

Decision No. 25749.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC., a corporation,  
Complainant,

vs.

Case No. 3447.

ED. THOMAS, 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.

Defendants.

Reginald L. Vaughan and Scott Elder, by  
W.S. Johnson for Complainant.

Defendant appeared in his own behalf without  
counsel.

WARE, Commissioner:

O P I N I O N

By complaint filed on December 19, 1932, complainant charges Ed. Thomas with unlawful common carrier operations by auto truck between Sacramento on the one hand and Jackson, Martell, Sutter Creek, Ione and intermediate points on the other hand.

A public hearing was had at Jackson on March 7, 1933, on which date the case was submitted.

The facts as developed at the hearing may be summarized briefly as follows:

The record shows that defendant Thomas commenced operations in the late summer of 1931 between Sacramento and Jackson. At the present time he is making a round trip daily. The evidence of ten witnesses, all of whom are merchants in or near Jackson, shows that Thomas indiscriminately held himself out to haul everything offered at freight rates which were slightly less than the rates maintained by the Amador County Freight Line for

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identically the same service. The principal commodities hauled are groceries, plumbing supplies, iron, steel, crockery, paint, grain, grain products and radio supplies.

The merchants who patronized Thomas' service testified that the territory is also served by common carriers operating under the jurisdiction of this Commission which they patronize more frequently than they do Thomas, and that the service of the common carriers is entirely adequate.

A cease and desist order should issue.

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. vs. Bray, 37 C.R.C. 224; re Ball and Hayes, 37 C.R.C. 407; Wermuth vs. Stamper, 36 C.R.C. 458; Pioneer Express Company vs. Keller, 33 C.R.C. 571.

It should also be noted that under Section 8 of the Auto Truck Act (Statutes 1917, Chapter 213, as amended), 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 following form of order is recommended:

ORDER

IT IS HEREBY FOUND that Ed. Thomas is operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Act (Chapter 213, Statutes 1917, as amended), with common carrier status between Sacramento on the one hand and Jackson, Martell, Sutter Creek, Ione and intermediate points on the other hand, and without a certificate of public convenience and necessity or prior right authorizing such operations.

Based upon the finding herein and the opinion,

IT IS HEREBY ORDERED that Ed. Thomas shall cease and desist directly or indirectly or by any subterfuge or device from continuing such operations.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon Ed. Thomas, that he cause certified copies thereof to be mailed to the District Attorneys of San Joaquin, Calaveras and Amador, <sup>Counties</sup> to the Board of Public Utilities and Transportation of the City of Los Angeles and to the Department of Public Works, Division of Highways, at Sacramento.

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

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.

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

March 1933.

P. C. Deane  
Leon Arthur  
W. A. Cline  
W. B. Higgins  
W. S. Johnson  
Commissioners.