

Decision No. 28781

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

REGULATED CARRIERS, INC.,)
Complainant,)
-vs-)
WILLIAM J. RYAN, et al.,)
Defendants.)

ORIGINAL

Case No. 3662.

Reginald L. Vaughan and Scott Elder,
for Complainant.

Charles H. Schaeffer for Defendants.

BY THE COMMISSION:

O P I N I O N

By complaint filed on August 16th, 1933, Complainant charges William J. Ryan with unlawful common carrier operations by auto truck between Los Angeles, Huntington Park, Southgate, Long Beach and Los Angeles Harbor, on the one hand, and San Francisco, East Bay cities, and San Diego, on the other hand, serving also as intermediate points various cities, towns, communities and other points en route.

Defendant denies all the allegations contained in said complaint and alleges that he is operating as a private carrier under contract.

Public hearings on said complaint were had before Examiner Satterwhite at San Francisco and Los Angeles, the matter was duly submitted and is now ready for decision.

For many years last past the defendant William J. Ryan has been engaged in a local truck transportation business in Los Angeles and the surrounding metropolitan district. The evidence shows further that for three or four years last past, and continuing up to the present time, the defendant has been conducting a trucking business between Los Angeles and contiguous territory, on the one hand, and Los Angeles Harbor, San Francisco, East Bay cities and San Diego and intermediate points, on the other hand. During this period a very large volume of freight has been transported by defendant between the points named for a considerable number of large shippers and business concerns, necessitating weekly or monthly trips between Los Angeles and San Diego and the San Francisco Bay district.

Defendant has obtained his trucking business by personal solicitation and business contacts. His bill heads and shipping orders are entitled "Billy Ryan Truck Company" and also carry, together with other printed matter, the following words; "Long Distance hauling a specialty."

Defendant has been operating his truck service under both written and oral agreements. He operates under written contracts with two of his largest patrons, the Owens-Illinois Pacific Coast Company and the Litchford Glass Company, well-known manufacturing concerns at Los Angeles, each doing an extensive business in various points of California.

The record shows that defendant has transported under verbal arrangements during the last three years a large volume of freight

for various other patrons and shippers between Los Angeles and San Diego and San Francisco and other Bay cities, including intermediate points. It has been his practice, whenever possible, to secure back-hauls to Los Angeles or contiguous territory. Defendant has catered primarily to full truck load shipments and has declined for some time past to haul commodities in less than truck load lots. During the past three years the following business establishments have patronized the truck service of defendant in transporting commodities in which they deal between many of the communities named:

Sansom Tire & Rubber Company-Tires-	Los Angeles, Cal.
Luer Packing Company-Packers-	" " "
Gen'l Elec. Supply Co.-Electrical Equipment-	" " "
Phila Quartz Company -Silicate of Soda-	L.A. & Berkeley
General Chemical Co. - Chemicals-	Los Angeles, Cal.
So. Calif. Waste Materials Company-	" " "
Highland Western Glass Company-	" " "
Globe Grain & Milling Company-	" " "
Los Angeles Chemical Company-	" " "
San Diego Grocery Company-	San Diego, "
Snowflake Bakery Company-	" " "
San Diego Poultry Association-	" " "
Bissinger & Company-Hides and Pelts-	San Francisco "
Pacific Bone, Coal & Fertilizer Co.-	So. San Francisco "
Kerman Tallow Works-	Hanford "
Albers Bros. Milling Company-	Oakland "
American Canning Company-	Oakland "

The evidence shows that, with reference to the oral arrangements of the defendant with his patrons as to any freight shipments, he was never bound to haul for any fixed period of time any definite tonnage and was at liberty to discontinue his service at any time. Defendant has refused to haul on many occasions for different shippers on the grounds that no equipment was available or that the rates offered were unsatisfactory or unprofitable.

After careful consideration of all the evidence in this proceeding, we are of the opinion that 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., 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 6 of the Auto Truck Transportation Act (Statutes 1917, Chap. 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.

O R D E R

IT IS HEREBY FOUND THAT William J. Ryan is operating as a transportation company as defined in Section 1, Subdivision (c) of the Auto Truck Transportation Act (Chapter 213, Statute 1917, as amended), with common carrier status for the transportation of intrastate traffic for compensation between Los Angeles, on the one hand, and Los Angeles Harbor, San Francisco, Oakland, Berkeley and San Diego, on the other hand, and serving as intermediate points

certain towns, communities and cities and other points en route, 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 William J. Ryan 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 William J. Ryan, that he cause certified copies thereof to be mailed to the district attorneys of City and County of San Francisco, Los Angeles, San Diego, Alameda, Kings and Fresno counties, California, also to the Board of Public Utilities & Transportation of Los Angeles and to the Department of Public Works, Division of Highways, Sacramento, California.

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

Dated at San Francisco, California, this 29th day of January, 1954.

D. J. Deane
Leon Whiteley
M. J. Can
M. B. K...
Walter ...
Commissioners.