Decision No. 29936

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Investigation on the Commission's own motion into the practices, operations, regulations, rates, rules, charges, and classifications, or any of them, of JOE GALIK, doing business as ACME TRAVEL ASSOCIATION, FIRST DOE, SECOND DOE, THIRD DOE, JANE DOE, JOHN DOE AND RICHARD ROE, a copartnership, and JOHN DOE COMPANY, operating as "passenger stage corporations" and/or as "motor carrier transportation agents."	Case No. 3371.

Orla St. Clair for complainant Howard Day, and for Passenger Carriers' Association, intervener on behalf of complainant.

Raine Ewell for respondent, and Joseph J. Galik in pro per.

George J. O'Hara for Better Business Bureau of San Francisco, intervenor on behalf of complainant.

BY THE COMMISSION:

OPINION, FINDINGS AND JUDGMENT.

In Case No. 3371, the Commission instituted upon its own motion an inquiry into the operations of Joe Galik, doing business as Acme Travel Association, together with certain fictitiously named respondents. Following a hearing, when this matter was considered in conjunction with other cases,(1) the Commission by Decision No. 25434, dated December 10, 1932, dismissed the proceeding as to Acme Travel Association and all respondents other than Joe Galik, and found that said respondent Joe Galik was engaged as a passenger stage corporation and as a common carrier of passengers, for compensation, over the public highways, between San Francisco and Los Angeles without

(1) Cases Nos. 3367, 3368, 3369, 3370 and 3371 were heard toget and a single decision rendered therein.

first having obtained from the Commission a certificate of public convenience and necessity authorizing such service, as required by the Public Utilities Act. By its order the Commission directed that said Joe Galik should "immediately cease and desist such operation as a passenger stage corporation, unless and until proper certificate of public convenience and necessity shall have been obtained", and he was required to refrain from conducting such operations, either directly or indirectly, or by his agents, employees, representatives or assignees. By its terms this order became effective twenty days after personal service upon said respondent. The present record shows that personal service of Decision No. 25434 was made upon Joe Galik at San Francisco on December 17, 1932. Therefore, the order became effective as to said respondent January 7, 1933.

On February 4, 1936, the affidavit and application for order to show cause (hereinafter referred to as affidavit) of Howard Day was filed, requesting that Joe Galik be ordered to show cause why he should not be punished for contempt for failure to comply with the terms of Decision No. 25434. On March 2, 1936, the Commission issued its order to show cause(2) directing that Joe Galik appear before Examiner Austin at San Francisco on April 7, 1936, and then and there show cause why he should not be punished for contempt for his failure and refusal to comply with the terms and conditions of Decision No. 25434, as set forth in the affidavit. On said date respondent appeared in person, and hearing on the order to show cause was had on April 7th and 22nd, 1936. On the date last mentioned respondent was represented by counsel. Following oral argument, the matter was submitted April 22, 1936.

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(2) Exhibit 5 shows that personal service of the affidavit and of the order to show cause was made upon Joe Galik on March 19, 1936, at San Francisco.

The affidavit herein alleges in part that notwithstanding the order of the Commission, and with full knowledge and notice of said order and the contents thereof, respondent Galik subsequent to the effective date of the order has failed and refused and does now fail and refuse to comply with its terms in that he is continuing to engage as a passenger stage corporation and as a common carrier of passengers, for compensation, and in that he has operated, or caused to be operated a passenger stage or passenger stages, as defined by the Public Utilities Act, over the public highways of this State, between fixed termini or over regular routes, and specifically between San Francisco and Los Angeles, without first having obtained from the Commission a certificate of public convenience and necessity authorizing such operation, as required by the Public Utilities Act.

Paragraph 9 alleges in substance that on or about January 9, 1936, respondent Galik operated or caused to be operated over the public highways between San Francisco and Los Angeles a seven passenger Packard sedan in which seven passengers were carried from San Francisco to Los Angeles, each of whom paid respondent an individual fare of $5.00 covering such transportation, and all of whom were so transported from San Francisco to Los Angeles in said automobile in return for such compensation. In paragraph 10 it is alleged in substance that on or about January 10, 1936, respondent Galik operated or caused said automobile to be operated over the public highways between Los Angeles and San Francisco, and transported therein three passengers from Los Angeles to San Francisco, collecting from each an individual fare of $5.00 covering such transportation, and all of whom were so transported in return for said compensation. Other paragraphs allege that the acts mentioned are in violation and disobedience of said Decision No. 25434; that each and

all of such violations were committed with full knowledge and notice thereof on the part of respondent Galik; that said order was at all of said times in full force and effect; and that respondent has violated said order with full notice and knowledge of its contents and with the intention to violate it. It is further alleged that when said decision was rendered and at the time of its effective date, respondent Galik was able to comply, and ever since has been and now is able to comply therewith; and that the omissions and violations of said decision and order upon respondent's part, as therein set forth, were committed in violation of law and in contempt of the Commission.

