

Decision No. 25750

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ALFRED R. KELLY, JR.,

Complainant,

vs.

RUGG & BRANSCOMB, a copartnership composed of ELLIS RUGG and AMOS BRANSCOMB; ELLIS RUGG, AMOS BRANSCOMB, FIRST DOE, SECOND DOE, THIRD DOE, FOURTH DOE, FIFTH DOE, FIRST DOE CORPORATION, SECOND DOE CORPORATION, THIRD DOE CORPORATION, FOURTH DOE CORPORATION, and FIFTH DOE CORPORATION,

Defendants.

Case No. 3471

ORIGINAL

Reginald L. Vaughan for Complainants.

Edward Stern for Railway Express Agency, Inc.,
Intervenor in behalf of Complainants.

H. W. Hobbs for Northwestern Pacific Railroad Company
and Pacific Motor Transport Company, as interested
parties.

BY THE COMMISSION:

O P I N I O N

By complaint filed on January 16, 1933, complainant charges Rugg & Branscomb with unlawful common carrier operations by auto truck between San Francisco, Petaluma, Santa Rosa and Willits on the one hand, and Garberville and the intermediate points of Longvale, Laytonville, Cummings, Piercey, Hartsook and Benbow on the other hand.

Public hearing was had before Examiner Johnson on March 8, 1933, on which date the case was submitted.

The facts as developed at the hearing may be summarized briefly as follows: Amos Branscomb, one of the defendants herein,

testifying under complainant's subpoena, admitted that he had been operating a common carrier service between all points mentioned above for a period of more than one year last past. Branscomb stated that he was in partnership with Ellis Rugg and that they together have operated this service as a means of livelihood since January, 1932. Branscomb stated he knew such operations without a certificate from this Commission were illegal but that he was continuing in the same until he received an order from this Commission to desist, whereupon he would willingly comply with said order.

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 Five Hundred Dollars (\$500.00), or he may be imprisoned for five (5) days, or both. C.C.P. Sec. 1218; Motor Freight Terminal Co. v. Brey, 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 Truck Transportation 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 One Thousand Dollars (\$1,000.00), 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.

O R D E R

IT IS HEREBY FOUND THAT Rugg & Branscomb, a copartnership, is operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Transportation Act (Chapter 213, Statutes 1917, as amended), with common carrier status between San Francisco, Petaluma, Santa Rosa, and Willits on the one hand, and Garberville and the intermediate points of Longvale, Laytonville, Cummings, Piercey, Hartsook and Benbow 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 Rugg & Branscomb, a copartnership composed of Ellis Rugg and Amos Branscomb, and Ellis Rugg and Amos Branscomb as individuals, 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 Rugg & Branscomb, a copartnership, and Ellis Rugg and Amos Branscomb as individuals, that he cause certified copies thereof to be mailed to the District Attorneys of Humboldt, Mendocino, Sonoma, Marin and San Francisco Counties, 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.

Dated at San Francisco, California, this 20th day
of March, 1933.

Al Jensen

Leon Whitney

M. A. Curran

W. B. Hansen

W. H. Moore

Commissioners.