

Decision No. 25966

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC., a corporation,

Complainant,

vs.

Case No. 3314

OAKLAND LOS ANGELES FAST FREIGHT, a corporation, F. M. DORAN, NEWELL L. HAINES, PETER H. VERNAND, J. C. BINGMANALL, FIRST DOE, SECOND DOE, THIRD DOE, FOURTH DOE, FIFTH DOE, FIRST DOE CORPORATION, SECOND DOE CORPORATION, THIRD DOE CORPORATION, FOURTH DOE CORPORATION, FIFTH DOE CORPORATION,

Defendants.

ORIGINAL

Reginald L. Vaughan & Scott Elder,  
by Scott Elder for Complainant.

Rowland P. Fontana, for Defendants.

HARRIS, COMMISSIONER -

O P I N I O N

Complainant charges Oakland-Los Angeles Fast Freight, a corporation, F. M. Doran, Newell L. Haines, Pete H. Vernand, (erroneously named Peter H. Vernand in the complaint), J. C. Bingman, (erroneously named John C. Bingmanall in the complaint), and Clarence Lepper with unlawful common carrier truck operations between San Francisco, Oakland, Alameda, Berkeley, Emeryville, San Leandro, Albany and Richmond on the one hand and Los Angeles and Vernon on the other. Other defendants are named but the proceedings should be dismissed as to them.

Defendants admit truck operations over the public highways for compensation between the points named, but deny that they have served the general public and allege that all operations have been under contract and are private in nature.

Nineteen witnesses testified that they had used defendants' truck service between the points named, eight of these said that they had no contract with defendants, most of the others said that they had contracts as to rates but as to nothing else; many of them have been solicited by defendants. Defendants accepted all freight offered and used the ordinary form of bill of lading.

It is clear that defendants operate over the public highways between the points above named as common carriers for compensation.

None of the defendants possesses a certificate of convenience and necessity or has an operating right.

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 \$500. or he may be imprisoned for five days or both, C.C.P. Sec. 1218; Motor Freight Terminal Co. v. Bray, 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 Stage and Truck Transportation Act (Statutes of 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 \$1000., 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.

The following form of Order is recommended:

O R D E R

The proceeding is dismissed as to all defendants other than Oakland-Los Angeles Fast Freight, a corporation, F. M. Doran, Newell L. Haines, Pete H. Vernand, J. C. Bingman and Clarence Lepper.

IT IS HEREBY FOUND that defendants Oakland-Los Angeles Fast Freight, a corporation, F.M.Doran, Newell L. Haines, Pete H. Vernand, J. C. Bingman and Clarence Lepper are operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Stage and Truck Transportation Act (Chapter 213, Statutes of 1917, as amended) with common carrier status between San Francisco, Oakland, Alameda, Berkeley, Emeryville, San Leandro, Albany and Richmond on the one hand and Los Angeles and Vernon on the other hand and without a certificate of public convenience and necessity or prior right authorizing such operations.

Based upon the findings herein and in the opinion,

IT IS HEREBY ORDERED that Oakland-Los Angeles Fast Freight, a corporation, F.M. Doran, Newell L. Haines, Pete H. Vernand, J. C. Bingman and Clarence Lepper 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 Oakland-Los Angeles Fast Freight, a corporation, F.M.Doran, Newell L. Haines, Pete H. Vernand, J. C. Bingman and Clarence Lepper, and that he cause certified copies thereof to be mailed to the District Attorneys of San Francisco, Alameda, Contra Costa, San Mateo,

Santa Clara, Santa Cruz, Monterey, San Luis Obispo, Santa Barbara, Ventura and Los Angeles counties, and to the Department of Public Works, Division of Highways, at Sacramento, California.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

The effective date of this order shall be twenty (20) days after the date of service upon defendants.

Dated at San Francisco, California, this 29<sup>th</sup> day of

May, 1933.

C. L. Lamy

W. H. A. Cunn

M. B. Harris

M. J. McNamee  
COMMISSIONERS.