

Decision No. _____.

ORIGINAL

Decision No. 5205

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

PENINSULA RAPID TRANSIT COMPANY,

Complainant,

vs.

R. S. FRIEND, GIUSEPPI IMPERIALE,
FLOYD HANCHETT, OTTO RINCKERT,
NICHOLAS LOCICERO and CALIFORNIA
STAGES COMPANY,

Defendants.

Case No. 1192.

J. E. McCurdy for Peninsula Rapid Transit Company.
C. B. Gillespie for Davis-Schaub Auto Service.
John V. Filippini and W. W. Allen for defendants
other than R. S. Friend.
R. S. Friend in propria persona.

REHELEN, Commissioner.

O P I N I O N

The complainant herein alleges, in effect, that Peninsula Rapid Transit Company is engaged in the business of operating a line of auto stages as a common carrier between San Francisco and Palo Alto and intermediate points; that the defendants are engaged in the business of operating a line of auto stages as common carriers between San Francisco and San Jose and intermediate points; that the defendants have not operated and do not operate their auto stages in

accordance with the schedules filed with the Railroad Commission; that defendants have lost their rights to operate between San Francisco and San Jose and that it is incumbent upon them, if they desire to continue to operate, to secure from the Railroad Commission certificates of public convenience and necessity; and that no applications for such certificates have been filed with the Commission. The complainant asks the Railroad Commission to make its order requiring the defendants to make application for certificates of public convenience and necessity and to comply with the provisions of the statutes of this state with reference to transportation companies operating auto stages as common carriers.

The answers deny the material allegations of the complaint.

Public hearings herein were held in San Francisco on February 20th and 26th and March 7, 1918.

The complainant has been engaged since May 22, 1915 in operating a line of auto stages as a common carrier between San Francisco and Palo Alto. At Palo Alto connection is made with a line of auto stages operated between Palo Alto and San Jose by the Davis-Schaub Auto Service. Complainant operates twenty-six-passenger auto stages on a 20-minute schedule during part of the day and on a 30-minute schedule during the remaining portions of the period, from 5:05 A.M. to 1:25 A.M. the next morning. Forty-six trips per day are made from Palo Alto to San Francisco and forty-nine trips from San Francisco to Palo Alto.

The defendants, R. S. Friend, Guiseppi Imperiale, Floyd Hanchett, Otto Rinckert and Nicholas Locicero were engaged on May 1, 1917, and for some time prior thereto, in operating a line of auto stages between San Francisco and San Jose, each of said defendants owning his own automobile and operating in his own right, although the defendants operated collectively

under the name of White Star Stages. About October, 1917, said defendants changed the name of their line to California Stages Company. On October 3, 1917 said five defendants entered into articles of co-partnership, but it appears clearly that their operations have not been conducted in conformity with the provisions of said articles.

The defendant R. S. Friend, ceased operating on this route during the latter part of December, 1917, ^{and} withdrew from the partnership, and it is conceded that he has lost his rights to run on this route.

The other four individual defendants have continued to operate, each now owning two automobiles, under the name of California Stages Company.

The testimony shows irregularities of service on the part of some of the defendants in 1917, consisting principally of failure to run on schedule time and failure to run at all in case the desired number of passengers did not offer themselves for transportation. The testimony also shows, however, that during 1918 the four individual defendants who were still operating have striven to run on schedule time and to obey the rules and regulations of the Railroad Commission applicable to interurban auto service.

The testimony also shows that for a time during the latter part of 1917, persons who were not authorized so to do operated auto stages more or less regularly, between San Francisco and San Jose under the name of "California Stages Company", but that the defendants in this proceeding, who alone have the right to use this name on this run, succeeded in driving these persons off this run. It is obviously the duty of these defendants to prevent persons who are not their employes from operating auto stages under the name of "California Stages Company".

The last scheduled run of the defendants from Fifth and Market streets, San Francisco, is 8:20 P.M. The testimony shows

that subsequent to this time a large number of "rent" cars driven by more or less responsible drivers, operate from the stands of these defendants in San Francisco to Camp Fremont. The attention of the defendants was drawn at the hearing to the large number of passengers who offer themselves for carriage subsequent to 8:20 P.M. and to the desirability of lengthening their schedule so as to give to the public a more regular and dependable service after this time at night.

While I am of the opinion that an order declaring that any of the individual defendants other than Friend, have forfeited their right to operate between San Francisco and San Jose, would not be justified by the testimony in this proceeding, the attention of each of said defendants was specifically directed at the hearing to the necessity of continuing to comply with their schedules and of obeying the rules and regulations of the Railroad Commission applicable to this class of service. The attention of each of said defendants was drawn to the fact that unless schedules are maintained and the Commission's rules and regulations are complied with, any defendant not complying with his schedule or with said rules and regulations is liable to have his right to operate revoked.

I submit the following form of order:

O R D E R

Public hearings having been held in the above entitled proceeding and the same having been submitted and being now ready for decision,

IT IS HEREBY ORDERED that the above entitled complaint

