

ORIGINAL

BEFORE THE RAILROAD COMMISSION
OF THE STATE OF CALIFORNIA.

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In the Matter of the Investigation
on the Commission's own Motion of
the Rules, Regulations and Practices
of the PULLMAN COMPANY.

Case No. 462.

G. S. Fernald and T. C. Coogan for the Pullman Company.

BY THE COMMISSION.

O P I N I O N .

This investigation was commenced by the Commission on its own motion because of numerous informal complaints which have been received at various times alleging that many of the rules, regulations and practices of the Pullman Company were such as to cause great inconvenience to the traveling public.

The complaints may be summarized as follows:

1. Double selling of berths and failure to honor telegraphic reservations when presented by passenger to the conductor.
2. Over-heating cars.
3. Passengers applying for lower berths being advised that none are available while passengers coming later are able to get lower berths by tipping the conductor.
4. Porters making up berths too early in the morning thereby awakening passengers unnecessarily.
5. Hotel porters reserving a large number of berths on high class trains and selling them out to guests of the hotels at advanced prices.
6. Porters paying less attention to women passengers than to men because of the fact that men are more liberal with tips.
7. Less attention given passengers in tourist than in standard sleepers because tips in standard cars are more generous.
8. Dirty cars with particular reference to tourist sleepers.
9. Inattention of employes.
10. Improper method of payment to conductors and porters and burdensome rules with reference to these employes.

We shall consider these complaints in the order named.

1. Double selling of berths and failure to honor telegraphic reservations when presented by passenger to the conductor.

It is a fact well known to anyone doing a considerable amount of traveling that there is constant conflict between Pullman conductors and the traveling public due to the fact that the agent at terminal points has not recorded on his train diagram the numbers of tickets which may be sold for the various accommodations and has neglected to record on the chart the space which has been allotted to agents along the route of the train in response to telegraphic reservation. The conductor, of course, is not responsible for this condition of affairs, yet notwithstanding it he must take the blame and the criticism of the justly indignant passenger. However much the conductor may explain, this is poor consolation for the passenger holding a ticket for a lower berth who is compelled to take an upper berth or who is unable to secure space at all.

A witness for the Pullman Company testified that during the year 1912, there were sold in California 725,399 Pullman tickets and that the record indicated that in only 295 cases had there been double selling of berths. While we do not dispute that the Pullman records show this fact, still we are clearly of the opinion that they do not show the real situation. It is idle to urge that the almost universal complaint and the great number of cases coming under the observation of the Commission and its employees can be accounted for by the 295 cases appearing on the Pullman records. A knowledge of the Pullman practices shows that ~~those~~ its records would not indicate the real situation. The conductor, in the past, has not recorded double sales where he has been in a position to furnish the passenger with other accommodations, whether such accommodations are satisfactory to the passenger or not, nor has any record been kept of passengers presenting a memorandum from an agent that certain space was reserved, when, as a matter of fact, such space was not available.

A lack of coherence in the Pullman Company's system is responsible for this abuse, for it cannot be styled other than an abuse. Having a monopoly of the business and having no fear but that under ordinary circumstances its space will be sold - for people desiring to travel and having made their arrangements to travel ordinarily will do so - this Company has not taken the precaution to see that the conductors on trains know what has been done by the agents at stations en route nor ~~that~~ that the agents at such stations know what has been done by the agents at terminal points or by the conductors themselves.

It is obvious that some arrangement must be made whereby agents having control of the charts at terminal points will record on these charts the number of every ticket they have sold and under no circumstances erase that number unless the ticket is redeemed. Likewise, it must be apparent that a rule requiring terminal agents to note in telegrams the names of passengers requesting accommodations by telegraph from points other than terminal points must be rigidly enforced, and the chart given to the conductor in charge of the Pullman cars in the train in question, should in every instance show the reservation and at what point the passenger will board the train, and under no circumstances should these accommodations be sold before the train reaches the point at which the passenger is to board the train, unless such space is released in the proper manner. Much of the complaint concerning the failure on the part of the Pullman Company to accommodate those who have made reservation, comes from interior points, and we believe there is to be found an explanation for this fact.

