Stockton saw defendant Paul Mitchell, who was one of a number of operators taken to the office of the Stockton Police Department and there questioned as to their operations and later released.

Leland S. Drais, a witness for complainants, testified that he was a State Traffic Officer with headquarters at Stockton; that he was asked by the Police Department of Stockton to secure information regarding the operation of automobiles for hire out of the city of Stockton; that he detailed an officer to observe automobiles carrying passengers between Stockton and island points; that said officer had reported to him that he had investigated and had found defendant Robert Casil driving a Cadillac automobile,

State license No.1-780-675, carrying six passengers with their baggage, destined from Stockton to island points; also Chevrolet sedan, State license No.459-198, carrying four passengers, car being driven by defendant Corralis from Stockton to the islands; also Studebaker automobile, license No.470-268, driven by defendant Teodora Rosario, who told the officer that the cars were transporting men from job to job; and also Chevrolet automobile, license No.1-671-63, driven by defendant R. Borilla, and transporting seven passengers from Stockton to island points. The date on which this information was secured was fixed by witness as December 23, 1927.

E. Y. Ninonuevo, a witness called on behalf of defendant P. Castellano, testified that he was engaged in the business of a labor contractor at Stockton, that in such business he used the Reo Truck, license No.287-068, which was registered in the name of his wife, Dizon Ninonuevo; that he instructed his driver to pick up three members of a lodge and take said members to a convention at Los Angeles and to stop at Merced enroute to pick up another relative who was to attend the convention at Los Angeles. Witness uses his wife's truck for the transportation of laborers contracted for through his Stockton agency, he does not solicit passengers or transport any person other than the men handled under his various labor contracts.

Apolinario A. Felis, a defendant testifying in his own behalf, stated that he did not engage in the transportation of passengers during the month of July, 1926, being engaged in work at the office of the Filipino Federation of America in Stockton during the entire month. Witness purchased an automobile during the month of January, 1927, and while he was engaged during the month of July in office work, the automobile was used by his partners and used for transporting prospective applicants for membership in the Filipino Federation of America from labor camps to the office of the Federation in Stockton; and that no charge was made for the

transportation of the applicants for membership.

Julio Carrusco, a witness in behalf of defendant Manuel Carrusco, testified that he was the son of defendant Manuel Carrusco and was the driver of the Dodge Truck, License No.159-605, observed by witness Quyle loading passengers at Stockton on December 13, 1927; that said truck is used only for the transportation of labor to camps. Witness drives for his father who is a labor contractor and in the distribution of labor from Stockton to various camps, and between such camps, the workmen are transported by the contractor without charge. Witness has so transported men during the entire summer of 1927, attending school during the remainder of the year, and knows that no charge has been made for such transportation.

G. A. Corralis, a defendant testifying in his own behalf, stated that in April, 1927, he with five partners purchased a Chevrolet sedan for their use from Gilroy, where witness was then residing to their work on ranches in the vicinity of Gilroy. The car was purchased on the installment plan and was registered and licensed under the name of witness. Witness left Gilroy on August 9, 1927, leaving the car with his partners. Since August, 1927, witness has resided in San Francisco where he has been a student at the Lincoln University and has also been employed continuously since October, 1927, outside of school hours; that upon receiving advice from a finance company that payments on the automobile were delinquent he went to Stockton, Marysville, and Walnut Grove, finally locating the car at the latter point and taking it to San Francisco where he turned it over to the finance company. Witness had not operated the car except for his personal use prior to his leaving Gilroy and does not know the driver, Juan B. Ames, who was found operating the car on December 23, 1927. Witness presented a letter from his San Francisco employer certifying that he had been continuously employed from October, 1927, until the date of the hearing,



(Exhibit No.6).

H. Ticon, a defendant, testified that he resided on Ryde Island and had owned an automobile for two years; that he did not transport passengers for hire although was arrested on November 17, 1927, by the police department at Stockton for transporting passengers without a license. The police court record shows that at the trial on November 18, 1927, witness pleaded guilty and was thereafter sentenced to five days imprisonment in the county jail at Stockton.

