

Decision No. 2994

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

RICE TRANSPORTATION COMPANY, a
Corporation, DONOVAN TRANSPORTATION
COMPANY, a Corporation and COAST
TRUCK LINE, a Corporation,

Complainants,

vs.

INDEPENDENT TRUCK OWNERS SERVICE
COMPANY and JOHN H. BETTS TRANS-
PORTATION COMPANY,

Defendants.

) Case No. 2994

Reginald L. Vaughan and Scott Elder for
Regulated Carriers, Inc.

Matot, Stafford and Downing, by Kenneth E.
Matot and David F. Klein, for John H. Betts

Wallace K. Downey for Motor Freight Terminal
Company

BY THE COMMISSION:

OPINION, FINDINGS AND JUDGMENT

Decision 24255, 36 C.R.C. 840, dated November 23, 1931

(effective date being fixed as twenty days after personal service
(1)
upon John H. Betts) , found as a fact that John H. Betts, doing
business under the fictitious name of John H. Betts Transporta-
(2)
tion Company, was operating as a common carrier within the mean-

(1) Personal service was made on November 30, 1931. (Exhibit
44.)

(2) ". . . between Los Angeles and Los Angeles Harbor, on the
one hand, and San Diego and intermediate points, including Santa
Ana, Fullerton, Anaheim and Orange on the other hand, and be-
tween Los Angeles and Los Angeles Harbor, and between Long Beach
and San Diego and between Long Beach and Los Angeles,"
(Decision 24255, Exhibit 44, p. 11.)

ing of Statutes 1917, chapter 213, as amended, without having obtained a certificate of public convenience and necessity. Defendant Betts was ordered to cease and desist such common carrier operations until he should have obtained a certificate.

On September 12, 1932, after proceedings duly had, the Commission issued Decision 25177 (38 C.R.C. 30), being its Opinion, Findings, and Judgment (Exhibit 45), in which John H. Betts was adjudged guilty of contempt in failing to comply with the prior desist order. (3)

On December 21, 1932 there was filed the Application for Order to Show Cause and Affidavit of F. N. Bigelow. The application recites the filing of the original complaint, the holding of hearings thereon, the issuance of Decision 24255 (desist order), and service thereof. It also recites the filing of an affidavit in the prior contempt proceeding, issuance of order to show cause, the holding of hearings thereon, the issuance of Decision 25177 (contempt judgment), denial of rehearing, and pendency of petition for writ of review. The affidavit alleges that notwithstanding the desist order and subsequent to the prior contempt judgment, respondent Betts has continued to operate as a common carrier between the points in question. Two separate and distinct offenses are set forth in the affidavit. In addition to general allegations of continued common carrier operation, the first cause of action sets forth specific detailed movements and deliveries alleged to have oc-

(3) On November 3, 1932, respondent herein filed a petition for writ of review in the California Supreme Court, which petition attacked the validity of Decision 24255 (desist order) and of Decision 25177 (contempt judgment.) The Supreme Court denied the petition on December 15, 1932. John H. Betts v. Railroad Commission, S.F. No. 14812.

On January 12, 1933 the California Supreme Court denied a writ of habeas corpus, petitioner attacking the validity of both Commission decisions. In the Matter of the Application of John H. Betts for a Writ of Habeas Corpus, Crim. No. 3631.

curred on November 8 and 9, 1932, while the second cause of action alleges specific movements and deliveries on November 10 and 11, 1932.

On December 27, 1932 the Commission issued its Order to Show Cause, directing respondent Betts to appear before Commissioner Carr on February 1, 1933, and show cause why he should not be punished for each and every alleged contempt set forth in the affidavit. The order to show cause and the affidavit were personally served upon John H. Betts on January 1, 1933. (Exhibit 46.)

Public hearing was had on the order to show cause on February 1, March 7, 8, and 9, 1933. The proceedings were submitted on briefs to be filed within twenty days. No brief has been filed on behalf of respondent.

