

Decision No. 38190

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC., a corporation,

Complainant,

vs.

Case No. 3992.

GEORGE H. HOOVER, 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,
Douglas Brookman,
for complainant.

George H. Hoover, in propria persona.

WARE, COMMISSIONER:

O P I N I O N

By complaint filed on April 1, 1935, complainant charges George H. Hoover with unlawful common carrier operations by auto truck between Sacramento and Nevada City, Grass Valley and intermediate points.

The issues having been joined, public hearing being held in Sacramento on August 21, 1935, and the case thereupon concluded and submitted, the same is now ready for Opinion and Order.

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

Several representatives of Sacramento wholesale houses testified that since October, 1934, they had employed the truck services of defendant, for hire, in the transportation of a wide assortment of merchandise and freight originating in Sacramento and destined to Nevada City and Grass Valley.

The defendant testified that immediately following the filing of C.R.C. Case No. 3816 and the simultaneous withdrawal from the highway by the unlawful operator Sowles, being the defendant involved therein, the defendant Hoover actively solicited the patrons of said Sowles, procured a truck and commenced his unlawful operations with five or six patrons. Hoover's business grew to such an extent that he now hauls for 25 patrons in Grass Valley and ten more in Nevada City.

He has been offering a daily service on six days each week between Sacramento on the one hand, and Nevada City and Grass Valley on the other, driving his truck each day over the same highway and route to and from said fixed termini. The defendant acknowledges that he has been paid for his services by both the Sacramento wholesale shippers, and the Nevada City and Grass Valley consignees. He also acknowledges that he has never received any certificate of public convenience and necessity to engage in this operation of freight transportation from this Commission.

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 Act (Statutes 1917, Chapter 213), 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

Public hearings having been had in the above entitled case,

IT IS HEREBY FOUND THAT George H. Hoover is operating as a transportation company, as defined in Section 1, (c) of the Auto Truck Transportation Act, Statutes 1917, Chapter 213, as amended, with common carrier status, between fixed termini and over a regular route and public highway, to-wit: between Sacramento on the one hand, and Grass Valley and Nevada City on the other hand, without having obtained a certificate or certificates of public convenience and necessity or without having any prior operative right for any or all of such operations.

Based upon the Opinion and Findings herein,

IT IS HEREBY ORDERED that George H. Hoover shall cease and desist, directly or indirectly, or by any subterfuge or device, from continuing any or all of such operations, hereinabove set forth, and more specifically shall cease and desist, directly or indirectly, or by any subterfuge or device, from operating as a common carrier between any or all of the following points, to-wit: Sacramento on the one hand, and either or both of the following points, to-wit: Nevada City and Grass Valley on the other hand, and shall similarly cease and desist from operating as a common carrier between any two of the points hereinabove specified and found as being places between which the said George H. Hoover is now operating, unless and until a certificate of public convenience and necessity, or proper permit,

shall have been obtained from this Commission.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall cause a certified copy of this decision to be personally served upon George H. Hoover.

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

Dated at San Francisco, California, this 26th day of August, 1935.

Leon C. Whaley

M. A. Cunn

A. D. [Signature]
Frank R. [Signature]

Commissioners.