The representatives of the Pullman Company testified that they desire the longest haul possible and, of course, they would prefer having space occupied from Portland to San Francisco, for example, rather than occupied only from Weed to San Francisco. And the inclination would be that if after a reservation in a train from Portland to San Francisco has been made out of Weed by telegraph and a passenger appeared desiring to buy space from Portland to

San Francisco, to accommodate the Portland to San Francisco passenger rather than the intermediate passenger because such a procedure would net the Pullman Company more money. In fact the representatives of this Company seek to justify the right to charge as great an amount between an intermediate point and the terminal as between the terminals and suggest that the passenger from Weed to San Francisco ought to be required to pay the Portland to San Francisco rate. We have had many suggestions designed to increase revenue of utilities, but none quite like this before. These carriers are in this business to accommodate all of the public, not a part of the public. It would be just as legitimate for the railroad company to urge that it be allowed to charge the same rate from Weed to San Francisco as from Portland to San Francisco on the ground that its cars have to run clear through, as for the Pullman Company to do likewise. The person so unfortunate, from the Pullman Company's standpoint, as to live elsewhere than in the large cities, nevertheless has the same right to accommodation and the same right to the protection of this Commission as a person who travels a greater distance and lives in the larger center. This company should under no circumstances prefer that passenger who gives to it the greater revenue, unless such passenger applies first for accommodation; and when anyone at Weed desires to secure a reservation on a through train, if that application is made while such space is available, it should be reserved for such passenger on the payment of the rate from Weed to the point to which the Weed passenger desires to travel, and the fact that some one from Portland or San Francisco subsequently desires the same space should not entitle him to the preference.

To the end that these complaints about over-selling and the complaints of intermediate passengers that when they board the trains after having made reservations they find no space available, may be cured we believe that all agents of the various railroad lines, or, at least a sufficient number adequately to accommodate the public

should be furnished with a form of receipt numbered consecutively so that when an agent in the interior telegraphs the terminal agent for accommodation the receipt number will also be telegraphed and entered by the terminal agent on the chart. This receipt should be given the applicant for berth and the price of the berth collected from the applicant. Thus, when a passenger boards the train he will have a receipt for his fare which the conductor should honor for the accommodations reserved. We believe with some such plan in operation there will be less likelihood of terminal agents selling space originally reserved for passengers desiring to board the train along the route. In this connection the Pullman Company has submitted a form of receipt (Form No. 9082-3, Series A) which we do not believe fully covers the requirements in this respect. There appears on this receipt the following:

".....This receipt does not guarantee such reservation."

Inasmuch as the object of this receipt is to guarantee such reservation it is plainly evident that this language should be eliminated. It seems peculiar that this company finds it necessary to hedge about itself in every way possible so as to avoid responsibility. This has been one of the things that has impressed the Commission in its investigation of this company. It does not seem to feel that it is responsible to the public, but rather that the public is responsible to it. As far as intrastate transportation is concerned this portion of the receipt must be eliminated.

2. Over-heating of cars.

Considerable complaint has been made from time to time that Pullman porters, in order the better to satisfy their own feelings, keep the cars heated to an oppressive temperature causing a great deal of inconvenience to passengers. This inconvenience, it is alleged, is made greater by reason of poor ventilation.

It will readily appear that this is a very difficult matter to regulate because of the different likes and dislikes of the

numerous passengers in the Pullman car. It, of course, would be impossible to have a car cold enough and airy enough to satisfy some people without having it entirely too cold and too airy to satisfy others. Likewise, when those desiring a close, warm place to sleep are satisfied others desiring an opposite environment would be dissatisfied. We would suggest, however, that the Pullman Company to the best of its ability instruct its employes to maintain that degree of temperature and that amount of ventilation which sound rules of health and sanitation require and let those passengers who do not like such a condition complain, for there can be no other method of meeting this complaint.

3. Passengers applying for lower berths being advised that none are available while passengers coming later are able to get lower berths by tipping the conductor.

It has been urged from time to time upon this Commission that conductors hold out lower berths for the purpose of getting tips from passengers who are aware of this practice. We do not know, nor does the evidence show, whether or not this is a fact, but from the frequency with which it is maintained and the fact that traveling men on the stand testified that by "coming through" they got what they wanted leads us to believe that there is something in this complaint. We would not for a moment, on the meager evidence on this point, accuse the conductors of this company as a whole of being dishonest in this regard. That some are dishonest goes without saying, just as dishonest men will be found in all occupations. But we do not believe that this is the rule, although steps should be taken to see that those, if any, of the conductors of this company who resort to this method of increasing their salary, be dealt with in the proper manner.

