

Decision No. 22379.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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LOS ANGELES WAREHOUSEMEN'S ASSOCIATION,
a non-profit organization,

Complainant,

vs.

ASBURY TRUCK COMPANY, A E F VAN & STORAGE
CO., American Storage, Inc., American
Transfer & Storage Company, Arlington
Transfer & Storage Co., Ashton Truck
Company, Associated Transit Company,
Atlas Transfer, Beechings Transfer Company,
Belasco Transfer Co., California Fireproof
Storage Co., Citizens Truck Company, First
Street Warehouse Company, Foote's Transfer
& Storage Co., G. Eckdahl & Son Warehouse
Co., Harbor Freight Transit Co., Harbor
Warehouse Co., Hollywood Anchor Van &
Storage Co., Hollywood Warehouse Co.,
Imperial Warehouse, J. A. Clark Draying Co.,
John's Transfer, Los Angeles & San Pedro
Transportation Co., Marr Freight Transit
Inc., Motor Service Express, Inc.,
National Warehouse Co., Neal Fireproof
Storage Co., Norton Fireproof Storage Co.,
Pacific Transportation Company, Pioneer
Truck & Transfer Company, Prudential
Storage & Moving Co., Scandia Truck &
Transfer Co., Seaboard Transportation Co.,
Service Van & Storage Company, Thomas &
Son Transfer Co., Triangle Terminal Co.,
Wade Transportation Co., Western Trans-
portation Company, Wilshire Fireproof
Storage Co., Young-Johnson Truck Co.,

Defendants.

ORIGINAL

Case No. 2807.

Gibson, Dunn & Crutcher by Paul R. Watkins,
and L. A. Bailey - For complainants.
Phil Jacobson - For Ashton Truck Co., Atlas Transfer,
G. Eckdahl & Son Warehouse Company, Los Angeles
& San Pedro Transportation Company, Marr Freight
Transit Co., Pacific Transportation Company,
J. A. Clark Draying Company.
Frank M. Smith - For Associated Transit Company.
Rex W. Boston - For Seaboard Transportation Company
and Young-Johnson Truck Company.
Richard T. Eddy - For Belasco Transfer Company,
Foote's Transfer & Storage Company, Thomas & Son
Transfer Company.
Hugh Gordon, by A.D. Poe - For Western Transportation
Company.

BY THE COMMISSION:

O P I N I O N

Complainant herein is a non-profit organization formed and existing for the purpose of protecting the general welfare of the public warehousing business. It complains against the above named defendants alleging that each of them is and has been owning and/or controlling and operating or managing a building or structure in which merchandise other than second-hand household goods or effects, and other than merchandise sold or retained in the custody of the vendor, is regularly stored for the public or some portion thereof generally, for compensation. It further alleges that none of said defendants is a non-profit, co-operative association or corporation which is engaged in the handling or marketing of the agricultural products of its members, or is acting as the agent, individual or corporate, of such association or corporation. That each of said defendants is located in a city in the State of California having a population of 150,000 or more; that none of said defendants, though so storing such merchandise, has or ever has had a certificate of public convenience and necessity as provided by Section 50½ of the Public Utilities Act as amended; that none of said defendants has at this time, nor ever has had tariffs for such storage lawfully or otherwise on file with the Railroad Commission. It is further alleged that each and all of the acts of storing merchandise as above set forth by each and all of said defendants is unlawful, in violation of the aforesaid Public

Utilities Act, and is working an irreparable injury to the existing public utility warehouses lawfully operating in the City and County of Los Angeles, and the storing public in general.

Complainant prays that the Commission make its order requiring said defendants and each of them to cease and desist from the aforesaid operations until the Commission makes and files its decision on this complaint, and that thereafter each and all of said defendants be permanently enjoined from storing such merchandise for the public.

Answers were duly filed by all but nine of said defendants, either generally denying the allegations set forth in the complaint or admitting them in part.

Upon the issues thus joined a public hearing was held by Examiner Cannon at Los Angeles, the matter was submitted, and is ready for decision.