R. L. Morris, a defendant herein, testified that he resided in Stockton and that he operated a car for hire. Witness is President of an association of operators of "for hire" automobiles and makes trips to Sacramento over different routes, and has also operated carrying passengers to Willows, Elk Creek, Valley Springs, Los Angeles, San Francisco, Concord, Atwater, San Andreas and Sonora, having no definite schedule or definite route.

Witness admits carrying witness Wilkinson, whose testimony has heretofore been set forth, and admits charging individual fares on his trips between Sacramento and Stockton, such fares ranging from \$1.00 to \$1.25 per passenger. Witness is also engaged in hauling men for labor agencies or contractors, and such class of hauling is done on the basis of an agreed rate for the car for the trip, no individual fares being charged under this method of operation. Witness has been operating for hire and as a contract operator for about three years, making Stockton his headquarters during such time. Witness further testified that his plan of operation was to go anywhere if the revenue derived would yield ten cents per mile, that he usually would not operate unless such amount was obtained and that he would accept individual fares from all passengers that might offer making a trip at any time and to any place when the necessary revenue, based on a return of ten cents per car mile, was available.

By stipulation it was agreed that the testimony of defen-

dants Robert Baer, W. M. Reeves, H. W. Shepard, Eugene Paul, W. C. Kirsten, M. Lavalla, and Ben F. Myers, if called to the witness stand would be similar to that of witness R.L. Morris as regards their individual methods of operation.

By stipulation, it was agreed that the testimony of witness J. B. Smith, if recalled, would be to the effect that defendant, M. Lavalla carried passengers for hire on July 17, 1927, from the city of Stockton to a point on the San Joaquin River known as Zookerman's Ferry; that he was driving a Reo car and that twelve passengers were carried. Also that defendant Lavalla carried passengers for hire on July 17, 1927, from Stockton to Brentwood; that Smith paid a fare of \$2.50; and that there was a total of five passengers on such trip.

Y. Guzman, a defendant herein, testified that he resided in Stockton, was in the business of driving an automobile for hire and had been in such business for about four years; that his work consists of hauling express in the City of Stockton and vicinity and hauling laborers to ranches when requested to do so by the owners or superintendents of such ranches; and that the compensation for hauling such laborers is always paid by the ranch owner or superintendent.

L. Guzman, a defendant herein, testified that on July 5, 1927, he hauled eight passengers from Stockton to Mc Donald Island, said passengers being laborers for Zookerman Brothers; that Zookerman Brothers had called him by telephone to secure these laborers for work in a potato camp; that the compensation for the transportation of these laborers was paid by Zookerman Brothers and not by the individuals making the trip. This witness conducts for his own account a similar business to that of his brother, Y. Guzman and hauls laborers from Stockton to ranches, his orders for labor coming from the ranch owners or managers, and his compensation being obtained from the ranch owners and not from the individual passengers.

During the hearing counsel for certain defendants made formal motion for dismissal of the complaint on the ground that the City of Stockton had not authorized the filing of a complaint regarding any operation beyond that alleged to have been performed between Stockton and points in the Delta Territory, and that the Commission is without jurisdiction to entertain a complaint referring to matters which may occur in future. The motion to dismiss was taken under advisement for the consideration and decision of the Commission. We have fully considered said motion and find that the complaint herein filed contains under Section III a general allegation that the defendants herein have continuously and for a long time operated automobiles for the transportation of persons for compensation upon the public highways in this state without first having obtained from this Commission a certificate that public convenience and necessity require such operation, and that all the alleged operations complained of are in violation of the provisions of Chapter 213, Statutes of 1917, and effective amendments thereto, and of the Public Utilities Act (Statutes 1915, page 115) and amendments thereto. Paragraph IV of the complaint sets forth specific allegations regarding acts of defendants herein which are alleged to have been done in violation of the statutory law. The prayer of the complaint requests a public hearing, after due notice, and such order or ruling by the Commission, as may be meet in the premises. We are of the opinion that the complaint herein sets forth issues which by reason of formal answers being filed bring the matter properly within the Commission's jurisdiction and that the motion to dismiss the complaint should be denied.