4. Porters making up berths too early in the morning thereby awakening passengers unnecessarily.

It is the tendency of the Pullman porter to commence closing up berths just as early in the morning as is possible in order that he may get his car made up at an early hour. It is urged by some of the complainants that in doing this he makes as much noise as possible so as to awaken the other passengers so that in turn he may make up their berths. Particularly is this complaint prevalent as to those trains that reach terminal points comparatively early in the morning. We can see no good reason why on a train arriving at a terminal point at 6 o'clock in the morning that the passengers should not be allowed to sleep a reasonable time thereafter. The only reason for arousing the passengers at 5:30 and getting them out of the car is to convenience the employes of the Pullman Company in getting their car made up early, and the employes of the railway company in taking the car at the terminal point to the yards. We know of few instances where, under these circumstances, the convenience of the public has even been thought of. We give it as our opinion, that it is utterly unnecessary, where a Pullman car does not go beyond, that any of the passengers should be awakened before 7 o'clock in the morning, unless they so desire. The very small inconvenience to the Pullman Company and the railway company will make it very much pleasanter for numerous people to travel. And while in this, as in all the other matters here discussed, we will make no order at the present time, still we will expect the companies involved to see to it that a small amount of care at least be exercised in an endeavor to convenience passengers in this ~~may~~ regard. When passengers leave their berths voluntarily at a very early hour, the porter should not be criticized for making up such berth because thereby space becomes available for the passengers, but he should do

so quietly as possible and the passengers whose early rising tendency caused them to leave their berths at such very early hours, should and quite properly can be required by the Pullman conductor and the porter to refrain from loud talking and unnecessary noise which disturbs their fellow passengers who are ~~not~~ inclined to sleep longer but who often find it impossible to do so because of the thoughtless~~ness~~ness both of the employees of the Pullman Company and of the other passengers. Here again thoughtfulness and a little care on the part of those holding themselves out to serve the public will greatly convenience many travelers without any cost, but slight inconvenience, to anyone else.

5. Hotel porters reserving a large number of berths on high class trains and selling them out to guests of the hotels at advanced prices.

There can be no question that this practice exists to a greater or less degree. While it may be difficult to overcome, it may be materially curtailed by requiring all known hotel porters to present, when reserving space, a memorandum from the hotel clerk or manager to the effect that the accommodations requested are required by guests registered at the hotel. And we suggest that the Pullman and railroad officials co-operate with the hotel managements to prevent abuses of this kind.

Neither here nor elsewhere in this opinion do we suggest that reservation should not be made under reasonable restrictions before the actual payment is made. There are many circumstances under which this should be done, but such reservation should only be held until a reasonable opportunity to pay for the same has been accorded to the one desiring to travel; and the Pullman company will not take what we say here as a justification for restricting its present practice of making reservations in advance under reasonable restrictions, and thereby making the inconvenience to the traveling public greater rather than less, as we hope will result from this investigation.

6. Porters paying less attention to women passengers than to men because of the fact that men are more liberal with tips.

While this Commission, of course, should be very careful about committing itself ^{as} to the truthfulness of these complaints, yet from their number it appears to be true that for some reason either the porters are not as attentive to the women passengers, or the women passengers think they are not. It goes without saying that the employees of the Pullman Company should not only give equal attention to women passengers, but if any preference be found necessary to be given, that they receive such preference.

We shall discuss later, however, the effect of the tipping habit and of the practices of the Pullman Company with reference thereto which will explain the lack of attention on the part of Pullman employees to those who are not considered by such employees as generous enough.

7. Less attention given passengers in tourist than in standard sleepers because tips in standard cars are more generous.

While, of course, the accommodations in tourist are presumably not as good as in standard cars and a less rate charged by reason of that fact, yet all of the services which the convenience and reasonable comfort of a passenger traveling in a Pullman car of any sort should be performed by the Pullman employees under the fare paid, and it is not right that the tourist cars be permitted to become dirty, as unquestionably they are in many instances, or that reasonable attention be not given to the passengers traveling therein because of the fact that such attention nets the Pullman porter nothing which his salary does not cover.

8. Dirty cars with particular reference to tourist sleepers.

We have already discussed a part of this complaint in the complaint just dealt with.

