

Decision No. 25598.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

REGULATED CARRIERS, INC., a corporation,
Complainant.

ORIGINAL

vs.

BASILE & CLARK, a corporation, FIRST DOE,
SECOND DOE, THIRD DOE, FOURTH DOE,
FIFTH DOE, FIRST DOE CORPORATION, SECOND
DOE CORPORATION, THIRD DOE CORPORATION,
FOURTH DOE CORPORATION, FIFTH DOE CORPORATION,)

) Case No. 3363.

Defendants. (

Reginald Vaughan & Scott Elder,
by Scott Elder, for complainants.

Bill Cummings, for Northwestern Pacific Ry.

BY THE COMMISSION:

O P I N I O N

This matter came on for hearing before Examiner Johnson at Eureka on December 19th, 1932. The only testimony introduced was that of the defendant partner, Basile. All allegations of the complaint being admitted in lengthy testimony by the operator Basile of Basile & Clark, the Order to Cease and Desist should be issued.

An order of this Commission finding an operation to be unlawful and directing that it be discontinued is in its effect not unlike an injunction issued by a court. A violation of such order constitutes a contempt of the Commission. The California Constitution and the Public Utilities Act vest the Commission with power and authority to punish for contempt in the same manner and to the same extent as courts of record. In the event a party is adjudged guilty of contempt, a fine may be imposed in the amount of \$500.00, or he may be imprisoned for five (5) days, or both. C.C.P. Sec. 1218; Motor Freight Terminal Co. v. Bray, 37 C.R.C. 224; re Ball and Hayes, 37

C.R.C.407; Wermuth v. Stamper, 36 C.R.C. 458; Pioneer Express Company v. Keller, 33 C.R.C.571.

It should also be noted that under Section 8 of the Auto Stage and Truck Transportation Act (Statutes 1917, Chapter 213), a person who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine not exceeding \$1000.00, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Likewise a shipper or other person who aids or abets in the violation of an order of the Commission is guilty of a misdemeanor and is punishable in the same manner.

The Secretary of the Commission will be directed to mail certified copies of this opinion and order to shippers who appeared as witnesses in the course of the proceeding, and to other shippers who are known to be using the service and facilities of defendants, upon the said opinion and order becoming final.

O R D E R

IT IS HEREBY FOUND AS A FACT that defendants Basile & Clark are engaged in the transportation of property by auto truck for compensation and as a common carrier, between fixed termini and over a regular route on the public highways of this state, viz: between San Francisco and Garberville and points intermediate thereto without first having obtained a certificate of public convenience and necessity for such operations, as required by the Auto Stage and Truck Transportation Act, (Chapter 213, Statutes of 1917, as amended). Therefore,

IT IS HEREBY ORDERED that defendants Basile and Clark shall immediately cease and desist such common carrier operations, as described in the preceding paragraph, unless and until they shall obtain a certificate of public convenience and necessity therefor, and

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon defendants Basile and Clark; that he cause certified copies thereof to be mailed to the District Attorneys of Humboldt, Mendocino, Sonoma and Marin Counties; to the Board of Public Utilities and Transportation of the City of Los Angeles; to the Department of Public Works, Division of Highways, at Sacramento; and, upon this decision becoming final, he shall cause certified copies thereof to be mailed to shippers who appeared as witnesses in the course of this proceeding and to other shippers who are known to be using the service and facilities of defendants.

The effective date of this order shall be twenty (20) days after the date of service upon defendants Basile and Clark.

Dated at San Francisco, California, this 30th day of January, 1933.

C. J. Leary
Leon Whitson
W. H. Lee
W. B. Harris
W. H. Harris
Commissioners.