

Decision No. 28277

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

PASSENGER CARRIERS ASSOCIATION,
a corporation,

Complainant,

vs.

JOHN A. WOODCOCK, MRS. A. DEMAVE,
FIRST DOE, SECOND DOE, THIRD DOE,
FOURTH DOE and FIFTH DOE,

Defendants.

Case No. 3997.

ORIGINAL

Orla St. Clair and Howard Day, for complainant.

Robert Brennan and Wm. F. Brooks, for The
Atchison, Topeka & Santa Fe Railway Co.,
Intervener on behalf of complainant.

Edward J. Lynch, for defendant Mrs. A. Demave.

BY THE COMMISSION:

O P I N I O N

By the complaint in this proceeding it is alleged that defendants John A. Woodcock, Mrs. A. Demave and certain fictitiously named defendants, were engaged in business as a passenger stage corporation, as defined in the Public Utilities Act, transporting passengers between San Francisco and Oakland, on the one hand, and Los Angeles and intermediate points, on the other hand, via Fresno and the Valley route, and also via San Jose, Pacheco Pass, Fresno and the Valley route, without having first obtained from this Commission a certificate of public convenience and necessity authorizing such operations.

A public hearing was conducted by Examiner Hunter at San Francisco on September 13, 1935, when the matter was submitted, and it is now ready for decision.

Defendant Mrs. A. Demave answered the complaint and appeared at the hearing by counsel, but defendant Woodcock though personally served with the complaint and the order to satisfy or answer, neither answered nor appeared. No other defendants were served nor appeared.

The record clearly shows that defendant Woodcock is regularly engaged in the business of transporting passengers for hire by automobile stages between San Francisco and Oakland, and Los Angeles, via the Valley route and via Pacheco Pass, using as his San Francisco terminal the Statler Hotel managed and operated by defendant Mrs. A. Demave. This was established by the testimony of several witnesses, of whom two travelled from San Francisco to Los Angeles in a sedan driven by defendant, used upon each occasion for transporting passengers at a fare of Five Dollars (\$5.00) each. Other witnesses testified that this defendant, in response to inquiries, offered to transport them to Los Angeles at a fare of Five Dollars (\$5.00) each.

Although Mrs. Demave's employees, including the hotel clerks, have, on various occasions, given information to prospective passengers regarding the schedules and fares of Woodcock's operations, nevertheless it is clear that none of the defendants, other than Woodcock, have actually collected any fares or participated in the revenues of this business. Mrs. Demave, in conversations had with certain witnesses, admitted she had profited through the patronage of passengers brought to her hotel as guests, but this appears to have been the extent of her interest.

A cease and desist order should issue against defendant Woodcock but the complaint, so far as it pertains to defendant Mrs. A. Demave, should be dismissed.

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. 1212, Motor Freight Terminal Co. vs. Bray, 37 C.R.C. 224; In re Ball and Hayes, 37 C.R.C. 407; Wermuth vs. Stamber, 36 C.R.C. 438; Pioneer Express Company vs. Keller, 33 C.R.C. 571.

It should also be noted that under Section 79 of the Public Utilities Act, a person who violates an order of the Commission is guilty of a misdemeanor and is punishable by a fine not exceeding \$1,000, or by imprisonment in the county jail not exceeding one year, or by both 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

The above entitled matter having been duly submitted at a public hearing and the Commission being fully advised in the premises,

IT IS HEREBY FOUND as a fact that defendant John A. Woodcock has transported passengers and their baggage, for compensation, over the public highways between fixed termini, to-wit, between San Francisco and Oakland, on the one hand, and Los Angeles and intermediate points, on the other hand, via Fresno and the Valley route, and also via San Jose, Pacheco Pass, Fresno and the Valley route, as a common carrier, to-wit, as a passenger stage corporation, as defined in Section 22 $\frac{1}{2}$ of the Public Utilities Act of the State of California, without first having secured from this Commission a certificate of public convenience and necessity authorizing such operations.

Based upon the findings and the opinion herein,

IT IS HEREBY ORDERED that defendant John A. Woodcock be and he is hereby required and directed to cease and desist directly or indirectly, or by any subterfuge or device, from conducting or continuing any and all operations for the transportation of passengers and/or their baggage, for compensation, as a common carrier, by any motor vehicle, or motor vehicles, over the public highways between San Francisco and Oakland, respectively, and Los Angeles and intermediate points, via Fresno and the Valley route, and/or via San Jose, Pacheco Pass, Fresno and the Valley route, and/or via any other route between said termini, or any or either of them, and/or between said termini, or any or either of them and any intermediate point or points, and/or between all intermediate points, and/or between any two

or more intermediate points, unless he shall first have secured from the Railroad Commission a proper certificate of public convenience and necessity therefor.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission shall immediately cause a certified copy of this decision to be personally served upon said defendant John A. Woodcock, and that he cause certified copies hereof to be mailed to the District Attorney of the City and County of San Francisco, to the District Attorney of the County of Los Angeles and to the Board of Public Utilities and Transportation of the City of Los Angeles.

IT IS HEREBY FURTHER ORDERED that the above entitled proceeding, in so far as it pertains to defendants Mrs. A. Demave, First, Doe, Second Doe, Third Doe, Fourth Doe and Fifth Doe, and each of them, be and it is hereby dismissed.

The effective date of this order shall be twenty (20) days from and after the date of service thereof upon said defendant John A. Woodcock,

Dated at San Francisco, California, this ~~14th~~ day of October, 1935.

John A. Woodcock

W. H. C. C.

W. B. C. C.

W. B. C. C.

Frank R. C. C.

Commissioners.