Too much care cannot be urged with reference to sanitation of Pullman sleeping cars, whether tourist or standard. Necessarily when a large number of people are confined and required to sleep and live within the small space of a Pullman car, whether a standard or tourist, they are exposed to hazard that does not beset them in their own homes. Under these circumstances the utmost care should be exercised by the Pullman Company in seeing that its cars are kept clean and well ventilated; that its toilet facilities are of the best from the standpoint of sanitation; and no care, under reasonable expense, should be spared to preserve the health of passengers. From the complaints which have come to this Commission, and from our own observation, we are of the opinion that much can and should be done by the Pullman Company with a view to better sanitation and cleaner cars. Under acts of Congress and the rules of this Commission sanitary drinking cups have been installed, but much complaint is made concerning the unsatisfactory character of the drinking cups now in use by the Pullman Company, and we are inclined to believe that much improvement can be made in this regard. But the utmost care both en route and at terminals should be exercised with a view to preventing contamination which will necessarily result from the bringing together of large numbers of passengers with small cubic air space for each, unless such care is exercised.

9. Inattention of employees.

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10. Improper method of payment to conductors and porters and burdensome rules with reference to these employees.

We will discuss these two classes of complaints together.

A great number of passengers have complained that they do not under ordinary circumstances receive the treatment to which they feel entitled and that unless liberal tips are given meager service is accorded. On the other hand, complaints have come from the employees of the company themselves to the effect that under the

wages paid them they must get tips to live and that they are expected by their employers to get such tips. It is impossible for this Commission to reach a conclusion other than that the Pullman Company deliberately attempts to pay the employees which it hires from the gratuities given by the public. Every bit of evidence in this case would convince anyone of sound judgment and ordinary common sense that this is true. The company pays its porters in tourist cars, - where one would expect, under the Company's theory, a less standard of qualifications than in standard cars - a higher salary than the porters in charge of standard cars. Some of the best runs on limited trains give the poorest pay to the porters. The Pullman Company attempted to make this Commission believe that the wages it pays its employees are proper, and likewise to make this Commission believe that it did not expect its employees to secure money from the public. It is hard for us to determine which should be criticized the more, the attitude of this Company in its action in this regard or its supposition that it could make this Commission believe a thing which everyone knows is not true, and which any man with ordinary common sense knows is not true.

It should be understood that this Commission is not attempting to reform or change the common practice of humanity and the common inclination of humanity to attempt to get a little bit the better of it if possible, and under these circumstances there probably always will be tipping by those who desire to get a little bit more attention than is accorded to their fellows. A study of gratuities will show that they are not a modern invention; and this Commission does not feel called upon to discuss the main question as to the propriety of gratuities in themselves, concerning which so much criticism has been presented to us. But we do believe it is compelled to consider the duty of this Company with reference to turning to its own advantage the tipping habit.

The general manager of the Pullman Company suggested that \$27.50 is a good wage for a negro porter. This Commission would

accept with better grace a frank statement from the general manager of this company to the effect that this company believes the public will tip and therefore it does not feel that it should be required to pay its porters a proper wage. It may be all right for a person who is traveling to reward particularly good service by some gratuity; upon this, of course, we do not pass. Certainly if a man feels so inclined he should be permitted to be generous. But the Pullman Company forces its patrons to be generous or not get service. And it is impossible for anyone very much to blame the employees of this company for doing that which they must do in order to live, nor should any thoughtful person expect for a moment that being required to get tips in order to live the employees of this company will make it to the interest of the traveling public to give tips. It certainly is a commentary on modern business that a company as rich ~~xx~~ and as powerful as this one here in question, should feel inclined to stoop to the disreputable practice to which it feels called upon to resort. American civilization can and must accord to those who work for such civilization a proper amount for such service as a right and not as a charity. If this company is so poor that it cannot pay these men a proper amount for their services and must turn them loose upon its patrons, requiring them to secure from such patrons that wherewith they may live, then a generous and fair-dealing public should accord to this company more in its rates. But if, as we are inclined from the investigation we have made up to this point, to believe, we find that this company is a very prosperous concern and is paying to its stockholders very liberal dividends and is probably getting from the American public very liberal rates, then we say without any hesitation whatsoever, that ^{severe criticism} the ~~xxxx~~ of the American public is justly due such an institution. If, on investigation, it be found that this company is not securing enough from its rates in order to enable it to pay decent wages to those employed by it, then its rates should be raised and the increase required to be accorded to these men who are employed by

this company. But if, on the other hand, on investigation it be found that its rates are generous and that this company is not poor but merely mean, and that the American public is dealing not only justly but generously with this institution, which in its turn deals unjustly and niggardly with its employees, then the American public certainly would be justified in at least dispensing with the generosity and limiting this company, conducting itself as it is, to the barest amount that the cold considerations of justice warrant it in securing.