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

Klauber Wangenheim Company (Witness A. S. Klauber) has received many shipments at San Diego from Los Angeles subsequent to October 24, 1932 via respondent's truck service. The company paid the freight on certain of these shipments and others were-

(4) On January 26, 1933 respondent Betts filed a bill of complaint in the District Court of the United States, Southern District, Central Division (John H. Betts v. Railroad Commission, In Equity No. Z-6-C), in which plaintiff attacked the validity of the desist order and of the prior contempt judgment, and sought to enjoin the enforcement of said decisions and to enjoin the Commission from holding hearings in the present contempt proceeding (set for February 1, 1933.) On January 30, 1933, Judge Cosgrave, after argument, denied a temporary restraining order. The matters were argued before a statutory three-judge court on April 25, 1933. On September 5, 1933, the court filed its opinion denying an interlocutory injunction and granting defendant's motion to dismiss.

(5)
prepaid.

Exhibit 11 covers a shipment of November 9, 1932 and Exhibit 12 one of November 11, 1932, from Los Angeles and Wilmington, respectively, to Ideal Grocers at San Diego. (Witness E. F. Carleton.) Ideal Grocers paid transportation charges to respondent and during the period October 24, 1932 to January 1, 1933, used the service of respondent on more than the two occasions mentioned.

Wilson F. Clark Company, wholesale hardware dealer at San Diego (Witness C. L. Williams) has used respondent's service approximately four times per week since October 24, 1932. Ninety per cent of the shipments have been southbound and respondent has never refused to haul for them. (6)

(5) Following are certain shipments received by this company from Los Angeles:

<u>Exhibit</u>	<u>Date Received</u>	<u>Consignor</u>	<u>Commodity</u>
1	<u>Nov. 11, 1932</u>	E.C. Ortega Co., Inc.	25 cases Ortega Green Chile
2	<u>Nov. 9, 1932</u>	Gen. Foods Sales Co. Inc.	22 cases salt and 25 sacks salt
3	<u>Nov. 11, 1932</u>	The Dromedary Company	5 tins thread cocoam t
4	<u>Nov. 11, 1932</u>	Calif. Maple Syrup Co.	50 cases jam
5	<u>Nov. 11, 1932</u>	H. J. Heinz Corporation	32 cases apple butter and breakfast food
6	<u>Nov. 11, 1932</u>	Baker Brkge. Co.	12 boxes lye
7	<u>Nov. 11, 1932</u>	Calif. Preserving Company	52 cases jam and jelly
8	<u>Nov. 11, 1932</u>	Mandarin Food Products	11 cases sauce and sprouts
9	<u>Nov. 11, 1932</u>	Hormel and Co.	17 cases Hormel products

Exhibit 10 is a statement of charges for hauling, dated November 12, 1932, and rendered to Klauber-Wangenheim Company by respondent.

(6) Exhibits 13, 14, and 15 show shipments to San Diego on November 11, 1932 of 5375 lbs. of sash weights from Alhambra Foundry, 2 packages from H. R. Hunt Putty Mfg. Co., and 6 cases of paint and 1 carton of advertising matter from Boston Varnish Company, respectively.

Piggly-Wiggly of San Diego, Inc. (Witness D. D. Williams) used respondent's service from Los Angeles subsequent to October 24, 1932, making from eight to ten shipments per week. (7) Respondent's Exhibit 23 is a mimeographed form of agreement with Piggly-Wiggly of San Diego, Inc. This agreement is identical in form with that set forth on pages 8, 9, and 10 of Decision 25177 (prior contempt judgment), and which was an agreement with Klauber-Wangenheim Company. (8) Witness D. D. Williams testified

(7) Exhibit 16 shows shipment of 25 cases of Koffee on November 11, 1932; Exhibit 17, 33 cases of salt on November 9, 1932; Exhibit 18, 25 cases of jelly on November 11, 1932; Exhibit 19, 200 cases of dog food on November 11, 1932; and Exhibit 20, 10 bags of nuts on November 11, 1932.