Prior to the hearing respondent interposed a demurrer to the order to show cause, and he also filed an answer denying generally the allegations of the affidavit and setting up as an affirmative defense that during the years 1933 to 1936, inclusive, respondent, as an operator under Chapter 339, Statutes 1933, held licenses issued by the Board of Equalization pursuant to said act, under which he was "authorized to engage in the transportation of persons or property as a carrier for hire or compensation over the public highways of this State in accordance with the provisions of said act". The issues raised by the demurrer and the answer may be briefly summarized as follows:

(1) Has the Commission power in a case such as this to impose punishment for contempt?

(2) Where the record shows that proof of service of the original decision in this matter rests upon an affidavit, has such service been sufficiently established?

(3) Is the original decision, rendered in this matter in 1932, now barred by limitations?

(4) Although the affidavit of Howard Day initiating this proceeding in contempt alleges facts positively, the record shows

that not all of such facts were within affiant's personal knowledge. Is the affidavit sufficient as a basis for this proceeding?

(5) Does Chapter 339, Statutes 1933, under which respondent held a license from the State Board of Equalization authorizing him to engage as an operator in the transportation of persons or property as a carrier, for hire or compensation, over the public highways of this State, in accordance with the provisions of said act, operate to modify or repeal by implication the earlier enactment found in Section 50-1/4, Public Utilities Act, providing that no passenger stage corporation may operate a passenger stage over the public highways without first having secured from the Railroad Commission a certificate of public convenience and necessity?

(6) Is the respondent operating as a common carrier of passengers for compensation, viz: as a passenger stage corporation under Sections 2-1/4 and 50-1/4, Public Utilities Act, or is he conducting a charter car service?

(7) Must the testimony of Howard Day, upon whose affidavit this proceeding rests, and that of George Otto, his employee, be held to be insufficient, in the absence of corroboration, to establish the commission of a contempt by respondent, because they were accomplices of respondent in the performance of the violations of the Commission's decision which are here complained of?

We shall undertake to discuss these matters in the order mentioned.

(1) POWER OF COMMISSION TO IMPOSE PUNISHMENT FOR CONTEMPT.

Respondent contends that the Commission, an administrative body, has no power to impose punishment for a contempt predicated upon the violation of a cease and desist order prohibiting the operation of service as a passenger stage corporation. This power,

it is claimed, may be exercised by judicial tribunals alone.

Article XII, Section 22, of the California Constitution provides that:

> "* * * the commission * * * shall have the power to * * * punish for contempt in the same manner and to the same extent as courts of record * * *."

Power to punish for contempt, in the same manner and to the same extent as a court of record, has been broadly conferred upon the Commission by Sections 81 and 54, Public Utilities Act.

The Supreme Court has sustained the Commission's power to punish for contempt.

Van Hoosear v. Railroad Commission, 189 Cal. 228.

And orders of the Commission adjudging parties to be in contempt for violation of cease and desist orders of the character here in question, have been upheld.

In re Bray, 125 Cal. App. 363.
In re Ball, 127 Cal. App. 433.

We must therefore hold this contention to be without merit.

(2) SUFFICIENCY OF PROOF OF SERVICE OF ORIGINAL DECISION.

At the hearing there was offered the affidavit of F. A. Savage (Exhibit 4, verified December 22, 1932) which stated that the decision in this proceeding (Decision No. 25434) had been served upon respondent Joe Galik at San Francisco on December 17, 1932. To the admissibility of this affidavit respondent objected, contending it was hearsay and asserting that the person who actually served the decision should be produced.

Proof of service by affidavit is sufficient, under Section 2009, Code of Civil Procedure, which provides:

> "An affidavit may be used * * * to prove the service of a summons, notice, or other paper in an action or special proceeding * * *".

Moreover, the record shows that during a conversation had with the witness Howard Day, respondent admitted service of the decision.(3) The point, therefore, is not well taken. The same contention was urged, though faintly, against the admissibility of the sheriff's return of service of the order to show cause in the instant proceeding, but counsel waived the objection because of respondent's personal appearance in response to such order.