We have carefully considered the evidence and exhibit herein. It appears from the evidence and stipulations that operation between Sacramento and Stockton has been conducted by several defendants herein who have operated in rotation from the respective

terminals. While these operators have held themselves out to go to any point to which passengers have been desirous of securing transportation, there has been a regularity and frequency of service between Stockton and Sacramento to justify the finding that regular service is being performed between such termini. The testimony indicates that these trips between Stockton and Sacramento are not always made over the same route, but the terminals are in every instance identical, i.e., Stockton and Sacramento. The statute (Chapter 213, Laws of 1917, and effective amendments) provides that no operation "between fixed termini or over a regular route" shall hereafter be commenced without authorization by the Commission.

The record shows, by exhibits received in evidence, transportation to have been furnished, compensation to have been collected and receipts therefor to have been given by the following defendants, the following tabulation showing dates upon which transportation has been furnished between Stockton and Sacramento.

<u>Defendant</u>	<u>Date</u>	<u>Between</u>
R.L.Morris -	Sept. 22, 1927.	Stockton to Sacramento
	Sept. 22, 1927	Sacramento to Stockton
	Sept. 27, 1927	Sacramento to Stockton
	Oct. 5, 1927	Stockton to Sacramento
	Oct. 7, 1927	Sacramento to Stockton
Eugene Paul -	Sept. 23, 1927	Stockton to Sacramento
	Sept. 23, 1927	Sacramento to Stockton
	Sept. 27, 1927	Stockton to Sacramento
	Oct. 7, 1927	Stockton to Sacramento
	Oct. 8, 1927	Stockton to Sacramento and return
R. Baer -	Sept. 21, 1927	Stockton to Sacramento
	Sept. 21, 1927	Sacramento to Stockton
	Oct. 3, 1927	Stockton to Sacramento and return

<u>Defendant</u>	<u>Date</u>	<u>Between</u>
W. M. Reeves -	Sept. 29, 1927	Stockton to Sacramento and return
	Sept. 30, 1927	Stockton to Sacramento and return
	October 4, 1927	Stockton to Sacramento
	October 4, 1927	Sacramento to Stockton
	October 26, 1927	Stockton to Sacramento and return
Jas. J. Martyn -	October 27, 1927	Stockton to Sacramento
	October 27, 1927	Sacramento to Stockton
Bud Meek -	October 5, 1927	Sacramento to Stockton
J. B. Martin -	Sept. 26, 1927	Stockton to Sacramento
	October 12, 1927	Stockton to Sacramento
H. W. Shepard -	Sept. 26, 1927	Sacramento to Stockton
	Sept. 27, 1927	Stockton to Sacramento
	Sept. 28, 1927	Sacramento to Stockton

By stipulation at the hearings it was agreed that the records of the Commission were to be considered in evidence as to whether any defendant herein had been granted a certificate of public convenience and necessity to operate passenger stages for compensation over the highways of the state. A careful search of the records does not show any defendant herein to have applied for, or been granted, a certificate authorizing operation, nor that any of said defendants were operating in good faith as of May 1, 1917, such operators not having been required by the statutory enactment to procure such certificate.

From the record herein we hereby conclude and find as a fact that defendants R. L. Morris, Eugene Paul, R. Baer, W. M. Reeves, Jas. J. Martyn, Bud Meek, J. B. Martin, and H. W. Shepard have violated the provisions of Chapter 213, Statutes of 1917, and effective amendments by the operation of automobiles for the carriage

of passengers, for compensation, over the highways of this state between the fixed termini of Stockton and Sacramento, said defendants, or any of them, not having been operating said service in good faith on May 1, 1917, and not having since applied for or received a certificate of public convenience and necessity from this Commission authorizing such operation.

As to defendant Pedro Castillano, the record shows said defendant to have been driving a truck for his employer, E. Y. Ninonuevo, said truck being owned by his wife, Dizon Ninonuevo, and being enroute from Stockton to Los Angeles with persons who were to attend a convention at Los Angeles, stopping enroute at Merced to pick up another party proposing to attend the convention. There is no evidence that this transportation was for compensation, and the complaint as to defendant will be dismissed.