(8) Following is a list of the agreements of respondent introduced in evidence in the present proceeding, showing the exhibit number, name, date agreement was entered into, and period agreement was to remain in effect. All of these agreements are on the same form, with appropriate blanks filled in, and are either mimeographed or printed.

<u>Exhibit</u>	<u>Name</u>	<u>Date</u>	<u>Period</u>
23	Piggly Wiggly of San Diego, Inc. S.D.	Dec. 17, 1931	1 year
25	Southwestern Grocery Company, S.D.	Dec. 29, 1931	6 months
26	Klauber Wangenheim Co., S.D.	Dec. 16, 1931	90 days
27	Ideal Grocers, Inc., S.D.	Dec. 17, 1931	1 year
28	Wilson F. Clark, S.D.	Dec. 16, 1931	1 year
29	Swift and Company, L. A.	Mar. 25, 1932	90 days
31	Western States Grocery Co., S.D.	Dec. 16, 1931	90 days
34	H. K. Glenn (S.D.Soda Works), S.D.	Dec. 16, 1931	1 year
36	Whiting Mead Co., S.D.	Dec. 16, 1931	6 months
38	Hall Wood Working Company, S.D.	Jan. 22, 1932	6 months
42	San Diego Coffee Company, Inc. Ltd. S.D.	Dec. 21, 1931	90 days
43	Suniformia Company, S.D.	Mar. 24, 1932	6 months
51	Geo. B. Winfrey, L. A.	Feb. 1, 1932	6 months
53	Johnson, Carvell & Murphy, L.A.	Dec. 21, 1931	6 months
54	Mandarin Food Products Co., L.A.	Apr. 4, 1932	6 months
57	So. Cal. Disinfecting Co., L.A.	Dec. 27, 1931	1 year
59	Russell Dist. Co., Ltd. L.A.	Apr. 11, 1932	30 days
61	Warner Sales, Ltd., L.A.	Apr. 15, 1932	1 year
63	Los Angeles Brewing Co., L.A.	Dec. 5, 1931	30 days
64	Hamilton and Rausher, L.A.	Feb. 11, 1932	"until Jan. 1, 1933"
65	U.S. Paper Company, L.A.	Feb. 10, 1932	6 months
66	California Soap Company, L.A.	Apr. 14, 1932	6 months
67	Proctor & Gamble Mfg. Co. L.B.	Dec. 19, 1931	1 year
68	General Foods Sales Company, Inc. L.A.	Dec. 19, 1931	1 year

NOTE: All of the above agreements, with the exception of that with Wilson F. Clark, were listed in footnote 7 on pages 10 and 11 of Decision 25177, the prior contempt judgment. (Exhibit 45.)

that Piggly Wiggly has used respondent's service regularly between Los Angeles and San Diego since December 17, 1931 (the date of the agreement.) Prior to that time Piggly Wiggly had no written agreement with respondent, but the witness was advised that "other companies required" that respondent "be a contract carrier", and that a contract was necessary in order "to continue the service." Since November 1, 1932 there has been no difference in respondent's service; it has been "100% satisfactory."

Southwestern Grocery Company (Witness E. E. Garnett), subsequent to October, 1932 has received shipments via respondent's trucks three or four times a week from various consignors of Los Angeles. A new agreement was entered into in January, 1933, and aside from that there has been no change in the company's business relationship with respondent. The agreement was solicited by respondent, who advised that he could give better service at lower rates. Exhibit 24 covers a shipment of 15 cases and 25 sacks of salt on November 9, 1932 from General Foods Sales Company at Los Angeles.

It was stipulated that H. F. Priester of Swift and Company would testify substantially the same as witness D. D. Williams and would testify that the specific shipments for Swift and Company moved as set forth in the affidavit.

Exhibit 30 covers a shipment of 217 cases of groceries from Safeway Stores, Los Angeles, to Western States Grocery Company, San Diego, on November 11, 1932, and it was stipulated that witness F. J. Buickema of the Western States Company would testify substantially the same as witness D. D. Williams.

