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Decision No. 8972

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

R. R. YOUNG, doing business under  
the name of STOCKTON SONORA AND  
GROVELAND STAGE COMPANY,

Complainant )

-vs-

: Case No. 1555

JACK STOUT,

Defendant. )

Lafayette J. Smallpage and John Hancock, Attys,  
for R. R. Young.

Louittit & Stewart, for Jack Stout, Defendant.

BY THE COMMISSION.

O P I N I O N

R. R. Young, complainant, in this proceeding alleges,  
in substance and effect:

That said defendant, Jack Stout, is unlawfully and  
without authority from this Commission operating an automotive  
passenger stage service for compensation, between fixed termini  
and over a regular route, between Groveland, Tuolumne County,  
California and Stockton, San Joaquin County, California, and  
intermediate points, in violation of Chapter 213, Statutes of  
1917, as amended by Chapter 280, Statutes of 1919, and prays  
for an order of this Commission directing him to discontinue  
forthwith said unlawful operations.

The complainant, R. R. Young, is operating under the fictitious name of the Stockton, Sonora, Groveland Stage Company, an automotive passenger stage service between Groveland and Stockton and has filed tariffs and time schedules with the Railroad Commission of the State of California in accordance with the law. The operative rights of R. R. Young were established by virtue of the fact that he was operating prior to the first day of May, 1917 and has ever since continued in good faith to so operate.

Jack Stout, the above named defendant, in answer to said complaint, denies all of the allegations contained in said complaint and, furthermore, alleges that the Railroad Commission of the State of California has no jurisdiction to enjoin or restrain the defendant from engaging in the transportation business.

A public hearing in the above entitled matter was conducted by Examiner Satterwhite at Stockton on April 18, 1921.

The defendant at the hearing moved that the case be dismissed, on the ground that the Railroad Commission is without jurisdiction to grant the relief sought. The motion was denied upon the ground that the Auto Stage and Motor Truck Transportation Law, Chapter 213, Statutes 1917, as amended, provides in part in Section 1, subsection (e) as follows:

\*\*\*whether or not any automobile, jitney bus, stage or auto stage is operated by a transportation company 'between fixed termini or over a regular route' within the meaning of this act shall be a question of fact and the findings of the Railroad Commission thereon shall be final and shall not be subject to review".

The above language clearly indicates that if a transportation company is found to be operating between fixed termini or over a regular route without first having secured from the Railroad Commission a certificate of public convenience and necessity, in accordance with Section 5 of the Auto Stage and Motor Truck Trans-

portation law, it is operating in violation of the law.

The complainant called a number of witnesses, including Mr. Harold Emory Kast, a chauffeur and employee of Jack Stout, the defendant who drives the automobile belonging to Jack Stout, carrying passengers between Groveland and Stockton. The testimony shows that the defendant started a taxicab service in the town of Groveland on March 5, 1921, and solicited the hauling of passengers for hire any where and at any time. This taxicab business grew, it appears, until the frequency and regularity of the trips between Groveland and Stockton have caused an evolution of the business from that of a taxicab service to that of a common carrier operating for compensation over a regular route between Groveland and Stockton. The testimony of Mr. Kast indicated in one instance that he had made twelve or thirteen round trips during April, and in another part of his testimony he admitted that he had made about twenty-two trips in April, or at least an average of three trips a week between the terminals mentioned. It is, therefore, clearly evident that the service rendered by Jack Stout between Groveland and Stockton comes within the purview of the law above quoted and that his operations, which are not authorized by this Commission are in violation of the law.

The defendant testified in his own behalf to the effect that he had established this service at Groveland with the intention of doing a strictly taxicab business, but that the business has grown to such an extent that he is making more trips between the terminals mentioned than had been originally anticipated.

After a careful consideration of all the evidence, we are of the opinion and find as a fact that Jack Stout is unlawfully and without authority of this Commission operating a motor stage service as a common carrier of passengers between Groveland

and Stockton and intermediate points.

O R D E R

A public hearing having been had in the above named proceeding, the matter being submitted and the Commission being fully advised in the premises,

IT IS HEREBY FOUND AS A FACT that Jack Stout, said defendant, is unlawfully and without authority of this Commission operating a motor stage service as a common carrier of passengers between Groveland and Stockton and intermediate points; and basing its order on the foregoing finding of fact and on the further statements of fact contained in the opinion which precedes this order;

IT IS HEREBY ORDERED that Jack Stout be, and he is hereby ordered and directed to cease and discontinue forthwith said automotive stage service as a common carrier of passengers between Groveland and Stockton and intermediate points.

Dated at San Francisco, California, this 14<sup>th</sup> day of May, 1921.

H. T. Brundage  
H. D. Loveland  
Irving Martin  
D. W. Benedict  
Commissioners