(3) EFFECT OF LIMITATIONS UPON CEASE AND DESIST ORDER.

Respondent contends that, since the decision in this matter was rendered in 1932, it is now barred by limitations. Neither the Public Utilities Act nor any other statute, so far as we are advised, specifies any period within which proceedings of this nature must be instituted.

The power of the Commission to promulgate an order requiring one to refrain from operating a passenger stage service between certain points in the absence of a certificate or other operative right, is well established.

Motor Transit Company v. Railroad Commission, 189 Cal. 573.
Coast Truck Line v. Railroad Commission, 191 Cal. 257.

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(3) Witness Day testified that during a conversation with respondent the latter complained of the Better Business Bureau and Captain Savage because he had been served with the cease and desist order in this proceeding. (Tr. pp. 94, 95). This statement was not denied.

An order such as this requiring respondent to cease and desist operating as a common carrier of passengers for hire is not unlike an injunction. And as to an order of this character it has been held:

> "It is quite true that when an act sought to be punished constitutes a crime, the court may by analogy adopt the limitation prescribed by statute for criminal prosecutions. (Gordon v. Commonwealth, 141 Ky. 461; 133 S.W. 206; Beattie v. Peo., 33 Ill. App. 651). This principal, however, has no application in the instant case, for the reason that the acts complained of did not constitute a crime. The injunctive order was perpetual, and if the acts of Mrs. Moore in obstructing the flow of water in the creek continued for four years constituted a disobedience thereof, petitioner was entitled to proceed against her in contempt proceedings at any time * * *. Moreover, laches is an equitable defense depending upon the circumstances of each case."
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> Goodall v. Superior Court, 37 Cal. App. 723.

In the case last cited the respondent therein contended that the petitioner had delayed instituting the proceeding for too long a period after the former had entered upon the course of conduct complained of as violative of the injunction; no question was raised that petitioner had waited too long after the entry of the judgment itself. Under the court's reasoning, the proceeding would have become barred within a period following the commencement of respondent's activities equivalent to that prescribed for the commencement of criminal proceedings,(4) had the acts complained of been punishable as a crime, but since they were not, no such limitation was applicable.

In a contempt proceeding brought ten years after the entry of an injunction, the court, though it dismissed the case on other grounds, held that since the "purpose of the decree was to restrain -

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(4) Under the Penal Code, the following periods of limitation are applicable to criminal proceedings, viz: for felonies, excepting certain crimes as to which there is no limitation, three years (section 800), and for misdemeanors, one year (sections 801 and 1426a). Special statutory provisions prescribe other and varying periods for certain offenses.

it looked to the future", mere lapse of time did not operate as a bar.

Tosh v. West Kentucky Coal Co., 252 Fed. 44, 46 (C.C.A.-6; 1918)

Applying these rules to the matter before us, we hold that mere lapse of time since the rendition of the cease and desist order is not sufficient to bar this contempt proceeding. And though it may be conceded that respondent's alleged violation of the original order itself constitutes a misdemeanor within the meaning of the exception announced in Goodall v. Superior Court, supra, nevertheless, this contempt proceeding was instituted well within a period following the inception of respondent's alleged violations, which would correspond to that within which misdemeanor prosecutions must be initiated.

Moreover, the record fails to disclose any change in conditions since the rendition of the decision which would operate to render its enforcement inequitable.

It is clear therefore that respondent's contention cannot be sustained.

(4) SUFFICIENCY OF AFFIDAVIT INITIATING PROCEEDING.

The affidavit of Howard Day, filed in this matter February 4, 1936, and entitled "Application for Order to Show Cause", sets forth certain facts, some of which are mere restatements of matters of record in this proceeding, while others pertain to respondent's alleged violation of the cease and desist order. At the hearing it appeared from the testimony of Howard Day that some of the facts alleged in the affidavit were not within his personal knowledge.

In particular, the evidence disclosed that although Day was familiar with the matters of record therein alleged, he had listened to part of the telephone conversation between Otto and respondent on the day preceding the latter's trip from San Francisco, and he was present at Otto's home when respondent called there to pick him up, nevertheless he had no personal knowledge of the facts set forth in the affidavit pertaining to what transpired upon the two trips to Los Angeles and return.

An affidavit initiating a proceeding in contempt is in the nature of a pleading, and fulfills the office of a complaint. In re Selowsky, 38 Cal. App. 569, 577.