Exhibit 32 covers a shipment of 660 cases of fish for Van Camp Sea Food Co., Inc., to San Diego on November 9, 1932, and it was stipulated that witness M. Quamma would testify sub-

(9)
stantially the same as witness D. D. Williams.

Exhibit 33 covers a shipment of 25 kegs of beer on November 11, 1932 from Los Angeles Brewing Company to San Diego Soda Works and it was stipulated that witness M. C. Anthony of the latter Company would testify substantially the same as witness D. D. Williams.

Exhibit 35 shows a collect shipment of 2,000 pounds of window sash on November 11, 1932 from Standard Lumber Company to Whiting Mead Company at San Diego and it was stipulated that witness W. H. Leamain would testify in like manner as witness D.D. Williams.

Exhibit 37 shows a shipment of 15 doors from Wheeler Osgood Company, Los Angeles, to Hall Woodworking Company at San Diego. (Witness L. Hall.)

F. N. Bigelow, affiant, testified in detail with respect to specific movements of trucks and deliveries made on November 8,

(9) F. Wetteroth, shipping clerk of the Van Camp Company, at San Diego, testified that respondent 's service has been used subsequent to October, 1932, upon instructions from the main office at Wilmington. When witness desires a truck he calls the Carl & Monte Service Station and asks that a Betts' truck call if in town. Some weeks nothing is shipped and other weeks there are three and four truck and trailer loads, the average "being better" than six times per month. There was no change in the service after November of 1932. The same satisfactory service has been rendered, and respondent has never refused to handle goods tendered for hauling.

(10)
9, 10 and 11, 1932. Exhibit 39 (Witness O. Worden) shows two deliveries to Suniformia Company at San Diego on November 4 and 14, 1932.

San Diego Coffee Company (Witness J. P. Rowe) has had an agreement with respondent for some time. Exhibit 41 shows a shipment of 130 packages on November 9, 1932, and 25 cartons on November 11, 1932. The same exhibit shows shipments on November 15, 17, 21, 28, and 30, 1932. The witness testified that as the hauling had been satisfactory the company was willing to sign an agreement with respondent. The service and rates were the same after as before the agreement, and "the contract didn't make any difference."

(10) Witness Bigelow, accompanied by one W. S. Johnson, followed truck bearing license number P.S. 33960 and trailer from respondent's depot at Long Beach on November 8, 1932, leaving about 9 p.m., to San Diego, where it arrived at about 6 a.m. on November 9, 1932. This truck was observed making the following deliveries in San Diego: 3 doz. boxes and several cartons, marked "Chrystal Shaker Salt", at Klauber-Wangenheim Co.; 36 cartons at Piggly Wiggly Store; about 60 cartons marked "salt" at Ideal Grocers; about 24 sacks and 14 cartons marked "salt" at Southwestern Grocery Co.; and about 500 cartons marked "sardines" at Van Camp Sea Food Co. On the same date witness observed truck bearing license number P.S. 33962 unloading packages at Van Camp Sea Food Co.

On November 10, 1932, witness, again accompanied by Johnson, observed truck bearing license number P.S. 37045 leave respondent's depot about 5 p.m. While following truck bearing license number 36576 and trailer P.S. 3625, which left depot about 7:40 p.m., witness observed truck bearing license number P.S. 33960 also proceeding toward San Diego. Truck 36576 arrived at San Diego about 2:30 a.m., on November 11, 1932, unloaded several packages at Swift & Co., and proceeded to a residence on 14th Street, where witness left that truck and went to Carl & Monte Service Station, where truck 33960 was parked. At 7 a.m. witness found truck bearing license number P.S. 37045 and trailer P.S. 3626 at Western States Grocery Co. and observed the following deliveries: about 125 cases and cartons at Klauber-Wangenheim Co.; several packages and 300 cartons marked "pineapples" at Ideal Grocers; 1 doz. large sacks and some 40 cases and cartons at Piggly Wiggly Store; 4 sacks at Southwestern Grocery Co.; and several packages at Wilson F. Clark Hardware Co. The witness also observed truck 33960 at Whiting, Mead Co. and Piggly Wiggly Store, and observed truck 36576 at Western States Grocery, Armour & Co., and Wilson F. Clark Hardware Co.

