

Decision No. 25612

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC., a corporation,

Complainant,

v.

V. V. VURPILLAT, doing business under the fictitious name and style of AMERICAN MOTOR EXPRESS, 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. 3339

ORIGINAL

Defendants.

Reginald L. Vaughan and Scott Elder, by Scott Elder,
for Complainant.

Edward Stern and L. B. Bergman, for Railway Express
Agency, Inc.

Rex W. Boston, for C. R. Jakeway, Intervenor.

E. W. Hobbs, for Northwestern Pacific Railroad,
Southern Pacific Company, Pacific Motor
Transport Company and Pacific Fruit Express,
Intervenor on behalf of Complainant.

L. N. Bradshaw, for Western Pacific Railroad Company,
Sacramento Northern Railway and Tidewater
Southern Railway Company, Intervenor on
behalf of Complainant.

Robert Brennan and William F. Brooks, for The Atchison,
Topeka and Santa Fe Railway Company, Intervenor
on behalf of Complainant.

Charles H. Schaeffer, for Defendant.

C. S. Booth, for Los Angeles Steamship Company.

WHITSELL, Commissioner -

O P I N I O N

In this proceeding it is alleged that defendants, operating under the name American Motor Express, have been transporting property between points in California as a common carrier for compensation without having first procured from this Commission a certificate of public convenience and necessity required by

Chapter 213, Statutes 1917, as amended.

A public hearing thereon was conducted September 29, 1932, at Los Angeles, and the matter duly submitted for decision.

At the outset defendant V. V. Vurpillat, through his counsel, offered to "plead guilty" and accept an order as prayed for by complainant but testimony was received to show the character and extent of the transportation conducted by Vurpillat between California points. The record shows that Vurpillat is conducting an interstate refrigerated truck service between Seattle and Los Angeles and intermediate points under the name American Motor Express. His trucks had sufficient space to accommodate intrastate movements, particularly from San Francisco to Southern California points. Thereupon defendant actively solicited traffic between San Francisco and Los Angeles or Long Beach and hauled to and from the intermediate points if any shipments were offered. No contracts except alleged verbal arrangements were made with the consignors or consignees. Business was accepted in many instances at the rate offered by the shipper. Exhibit No. 14 filed by this defendant shows that between June 25th and September 6, 1932, he transported large quantities of fish from San Francisco to various points in Los Angeles, San Pedro and Long Beach, including some intermediate points. The traffic was handled at the request of certain fish dealers and the charges were paid by the consignees upon delivery of the shipments.

In view of the record here made the Commission should find that defendant has been operating as a common carrier for compensation between San Francisco and Los Angeles, San Pedro, Long Beach and intermediate points without having obtained a certificate of public convenience and necessity.

An order of this Commission finding an operation to be unlawful and directing that it be discontinued is in its effect

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THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

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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 should 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.

ORDER

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

IT IS HEREBY FOUND AS A FACT that defendant V. V. Vurpillat, operating as American Motor Express, is 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 Los Angeles, San Pedro, Long Beach and intermediate points, 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 1917, as amended). Therefore,

IT IS HEREBY ORDERED that defendants 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.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon defendant V. V. Vurpillat; that he cause certified copies thereof to be mailed to the District Attorneys of San Francisco, San Mateo, Santa Clara, San Benito, Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Alameda, Contra Costa, Merced, Madera, Kings, Kern, Fresno, San Joaquin, Sanislaus and Tulare 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 foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

The effective date of this order shall be twenty (20) days after the date of service upon defendant V. V. Vurpillat.

Dated at San Francisco, California, this 14th day of February, 1933.

O. J. Leary
Leon Whitely
W. J. C.
W. Blaine
W. H. M.
COMMISSIONERS.