No contention is made that this affidavit does not set forth facts sufficient to show a violation of the Commission's decision. Respondent's claim is that some of these facts, though positively alleged, are not within the personal knowledge of affiant. The utmost, therefore, that can be contended, is that the affidavit rests to this extent upon facts stated upon the information and belief of the person making the affidavit.

The affidavit is sufficient on its face to comply with the rule announced in In re Selowsky, supra, that it must allege a cause of contempt.

And if the affidavit be deemed to rest upon information and belief to the extent that certain of the facts therein stated are not within the personal knowledge of the affiant, it is clear that the affidavit is not based entirely upon information and belief, since many substantial facts were shown to be within affiant's actual knowledge. Assuming, then, that to this extent the affidavit is predicated in part upon allegations made upon information and belief, it is nevertheless sufficient. An affidavit resting partly, though not

wholly, upon statements made on information and belief is a sufficient foundation for a contempt proceeding.

Hughes v. Moncur, 28 Cal. App. 462.
In re Reilly, (Cal. App.) 61 Pac. (2d) 469.

The rule applies with greater force to proceedings brought to secure the enforcement of a judgment or order.

In re Kolb, 60 Cal. App. 198, 201.

And an affidavit based entirely upon information and belief has been upheld.

In re Simoniello, 6 Cal. App. (2d) 425;
44 Pac. (2d) 402.
Golden Gate Const. Hydraulic Mining Co. v.
Superior Court, 65 Cal. 187.

As we have stated, an affidavit such as this is in the nature of a complaint. All the facts appearing in a complaint are not required to be within the personal knowledge of the person making the verification; on the contrary, they may rest in part, at least, upon information supplied him by others. If it alleges facts sufficient to constitute a cause of action, whether or not they may be entirely within the knowledge of the affiant making the verification, the complaint is sufficient as a pleading. As such, it puts the defendant on notice as to the nature of the claim asserted. The affidavit here performs the same function.

We, therefore, hold the point not to be well taken.

(5) EFFECT OF LICENSE ISSUED BY STATE BOARD OF EQUALIZATION UNDER CHAPTER 339, STATUTES 1933.

This defense is predicated in part upon the contention that respondent, having obtained licenses from the Board of Equalization for the years 1935 and 1936 (Exhibits 7 and 8) under the California Motor Vehicle Transportation License Tax Act (Statutes 1933, Chapter

339, p. 928), and having paid the fee and license tax required by that statute, has been granted authority by the State to carry on the operation in question. It is claimed that sections 2-1/4 and 50-1/4 of the Public Utilities Act (added in 1927)[5] are in conflict with the provisions of the License Tax Act of 1933, and that the latter statute, being a later enactment, must prevail over the terms of the Public Utilities Act.

That there is no conflict between the two statutes and that each relates to different matters, is apparent from an examination of their provisions. The Public Utilities Act (section 50-1/4) provides that common carrier "passenger stage corporations" must obtain certificates of public convenience and necessity from this Commission prior to beginning operations, while the License Tax Act of 1933 relates to licensing by the Board of Equalization of operators of motor vehicles who "engage in the transportation of persons or property for hire or compensation, either directly or indirectly." (Sec. 1(a).)[6] The former is a regulatory measure; the latter is a revenue measure.

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(5) Statutes 1927, Ch. 42. Prior to 1927 common carriers of passengers by automobile were regulated and required to obtain certificates of public convenience and necessity under the then Auto Stage and Truck Transportation Act. (Statutes 1917, Ch. 213, p. 330, as amended).

(6) Fees of $25 for application for a license and $15 for application for renewal for following years are required (Sec. 2). Distinguishing license plates must be attached to vehicles (Sec. 3). Monthly reports showing gross receipts from operation are to be filed with the Board of Equalization and a "license tax equal to three per cent of gross receipts" is levied (Sec. 4). The act, "inasmuch as it provides for tax levies for the usual current expenses of the State, shall, * * * take effect immediately." (Sec. 17). The title of the act is as follows: "An act imposing a license fee or tax for the transportation of persons or property for hire or compensation upon the public streets, roads and highways in the State of California by motor vehicle and providing that this act shall take effect immediately." (Calif. Stats. 1933, Chap. 339, p. 928).