Each truck observed bore the sign "John H. Betts Transportation Co." on the front of the driver's hood.

It was stipulated that a circular letter dated December 11, 1931, had been sent to all witnesses who testified in this proceeding, prior to the making of any written agreements. (11)

At Los Angeles George B. Winfrey testified that he made shipments via respondent's line on October 24, 26 and 27, 1932 (Exhibits 49 and 50) and that there has been no change in service or rates since entering into a written agreement.

Exhibit 52 consists of sixteen memorandum uniform straight (11) This letter, a part of Exhibit 47, reads as follows:

"December 11, 1931.

TO OUR PATRONS:-

You have heretofore patronized John H. Betts Transportation Co. in the matter of hauling freight or merchandise to various points in Southern California, which patronage we sincerely appreciate.

We have been endeavoring to conduct the freight business as independent contract carriers, and have not intended to invade the territory of franchise holders who are operating as common carriers under the regulations of the State Railroad Commission of this State. However, certain Motor Truck Companies, about a year ago, brought on a hearing before the State Railroad Commission, objecting to our conducting the aforesaid business unless we should obtain a franchise from the Railroad Commission so to do.

We thereupon went before the Railroad Commission and disclosed all the facts pertaining to our business. On or about the 23rd day of November, 1931, the State Railroad Commission handed down an Order in that case in which it holds that we have heretofore been conducting the business of a common carrier, and not having a franchise so to do, we hereby notify you that we will not solicit any further business nor can we receive any shipments from you on or after the 20th day of December, 1931, for transportation, in the method in which we have heretofore served you in that capacity, and that we will on and after said last mentioned date, cease to conduct the business of common carrier of freight.

We anticipate continuing in the freight transportation business, however, as contract carriers, under contracts with our patrons. If you desire to enter into such contract with us, we will be very glad to confer with you, upon being so advised.

We wish to assure you that this letter is not intended in any way as a solicitation of business to be conducted as a common carrier.

Again thanking you, and appreciating your patronage, we are,

Very truly yours,

JOHN H. BETTS TRANSPORTATION CO.,

By (Signed) John H. Betts, Owner

John H. Betts, Owner

(Signed) R. W. Jackson

R. W. Jackson, - Traffic Mgr.

bills of lading showing shipments from Johnson, Carvell & Murphy (Witness A. G. Hornblower) at Los Angeles to various consignees at San Diego during the period October 24 to November 25, 1932. There was no change in the nature of the service rendered during the above period and prior thereto.

Mandarin Food Products Co. (Witness F. J. Silk) shipped by respondent's trucks to San Diego during November of 1932. A written agreement was signed because respondent "wanted them to sign a contract and they wanted the service ".

Exhibit 55 shows shipments made during October and November of 1932 for Southern California Disinfecting Co. (Witness C. N. Berma.) Service was the same after signing an agreement as before.

Exhibit 58 shows shipments on October 31, November 4, 8, and 9, 1932 to San Diego for Russell Distributing Co. (Witness E. M. Russell.)

Exhibit 60 shows six shipments for Warner Sales, Ltd., during November of 1932. An agreement was signed on April 15, 1932, but dealings with respondent were no different after that date than before, and Witness A. L. D. Warner called respondent as he "would any transportation company" to pick up by truck.

Exhibit 62 shows a shipment on November 9, 1932 for Los Angeles Brewing Company.

It was stipulated that witnesses present under subpoena from U. S. Paper Co., California Soap Co., Proctor & Gamble, and General Food's Sales Co. would testify substantially the same as preceding witnesses, including Witness D. D. Williams.

At the conclusion of the hearing on March 9, 1933, counsel for respondent moved for dismissal upon the ground that the evidence adduced was insufficient to support any finding of contempt. The motion to dismiss is denied.

