

Decision No. 11020

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

RAYMOND J. HEARNE,  
Complainant,

Vs.

HANS P. SKOV,  
Defendant.

Case No. 1735.

M. A. Fitzgerald for Complainant.

Albert Nelson for Defendant.

BY THE COMMISSION.

OPINION

The facts in this case are simple. The defendant, Skov, has been operating an automobile truck line between San Luis Obispo and Pismo since some time prior to May 1, 1917. Pismo is a beach resort and, during the winter season when traffic is light, Skov makes three round trips weekly. During the summer season, he operates a daily schedule and is now using two trucks. Last December, desiring to spend the Christmas holidays with a relative in San Francisco, he went to Raymond Hearne, who operates Hearne's Auto Truck Line between San Luis Obispo, Pismo and Arroyo Grande, told Hearne of his plans, and asked the latter to look after his trucking business in his

absence. This Hearne agreed to do and the defendant accordingly notified his patrons that for the next few days they should turn over to Hearne such freight as they desired to have hauled between San Luis Obispo and Pismo. He told Hearne the names of some of his customers and spent the holidays in San Francisco, as planned. During his brief absence, Hearne handled such freight as was tendered him by Skov's patrons. Hearne now brings this complaint, alleging that between December 27, 1921 and January 5, 1922, the defendant failed to operate his truck over the route and asks that, because of abandonment of service by Skov, his right to operate "be terminated and declared forfeited." The complaint further states that Hearne is himself able to take care of all business moving between these points.

There is no question but what Skov, through ignorance of the law, failed to perform his duties as a common carrier during this period and omitted several trips. He took such steps to protect his customers and his business as seemed to him proper and necessary, and apparently no one was inconvenienced by his absence. However good his intentions may have been and however slight may have been the inconvenience to any individual or individuals, his action was, nevertheless, in violation of the law. His plain duty, under the circumstances, was to have engaged some one to operate his truck for him upon the regular schedule. The record shows, however, that before leaving Pismo he took his truck to the local garage and instructed them to "go over it." The testimony indicates that Skov has in the past served his patrons regularly and efficiently, and, although ignorance of the law is no excuse, we feel that the temporary discontinuance of the service by Skov, under the circumstances herein set forth, does not warrant us at this time in depriving him of the right to

operate as a common carrier over the public highway between San Luis Obispo and Pismo. Should he, however, at any time in the future again fail to render service according to his schedule, the matter may be brought to our attention for appropriate action.

The case will be dismissed.

ORDER

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

IT IS HEREBY ORDERED that the matter be and it is hereby dismissed.

Dated at San Francisco, California, this 26<sup>th</sup> day of September, 1922.

H. R. Bunnidge

Dwight Martin

J. F. Penner

Commissioners.