In re Bush, 6 Cal. (2d) 43, 51, the California Supreme Court, in construing the License Tax Act, stated in part as follows:

> "Petitioner contends that the history of California legislation with reference to transportation of persons and property upon the public highways of the state for hire or compensation supports his position that said License Tax Act of 1933 was intended to apply only to carriers engaged in the business of transportation and was never intended to apply to any operation not within such category. Such conclusion is not, we think, necessarily deducible from the history of California legislation upon this subject. The history of such legislation discloses two distinct lines of statutes. One line was enacted for the purpose of regulating the business of transportation by motor vehicles of persons or property for hire or compensation upon the public highways. (Stats. 1917, p. 330, and amendments; Stats. 1935, chaps. 223, 312 and 664). The following cases are pertinent to the subject of the regulation of such transportation operators: Western Assn. of Short Line Railroads v. Railroad Com. 173 Cal. 802; * * * Frost v. Railroad Com. 197 Cal. 230; * * * Frost & Frost Trucking Co. v. Railroad Com. 271 U.S. 583; * * * Holmes v. Railroad Com. 197 Cal. 627; * * * Haynes v. MacFarlane, 207 Cal. 529; * * * Forsyth v. San Joaquin Light etc. Corp., 208 Cal. 397; * * * Landis v. Railroad Com. 220 Cal. 470 * * *. The License Tax Act of 1933 was enacted as a step in the second line, that of certain acts and constitutional provisions which were primarily revenue measures, designed to secure for the state a fair return for the use of the public highways of the state in transporting persons or property for compensation. (Stats. 1923, p. 706; Stats. 1925, p. 833; Stats. 1927, p. 1708; Stats. 1927, p. 1742; California Constitution, art. XIII, sec. 15; Pol. Code, sec. 3664aa; Stats. 1933, p. 928.) These enactments have been before the courts of this state in the following cases: Bacon Service Corp. v. Huss, 199 Cal. 21; * * * In re Schmolke, 199 Cal. 42; * * * Los Angeles etc. Transp. Co. v. Superior Court, 211 Cal. 411; * * * Alward v. Johnson, 208 Cal. 359; * * * People v. Duntley, 217 Cal. 150; * * * People v. Lang Transp. Co., 217 Cal. 166 * * *."

And at page 53 the court stated as follows:

> "We are satisfied that the purpose of the enactment of the License Tax Act of 1933 was to secure a fair return to the state for the use of its public highways not only from carriers, both common carriers and private contract carriers, but also from the larger class of persons who fairly answer to the description of 'operator' therein defined as taxable and who receive compensation directly or indirectly, from the use of the public highways."

The License Tax Act is not involved in this proceeding. The question for determination is whether respondent operated as a common carrier within the meaning of the Public Utilities Act, as alleged in the application for order to show cause. If so, he must be adjudged guilty of contempt, and whether or not he complied with the License Tax Act is immaterial. Compliance therewith does not authorize common carrier operation in the absence of a certificate.(7)

(6) CHARACTER OF RESPONDENT'S OPERATIONS AS COMMON CARRIER OF PASSENGERS OR CHARTER CAR SERVICE.

Respondent contends that any transportation of passengers which the record may show he has performed, was conducted solely as a charter car operator, and not as a common carrier. In short, he asserts that in each instance the car was chartered from him and that the charterer, in turn, arranged with the persons transported for their carriage and with respondent to perform the transportation.

The evidence shows without contradiction that on January 9, 1936, respondent carried the witness Otto, along with others, from San Francisco to Los Angeles and that on the next day respondent transported him, with others, from Los Angeles to San Francisco. However, the evidence relating to the character of the arrangement

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(7) In Passenger Carriers Ass'n v. Ewell, (Nov. 26, 1934), Decision No. 27543, Case No. 3882 (Writ of review denied by California Supreme Court March 11, 1935, and rehearing denied April 8, 1935, in Ewell v. Railroad Commission, S.F. No. 15371), the Commission stated as follows:

"The effort of Ewell to disguise the operations as those of ticket agents for private carriers, operating under Board of Equalization licenses, is specious. Chapter 339, Acts of 1933, authorizing such licenses to automotive operators on the public highways (and only outside of municipal boundaries), granted no right to operate other than according to law. When defendants operate between fixed termini and/or over a regular route for compensation, and offer their services at per capita rates to the public through the 'plan' disclosed in the record, they are violating Section 50-1/4 of the Public Utilities Act until a certificate of public convenience and necessity therefor has been obtained."

entered into between respondent and Otto for transportation, and the circumstances under which compensation was collected, is in sharp conflict.