As to defendant, Apolinario A. Felis, the record shows the testimony of this defendant to be that he was not operating an automobile during the time alleged in the complaint; that he was at such time employed in the office of the Filipino Federation of America in Stockton; that the automobile registered in his name, while being used by his partner during the period alleged in the complaint, was not used in the transportation of passengers for compensation, but was used in transporting prospective members of the Filipino Federation from labor camps to Stockton, and that no compensation for such transportation was collected from such passengers. The complaint against defendant Felis will be dismissed.

As to defendant Manuel Carrusco, the record shows the automobile truck owned by this defendant to have been driven by his son, Julio Carrusco; that said truck was used only for the purpose of transporting labor between Stockton and labor camps, such transportation being furnished without charge and incidental to the contract labor business of the defendant. The complaint against this defendant will be dismissed.

As to defendant G. A. Corralis, the record shows that he was not in Stockton at the time the passengers are alleged to have been transported in the automobile registered in his name, and his testimony, as hereinabove set forth, justifies a dismissal of the complaint against said defendant.

As regards defendant H. Ticon, the record shows this defendant, accompanied by C. Bacole, to have been observed at Terminous Corner in an automobile carrying passengers and operating in the direction of Stockton. Defendant testified that he was arrested on his arrival at Stockton and was charged with "transportation of passengers without license," pleading guilty and being fined \$50.00. The certified record of the Police Court shows a plea of guilty and a sentence of five days in the County jail, and that commitment was withheld. In view of the fact that no evidence has been presented in this proceeding justifying a finding that the alleged acts of defendants H. Ticon and C. Bacole constitute violations of the provisions of Chapter 213, Statutes of 1917, and effective amendments, the complaint as to such defendants will be dismissed.

As to defendants L. Guzman and Y. Guzman, the evidence shows that these defendants each operate a local express service in the City of Stockton; that they transport laborers for ranches out of Stockton, furnishing such transportation only as ordered by the ranch owners or superintendents; that individual fares are not charged, the transportation being furnished on a trip basis for the car, and the compensation being received from the ranch owner for whom the trip is made. The complaint as to defendants L. Guzman and Y. Guzman will be dismissed.

As to defendant A. Albur, the record shows said defendant as having been operating a car between Stockton and Holt via the Borden Highway on July 17, 1927, and receiving fare in amount \$1.00 for the trip. Inasmuch as the testimony shows defendant Albur to have been accompanied by defendant Pedro Castellano

and there is no testimony showing who drove the car or received the fare, and as but one trip is referred to, we are of the opinion that the testimony is insufficient to warrant a finding that this defendant is violating the statutory law. For this reason the complaint against A. Albur will be dismissed.

As regards defendant H. Orpesa, the record shows that an automobile registered in the name of this defendant on November 2, 1927, carried passengers to Terminous Corner; and that fare was collected therefor. There is no evidence showing that this defendant drove the car or accepted the compensation, and in our opinion the evidence is insufficient to justify a finding that this defendant is operating in violation of the statutory law, and the complaint against such defendant will be dismissed.

As regards defendant Mary Acar, the record shows that an automobile registered in the name of this defendant was observed leaving Stockton on November 5, 1927, for Terminous with five passengers, one of whom paid a fare of seventy-five cents. No evidence was presented showing that the registered owner of the car was driving same, or received the fare and we are of the opinion that we are not justified in finding that this defendant has violated the provisions of the statutory law.

As regards defendant Leopoldo Ihara, the record shows that a car registered in the name of this defendant was observed carrying passengers from Terminous to Stockton on November 2, 1927; that the car contained six passengers, three of whom had paid a fare of seventy-five cents each. It was not shown that the driver is the defendant herein complained of, nor were witnesses produced to testify regarding the payment of fare. Under this state of the record we do not feel justified in a finding that this defendant should be found to have violated the provisions of the statutory law and the complaint against defendant Leopoldo Ihara will be dismissed.