It is our opinion that the time has ~~passed~~^{passed} in this State and in this Nation when institutions such as the Pullman Company can be or should be permitted by public authority to indulgence which requires the traveling public to be generous in giving tips whether it wants to or not, and which requires the employees of this company from necessity to resort to whatever means they have in their power to secure the necessary amount which added to their salary will enable them to live.

Since instituting this investigation many things have occurred which lead this Commission to believe that this company is designedly attempting to make its employees believe that this Commission is attempting to take from them what they consider their prerogatives and to bring about a condition which will leave such employees worse off than they now are.

A commercial traveler testified before this Commission that he could not get a lower berth on a train, but in the morning saw a Pullman conductor coming out of a lower berth. While there were many more serious complaints, mainly directed toward the niggardly pay of these same conductors and the porters of this company, to remedy which this company has done not one thing, yet we find it immediately putting in a rule that all of its conductors must sleep in upper berths regardless of how many occupants there are in the car; and there has come to the attention of this Commission cases where in a Pullman car only partially filled with passengers, the conductor

is required nevertheless to sleep in an upper berth. Likewise, this company requires a payment from its Pullman porters for every bit of linen or every other article taken out of the cars by passengers. While we do not deny that some means of protection should be at hand for protecting this company from porters who are ~~that~~ dishonest, if there be such, still this necessity does not lead to the conclusion that all the porters are dishonest. Likewise, it has come to the attention of this Commission that heretofore for very good service this company gave a bonus of one month's salary to its employes and that this investigation has been taken as an excuse for denying to some of these same employes the bonus heretofore accorded them.

Nowadays there is a considerable amount of complaint on the part of those who have that those who have not are seeking to take away from them by confiscation (this is the favored word) their property. This Commission, of course, believes in law and the government of law. We likewise believe that government should be and is adequate to the needs of the governed, and an institution, such as the Pullman Company, resorting to the practices we have just been discussing, certainly does not create a better public sentiment toward large financial institutions nor does it create a very strong belief on the part of the public in the patriotism and the integrity of such institutions. Laws are made for the protection of all alike and no one may demand that those laws be enforced which protect him from some one else and deny that those laws which protect someone else from him shall likewise be enforced.

The law of fair play and fair dealing requires that this company change its system with reference to the payment of its men, and the public has a right to demand it independent of the rights of the employes of this company, and unless this company recognizes the laws of fair play and fair dealing when they may operate against it in some slight degree and cost it some small amount, it need not complain if ultimately someone else adopts the same view and says that the law of fair play and fair dealing shall not be urged by

this company when someone is trying to do that which is unjust to it.

It is with a great deal of regret that we feel called upon to make this strong criticism of this company. This Commission has attempted to demonstrate that public authority can and will be fair, but it is our firm conviction that the reputation which apparently justly belongs to the Pullman Company has made it heretofore and will in the future make it harder for not only the Pullman Company but ^{and} other/unoffending corporations to secure that just treatment to which they are entitled.

No order will be made in this case at the present time. This Commission expects this company at once to take steps to remedy the conditions we have found should be remedied, and we expect this company at once to see to it that a condition is brought about whereby its employees are not required to live off the public, and if the public does give its employees any gratuities such gratuities are given because of a feeling of generosity on the part of the public and not because of a feeling of necessity. If within thirty (30) days from the date hereof this company has not remedied the conditions herein criticized in a manner satisfactory to this Commission, and has not accorded to its employees such wages as will relieve them from the necessity of securing a living from the public, an investigation will be instituted into the rates of this company with a view to determining whether it is necessary for this company to be permitted to raise its rates so that it may do justice to its employees or the present scale of rates are sufficient to permit it so to do or too high to be permitted to be charged in the future.

Dated at San Francisco, California, this 25th day of April, 1914.

John M. Eshleman
H. D. Loveland
Alfred Gordon
Marshall
Edwin O. Edgerton
Commissioners.