On January 8, 1936, George Otto, an investigator employed by Howard Day, Manager of Passenger Carriers' Association, telephoned respondent from Day's office, calling him at a number appearing in an advertisement published that day in a San Francisco morning paper, viz: Market 0479. That this was respondent's telephone number was established not only by Otto, but also through the testimony of F. A. Hornblower, an investigator of the Board of Equalization, who was familiar with the number. In fact, he called a few days later at respondent's home, 3636 Sixteenth Street, San Francisco, and while there heard respondent engage in telephone conversations regarding the transportation of passengers.

During their telephone conversation respondent, following Otto's request for information concerning transportation to Los Angeles, promised to call the next day at Otto's home to pick him up. This conversation was not denied by respondent.

About 10:30 A.M. on the next day, January 9th, respondent appeared at Otto's residence, 1335 Twenty-third Avenue, San Francisco, driving a Packard car bearing a temporary license number. Here Otto entered the car, his departure being observed by the witness Day who, together with Otto, witnessed respondent's arrival. At this time there were no other passengers in the car. However, before respondent left the city limits he picked up three passengers, including a child, at 715 McAllister Street, one passenger at the Argus Hotel, 149 Third Street, and an additional passenger near the Ferry Building, making a total of five adults and one child. Of these one adult passenger alone had no baggage. Leaving the ferry at 11:10 A.M. respondent drove out the Embarcadero and over Third Street and

Bayshore Boulevard to Visitacion Avenue where he stopped to secure gasoline and oil. Here, so Otto testified, respondent collected from all the adult passengers a fare of $5.00 each.(8) We shall recur to this later.

With respondent at the wheel the trip southward was made over the Bayshore Highway to San Jose, over the coast route to Gilroy, thence via Pacheco Pass and the valley route to Los Angeles where the car arrived about 1:55 A.M. on January 10th.

Stops en route were made for meals at Fresno and Bakersfield, that at Fresno consuming one hour and one-half, where with their food the passengers and respondent consumed considerable whiskey and other liquor. At Los Angeles respondent and the passengers disembarked at the New Russ Hotel, 517 San Julian Street, where they spent the night.

Pursuant to an understanding with respondent, the latter called at Otto's room at about 11:00 A.M. of the same day, January 10th. Together with respondent, Otto entered the latter's car which was then driven to 426 East Fifth Street where respondent put up a sign reading "Chartered Sedan Service to San Francisco". After waiting there for about ten minutes respondent drove to the Hotel Lamm at 416 West Sixth Street, where he picked up a passenger. On this occasion, Otto testified, he saw the bellboy at the hotel hand a $5.00 bill to respondent who thereupon gave the boy $1.00, respondent

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(8) In this connection Otto testified: "As we were going out Bayshore Boulevard we stopped at Visitacion Avenue on Bayshore Boulevard, and Mr. Galik got out and had the car filled with gas and oil, and he turned around and opened the door of the car and he said 'give me all your fares', and, myself included, everybody in the car gave him a five dollar bill." "Q. "At this time and place that you just testified to you paid Mr. Galik five dollars"? A. "Right". Q. "And in your presence the other passengers each paid Mr. Galik five dollars"? A. "Right. That was an agreement made with the party over the telephone, that the fare was to be $5.00 to Los Angeles." (Tr. p. 13).

stating in this connection "we work it that way, we give the boys one out of five."(9) Continuing to the Hotel Mercer at 1347 South Hill Street, respondent picked up another passenger and then drove back to 426 East Fifth Street, where he circled the block several times, inquiring from the drivers of cars bearing signs similar to that put up by respondent, and parked along the street, whether they had anyone for San Francisco.(10) At the Hotel Mercer, so Otto testified, he paid respondent $5.00 to cover his transportation charges back to San Francisco.

With two passengers, including Otto, respondent left Los Angeles at noon on January 10th and drove back to San Francisco over the route followed the previous day on the southward journey. About ten miles south of Los Banos, early in the evening, respondent picked up another passenger. Before alighting from the car to accost him respondent said to Otto that he "may get a fare".(11) Respondent

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(9) Mr. Otto's testimony to this effect appears at pages 16, 17 and 18 of the transcript.