As regards defendant Robert Casil the record shows that this defendant was observed operating an automobile enroute from Stockton to some point in the island territory; that the car contained six passengers and their baggage; that the car was stopped on the road by a traffic officer and its number and the name of the driver secured. There is no evidence showing payment of fares or other data necessary to warrant the Commission in making a finding that this defendant was operating in violation of the statutory law. The Complaint against defendant Robert Casil will be dismissed.

As to defendant Teodora Rosairo, the record shows that this defendant was stopped by a traffic officer enroute from Stockton to a labor camp in the island territory; that there were three passengers in the car; and that the traffic officer was told by the driver that his car was going from job to job carrying laborers. As there is no evidence that individual, or any fares, were paid by the passengers observed in the automobile stopped by the traffic officer, there is nothing before us which would justify a finding that the operator was violating the statutory law. The complaint against defendant Teodora Rosairo will be dismissed.

As to defendant R. Borilla, the record shows that this defendant with seven passengers was stopped by a traffic officer on December 23, 1927, when enroute from Stockton to island points. There is no testimony as to fares paid by these passengers; as to point to which they were being transported; or the conditions under which the transportation was being furnished. Under this state of the record, we feel that the Commission is not justified in making a finding that the operation of this defendant is in violation of the statutory enactment. The complaint against defendant R. Borilla will be dismissed.

As to defendant Paul Mitchell, the only evidence appearing in the record is the testimony of witness Quyle that he saw

defendant in Stockton on or about December 13, 1927, and that he believed defendant to be one of a number of operators taken by the witness to the office of the Stockton police department for inquiry on such date. We are not justified by such record in a finding that this defendant has violated the provisions of the statutory law. The complaint against defendant Paul Mitchell will be dismissed.

As regards defendants M. Lavalla and E.L. Petisme, the record shows no testimony supporting the allegations of the complaint regarding either of these defendants, and the complaint regarding the alleged illegal operations of these defendants will be dismissed.

At one of the hearings on this complaint, counsel for complainants consented to the dismissal of the complaint, insofar as it concerned defendants W. C. Kirsten and Ben F. Meyers, on the ground that these defendants were improperly included in the complaint and there was no evidence to be offered against them. The requested dismissal was concurred in by counsel for intervenor, California Transit Co. The complaint against defendants W. C. Kirsten and Ben F. Myers will be dismissed.

#### O R D E R

Public hearings having been held on the above entitled complaint, the matter having been duly submitted on the filing of briefs, the Commission being now fully advised and basing its order on the conclusions and findings of fact as set forth in the opinion which precedes this order,

IT IS HEREBY ORDERED that defendants R.L. Morris, Eugene Paul, R. Baer, W.M. Reeves, Jas. J. Martyn, Bud Meek, J. B. Martin and H. W. Shepard, and each of them, immediately cease and desist from the operation of automobiles for the carriage of passengers, for compensation, over the highways of the State of California between

the fixed termini of Stockton and Sacramento, and not resume such operation unless or until a certificate of public convenience and necessity will have been obtained from the Railroad Commission after proper application and in conformity with the requirements of Chapter 213, Statutes of 1917, and effective amendments thereto, and

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission be and he hereby is directed to forward a copy of this order, by registered mail, to the District Attorneys of the Counties of Sacramento and San Joaquin.

IT IS HEREBY FURTHER ORDERED that this complaint, insofar as it refers to defendants L. Guzman, Y. Guzman, M. Lavalla, Pedro Castellano, A. Albur, Apolinario A. Felis, Leopoldo Ihara, N. Cropesa, E. L. Petisme, Mary Acer, H. Ticon, C. Bacole, Teodora Rosario, R. Borilla, Robert Casil, G. A. Corralis, W. G. Kirsten, S. F. Catalonia, Manuel Carrusco, Ben F. Meyers and Paul Mitchell be and the same hereby is dismissed.

The effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this 21<sup>st</sup> day of

June, 1929.

Thomas S. Lott

C. J. Seavey

Francis J. ...

Alfred P. ...  
COMMISSIONERS.