The Commission has recognized that its power to punish for contempt "should be used sparingly and only when and to the extent necessary to insure a respect for and an observance of its lawful orders." (United Parcel Service v. 20th Century Delivery Service, 38 C.R.C. 455.) In 1931 respondent herein was found to be operating as a common carrier in violation of law and was ordered to desist. In 1932 a contempt proceeding was instituted and respondent was adjudged guilty of contempt in continuing that operation. The Supreme Court of California sustained the validity of both the desist order and the contempt judgment. Notwithstanding this adjudication and the prior punishment for contempt, the record in this second contempt proceeding shows that respondent has continued his unauthorized common carrier operation. No mitigating or extenuating circumstances have been shown. Under these circumstances, the imposition of the maximum punishment authorized by law in contempt proceedings appears to be the only manner in which the Commission may insure an obedience of its desist order.

F I N D I N G S

1. On November 23, 1931 the Railroad Commission, in its Decision No. 24255, found as a fact that John H. Betts, doing business under the fictitious name of John H. Betts Transportation Company, was operating as a common carrier within the meaning of Statutes 1917, chapter 213, as amended, without having a certificate of public convenience and necessity; and ordered John H. Betts to cease and desist such common carrier operation between Los Angeles and Los Angeles Harbor, on the one hand, and San Diego and intermediate points, including Santa Ana, Fullerton, Anaheim and Orange on the other hand, and between Los Angeles and Los Angeles Harbor, and between Long Beach and San Diego and between Long Beach and Los Angeles. Said order has never been revoked, annulled, or stayed, and is now in full force and effect.

2. A certified copy of said Decision No. 24255 was personally served upon John H. Betts on November 30, 1931, and said John H. Betts had personal knowledge and notice of said decision and the contents thereof on and prior to the effective date thereof, and was able at all times thereafter to comply with said order.

3. On December 21, 1932 there was filed with the Railroad Commission the affidavit of F. N. Bigelow, in which it was alleged in substance that the said John H. Betts, notwithstanding the order contained in Decision No. 24255, with full knowledge of its contents, and subsequent to its effective date, had failed and refused to comply with said order in that he had continued to conduct and operate an automobile truck line as a common carrier of property for compensation between Los Angeles and San Diego; and said affidavit and application for order to show cause sets forth two separate and distinct causes of action, the first relating to movements and deliveries on November 8 and 9, 1932, and the second relating to movements and deliveries on November 10 and 11, 1932.

4. Upon said affidavit being received and filed the Railroad Commission, on December 27, 1932, issued its order directing John H. Betts to appear on February 1, 1933, and show cause why he should not be punished for each and every alleged contempt set forth in said affidavit. Said order to show cause, together with the affidavit upon which based, was personally served upon John H. Betts on January 1, 1933. Upon the return date John H. Betts appeared in person and was represented by counsel, hearings were had and the matter submitted.

5. (FIRST CONTEMPT) Notwithstanding the order of the Railroad Commission contained in its Decision 24255, the said John H. Betts failed and refused to comply with the terms thereof, and continued to and did operate and conduct the business of operating

automobile trucks for the transportation of property as a common carrier, for compensation, over the public highways in this state, within the meaning of Statutes 1917, chapter 213, as amended, between Los Angeles and San Diego, and specifically on November 8 and 9, 1932.

6. The failure of the said John H. Betts to comply with the said order of the Railroad Commission, and his continuance to operate as a common carrier as set forth in Finding No. 5 above, was and is in contempt of the Railroad Commission of the State of California and its order, and in violation of Statutes 1917, chapter 213, as amended.

7. (SECOND CONTEMPT.) Notwithstanding the order of the Railroad Commission contained in its Decision No. 24255, the said John H. Betts failed and refused to comply with the terms thereof, and continued to and did operate and conduct the business of operating automobile trucks for the transportation of property as a common carrier, for compensation, over the public highways in this state, within the meaning of Statutes 1917, chapter 213, as amended, between Los Angeles and San Diego, and specifically on November 10 and 11, 1932.