(10) Otto testified that after leaving the Mercer Hotel, back of which these sedans were parked, respondent drove to 426 East Fifth Street. In this connection he stated: "Then from there (Hotel Mercer) we left there and went back to 426 East Fifth Street, and around the block a couple of times, I should say in two or three blocks there was about ten of these nice big sedans parked there with the same signs as Mr. Galik put in front of his car, and he kept asking if there was any one for San Francisco". Q. "Kept asking who?" A. "Different men that seemed to be running these sedans and getting the passengers, and we come across one blind man and he says 'who is this?' Mr. Galik says 'it is peerless Joe'. However, we didn't get any passengers, and we left Los Angeles at 12:05 P.M. for San Francisco." (Tr. pp. 16, 17).

(11) Regarding this incident, Otto testified: "* * * However, as we came into a Shell gasoline station * * * 10 miles south of Los Banos in the evening, * * * between 8 and 9 o'clock, there was a man standing on the highway, and Mr. Galik stopped the car, and he said to me, 'I may get a fare.' * * * This 'I may get a fare' was spoken to me personally, not to the other two men in the back of the car. We stopped and Mr. Galik got out, it was dark, and he went across the street and talked to a man, and this man came out with a bag and got inside the car. The conversation between the man and Mr. Galik was 'Yes, I understood you gave me a dollar for the hotel,' and we left there and drove on, came into San Francisco and arrived here at 11:35 P.M." (Tr. pp. 18, 19).

arrived in San Francisco about 11:35 P.M. After discharging other passengers respondent droppod Otto at Kearny and Market Streets, where he took a street car home.

Respondent has not denied the actual transportation of Otto on both of these trips to and from Los Angeles. He contends, however, that these activities, because of certain characteristics, must be regarded as charter car operations, and not those of a common carrier. Among other matters, he has urged the lack of any definite schedule, the ease with which stops en route may be arranged for the accommodation of passengers, and the nature of his holding out, including the advertisements published in newspapers and the signs displayed on the cars.

Dealing first with the absence of any definite schedules or time tables, respondent has stressed the point that contrary, so he claims, to the general practice of common carriers, his time of departure was uncertain, being later in fact than the hour of 11:00 A.M. indicated during Otto's telephone conversation when arrangements were made for the Los Angeles trip. But the establishment and observance of a regular schedule, though necessary to the performance of adequate service by a common carrier, is not an essential attribute of its status as such, serving to distinguish it from a private carrier. A passenger stage corporation may well be held to be conducting its operations "usually or ordinarily", within the meaning of Section 2-1/4, Public Utilities Act, though not running under any fixed schedule. Daily or frequent operation between definite points, though at varied hours, is sufficient to bring the operator within the purview of the statute.

Regarding stops en route, respondent points to his willingness to accommodate the passengers in this respect, emphasizing the stop made for meals at Fresno on the southbound trip where the passengers

waited one and one-half hours. On cross-examination respondent obtained from witness Otto an admission that such an accommodation would not ordinarily be granted as a matter of course by a carrier such as the Pacific Greyhound Lines, at the request of its passengers. Even so, the granting of this favor by respondent does not serve to set him apart as a private carrier. True, charter car operators usually extend this privilege, while many common carrier bus lines will not do so. If this were open to all passengers merely upon request, the service might well be disrupted, particularly because of failure to arrive in time at junction or transfer points. This, too, is a matter relating to the adequacy of the service of a common carrier. The granting or withholding of such a privilege is not a criterion of common carrier status.

In respect to the nature of his holding out, respondent denied that he had ever offered to serve the public as a common carrier. More particularly, he asserted, he had never offered to operate under any regular schedule, conduct his service over any regular route, pick up passengers en route, nor publish fares, particularly between any definite points. He denied he had undertaken to serve everyone, stating that he reserved the right to refuse any passenger at any time. He never advertised to run on any regular schedule nor over any regular route, so he testified, and he granted stop-over privileges at intermediate points at the request and for the accommodation of passengers. At Los Angeles, but not at San Francisco, respondent displayed upon his car a sign reading "Chartered Cars to San Francisco".

Respondent admitted that on or about January 9th and 10th, 1936, he had published an advertisemont in the San Francisco Examiner, a fact also established by the testimony of witnesses Otto and Day, but this, he contended, only related to interstate transportation.

During the three months preceding the hearing most of respondent's trips, aside from a few to San Diego and San Pedro, were made between San Francisco and Los Angeles and on these occasions he followed either the coast or the valley routes, since no other was available. During the six months preceding the hearing, so respondent testified, he had operated in the "charter car business" whenever he could get a load.