An order of dismissal in the above entitled complaint has heretofore been entered as against defendant Wilshire Fireproof Storage Company, request for such dismissal having been duly filed by complainant.

At the hearing counsel for complainant moved dismissal of the complaint as against the following defendants:

Asbury Truck Company, American Transfer and Storage Company, Arlington Transfer and Storage Company, Ashton Truck Company, Associated Transit Company, Atlas Transfer, Beechings Transfer Company, Belasco Transfer, California Fireproof Storage Company, Citizens Truck Company, First Street Warehouse Company, Foote's Transportation and Storage Company, G. Eckdahl & Son Warehouse Company, Harbor Freight Transit Company, Harbor

Warehouse Company, Hollywood Anchor Van and Storage Company, Hollywood Warehouse Company, Imperial Warehouse Company, J. A. Clark Draying Company, John's Transfer Company, Los Angeles and San Pedro Transportation Company, Marr Freight Transit, Inc., Motor Service Express, National Warehouse Company, Neal Fireproof Storage Company, Norton Fireproof Warehouse Company, Pacific Transportation Company, Pioneer Truck and Transfer Company, Prudential Storage and Moving Company, Scandia Truck and Transfer Company, Seaboard Transportation Company, Thomas & Son Transfer Company, Triangle Terminal Company, Wade Transportation Company, Western Transportation Company, Young-Johnson Truck Company.

Good cause appearing therefor, the motion to dismiss is hereby granted.

As a result of these dismissals the complaint stands as against only three of the defendants named in the original complaint, namely: American Storage Inc., A E F Van and Storage Company and Service Van & Storage Company.

Complainant called as a witness W. E. Fessenden, President of the Los Angeles Warehousemen's Association, who testified that under his direction an investigation of the above named warehouses had been made and that each of them had agreed to take goods, other than second-hand furniture, on storage at certain quoted rates:-

Fred A. Weil, a food broker, testified that he had personally, at the request of Mr. Fessenden, interviewed some person in authority at each of the above named warehouses and in each instance he was advised that such warehouse would store certain commodities other than second-hand furniture and

household goods or effects. Specifically, his testimony is that he called on A E F Van and Storage Company and was informed that they would accept canned goods for storage. American Storage, Inc., advised him they would not take canned goods on storage but would handle rugs and new and second-hand furniture, which were the only commodities they were accepting for storage. He was informed by Service Van and Storage Company that they would handle canned goods and also dried beans and they offered to quote rates for the storage of these articles.

The testimony of witness Weil constitutes the entire sum of evidence on which the Commission is asked to restrain said defendants from storing such merchandise for the public.

Section 2(aa) of the Public Utilities Act defines the term "warehouseman" as follows:

"The term "warehouseman," when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any building or structure in which property is regularly stored for compensation within this state, in connection with or to facilitate the transportation of property by a common carrier or vessel, or the loading or unloading of the same, other than a dock, wharf or structure, owned, operated, controlled or managed by a wharfinger."

It will be observed that in order to bring the operations of a warehouseman within the terms of this section he must receive and accept property for storage "regularly." The language of this section insofar as it^{is} here pertinent is repeated verbatim in Section 2 $\frac{1}{2}$ of the Public Utilities Act and again by reference in Section 50 $\frac{1}{2}$. There is no evidence here that either of the defendants had ever accepted goods on storage regularly or otherwise. They were merely asked if they would receive certain commodities and were answered in the affirmative. Had a single consignment of canned goods, for

example, been delivered to and received by the defendants for storage, for compensation, we could not hold that such operation forthwith transformed them into public utility warehouses.

Upon the record herein we find that said defendants American Storage, Inc., A E F Van and Storage Company and Service Van and Storage Company are not operating in violation of the Public Utilities Act and the complaint will be dismissed.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been submitted and being now ready for decision,

IT IS HEREBY ORDERED that the above entitled complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this 20th day of April, 1930.

C. L. Seavey

Leon Whitney
Thos. J. Latta

M. J. Linn
Commissioners.