

Decision No. 20194

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

REGULATED CARRIERS, INC., a corporation,)
Complainant,)

vs.)

Case No. 3419.

P. B. CURTICE, P. B. CURTICE doing
business under the fictitious name and
style of Curtice Produce Company, 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 and Scott Elder, by Scott Elder,
for complainant.

D. F. Maher, for defendant.

BY THE COMMISSION:

O P I N I O N

By complaint filed on November 21, 1932, complainant charges P. B. Curtice and Curtice Produce Company with unlawful common carrier operations by auto truck between the vicinity of Watsonville and San Francisco and intermediate points.

Public hearing was had before Examiner Johnson on March 1, 1933, on which date the case was submitted on briefs.

The facts as developed at the hearing may be summarized briefly as follows:

The defendant is in the trucking business and has been in that business exclusively since March, 1932. Prior thereto he was in the wholesale produce business. He operated one truck and trailer between Watsonville and San Francisco daily during the summer time and at least three times a week during the balance of the year, hauling all kinds of agricultural produce from the

Pajaro Valley. No hauling was done except by entering into a form of contract. There was no established place of business except a home dwelling. The defendant at all times carried only for individuals with whom he contracted individually for hauling as the work progressed.

The defendant herein did not select his customers as contended by his counsel except that written contracts were demanded. The defendant P. B. Curtice, however, admitted that he would haul for anyone who would make a contract with him. By this admission, this defendant shows that he was expressly holding his service out to the public whether he called himself a public carrier or not. Defendant expected his contract with Levy-Zentner Company to cover the hauling patronage of more than three score growers, who paid the transportation charges. The common carrier status of defendant is fixed by the contract of hauling with Levy-Zentner Company for sixty or more growers.

A cease and desist order should issue.

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 \$500.00, or he may be imprisoned for five (5) 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 Truck Transportation Act (Statutes 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 \$1000.00, 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.

O R D E R

IT IS HEREBY FOUND THAT P. B. Curtice and Curtice Produce Company are operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Transportation Act (Chapter 213, Statutes 1917, as amended), with common carrier status between the vicinity of Watsonville and San Francisco and intermediate points and without a certificate of public convenience and necessity or prior right authorizing such operations.

Based upon the finding herein and the opinion,

IT IS HEREBY ORDERED that P. B. Curtice and Curtice Produce Company 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 P. B. Curtice and Curtice Produce Company, that he cause certified copies thereof to be mailed to the District Attorneys of Monterey, Santa Cruz, Santa Clara, San Mateo and San Francisco Counties, to the Board of Public Utilities and Transportation of the City of Los Angeles and to the Department of

Public Works, Division of Highways, at Sacramento.

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

Dated at San Francisco, California, this 31st day of July, 1933.

Al Leaney
Leon Whidell
W. A. Linn
W. B. Linn