8. The failure of the said John H. Betts to comply with the said order of the Railroad Commission, and his continuance to operate as a common carrier as set forth in Finding No. 7 above, was and is in contempt of the Railroad Commission of the State of California, and its order, and in violation of Statutes 1917, chapter 213, as amended.

J U D G M E N T

(FIRST CONTEMPT.)

IT IS HEREBY ORDERED AND ADJUDGED that John H. Betts has been and is guilty of a contempt of the Railroad Commission in disobeying its order made on November 23, 1931, in its Decision No. 24255, by having failed and refused to desist from operation

as a common carrier of property, for compensation, over the public highways in this state, by auto truck, between Los Angeles and San Diego, and specifically on November 8 and 9, 1932; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that for his said contempt of November 8 and 9, 1932 of the Railroad Commission and its order, said John H. Betts be punished by a fine of five hundred dollars (\$500.00) and by five (5) days' imprisonment in the county jail of the County of Los Angeles; said fine to be paid to the Secretary of the Railroad Commission within five (5) days after the effective date of this opinion, findings, and judgment; and that in default of payment of the aforesaid fine, said John H. Betts be committed to the county jail of the County of Los Angeles until such fine be paid or satisfied in the proportion of one day's imprisonment for each five dollars thereof that shall so remain unpaid.

IT IS HEREBY FURTHER ORDERED that the Secretary of the Railroad Commission upon this order becoming effective, prepare and issue appropriate order or orders of arrest and commitment in the name of the Railroad Commission of the State of California, to which shall be attached and made a part thereof a certified copy of this opinion, findings and judgment, and providing for the incarceration of said John H. Betts for a period of five (5) days.

(SECOND CONTEMPT.)

IT IS HEREBY ORDERED AND ADJUDGED that John H. Betts has been and is guilty of a second separate and distinct contempt of the Railroad Commission in disobeying its order made on November 23, 1931, in its Decision No. 24255, by having failed and refused to desist from operation as a common carrier of property, for compensation, over the public highways in this state, by auto truck, between Los Angeles and San Diego, and specifically on November

10 and 11, 1932; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that for his said second separate and distinct contempt of November 10 and 11, 1932 of the Railroad Commission and its order, said John E. Betts be punished by an additional fine of five hundred dollars (\$500.00) and by five (5) days' imprisonment in the county jail of the County of Los Angeles; said fine to be paid to the Secretary of the Railroad Commission within five (5) days after the effective date of this opinion, findings, and judgment; and that in default of payment of the aforesaid fine, said John E. Betts be committed to the county jail of the County of Los Angeles until such fine be paid or satisfied in the proportion of one day's imprisonment for each five dollars thereof that shall so remain unpaid.

IT IS HEREBY FURTHER ORDERED that the Secretary of the Railroad Commission, upon this order becoming effective, prepare and issue appropriate order or orders of arrest and commitment in the name of the Railroad Commission of the State of California, to which shall be attached and made a part thereof a certified copy of this opinion, findings, and judgment, and providing for the incarceration of said John E. Betts for a period of five (5) days, said five days imprisonment to commence upon the expiration of the five days' incarceration ordered as partial punishment for the first contempt hereinabove referred to.

IT IS HEREBY FURTHER ORDERED that the Secretary of the Railroad Commission, if the above fines, or either of them, are not paid within the time specified above, prepare and issue further appropriate order or orders of arrest and commitment in the name of the Railroad Commission of the State of California, to which shall be attached and made a part thereof a certified

copy of this opinion, findings, and judgment.

IT IS HEREBY FURTHER ORDERED that this opinion, findings, and judgment shall become effective twenty (20) days after personal service of a certified copy thereof upon John E. Betts.

Dated at San Francisco, California, this 11th day of September 1933.

C. C. Seamy
Leon C. Whidell
W. J. Quinn
M. B. Harris
W. H. C. Moore
Commissioners