On the occasion of inspector Hornblower's visit to respondent's home during February, 1936, respondent, while engaged in a telephone conversation, stated in Mr. Hornblower's presence that he had "discontinued service". Immediately following this conversation he said to Mr. Hornblower "I can't book a passenger while you are in my presence. The passenger wanted to go to San Diego, California."(12) Respondent's remark to Otto during the northbound trip when he picked up a passenger near Los Banos, to the effect that "I may get a fare", is not without significance as indicating respondent's conception of his status. And on the southbound trip, while the party was at Fresno, respondent, during a conversation with Otto, referred to a car which then drove in as "one of our cars". On this occasion he remarked, "We have twenty-four cars running a day, going back and forth between San Francisco and Los Angeles".(13)

As we have stated, the evidence regarding the circumstances under which Otto paid the compensation for these trips is conflicting. On the one hand, Otto testified that on each trip he paid $5.00 to respondent direct, covering his fare. On the other hand, respondent, taking direct issue with this statement, asserted the fares were

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(12) Tr. p. 44.

(13) Tr. p. 21.

collected from the passengers by an individual who had chartered the bus, the latter in turn paying respondent a sum agreed upon as compensation for the use of his car.

Otto testified unequivocally that on January 9th, he and the other passengers each paid respondent $5.00 for their transportation charges on the occasion when respondent stopped at a filling station near Visitacion Valley. The next morning, when respondent stopped at the Hotel Mercer in Los Angeles, Otto paid him, so he testified, $5.00 for transportation back to San Francisco.

The respondent, however, categorically denied ever having collected any money from Otto or any of the other passengers. He testified that on January 9th he entered into a written agreement with one Jack Cunningham to charter the car. This instrument, he stated, was signed by respondent, by Cunningham, and by the passengers, including Otto, while the car was standing at the Argus Hotel, 149 Third Street, immediately preceding their departure. By this purported agreement, bearing date January 9, 1936, between Jack Cunningham and Joseph Galik, the former undertook to charter from the latter a certain Packard sedan bearing Board of Equalization license number 6-9185, and to employ Galik to operate this car on Cunningham's behalf "and to a charter party of such persons as are selected by said first party (Cunningham); for which said first party has paid to said second party (Galik) in full the sum of $_____, hereby acknowledged and accepted by said second party in full for said trip; * * *".(14)

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(14) The agreement, which was received in evidence as Exhibit 2, reads as follows:

"This Agreement made at San Francisco, Calif. Jan. 9th, 1936, by and between Jack Cunningham of San Francisco, Calif., party of the first part, and Joseph Galik party of the second part, that said

It will be noted that the space provided in this agreement for the amount of rental to be paid by respondent to Cunningham, the charterer, was left blank, a circumstance which, respondent asserted, would justify an explanation by oral testimony. Besides bearing the signatures of Cunningham and Galik, the instrument purports to be signed by Mrs. Williams and friend, 715 McAllister Street, Mrs. A. Pollock, S. R. Duke and George Otto, all of San Francisco. The latter, as we have stated, denied ever having signed this document.

(14 continued)
first party hereby charters that certain automobile from said second party, to-wit: Packard sedan, State Board of Equalization license number 6-9185 and employes said second party to operate the same for said first party and to a charter party of such persons as are selected by said first party; for which said first party has paid to said second party in full the sum of $_____, hereby acknowledged and accepted by said second party in full for said trip; said second party warrants that he will complete said trip observing every precaution for the safety and the protection of the charter parties; and to deliver them without delay; also the said second party will conduct this charter trip in such a manner so as not to violate any of the public utility laws; and if there is any violation of the laws on the part of the second party or the persons that make this charter trip they do so at their own risk; and the party of the first part does not assume any responsibility; the second party also agrees also to furnish to said persons making this charter trip a standard insurance policy for each person; and to furnish it without any additional cost, the policy will be for the sum of not less than$3000.00 for each person in case of death; the persons so joining with the first party and so selected by the first party are taken subject to the conditions of this charter party agreement and are jointly bound thereby; and also bind themselves to the insurance policy provided herein; and their signatures, authorizations and agreements herein are: it is also agreed that all money paid by this charter party for the operation and upkeep of this car on this trip is not to be considered as individual fares. This destination of this charter party is Los Angeles, Calif.

Mrs. Williams	Address	_____	Age ____
and friend	Address	715 McAllister	Age ____
Mrs. A. Pollock	Address	San Francisco	Age ____
S. R. Duke	Address	" "	Age ____
Geo. Otto	Address	S. F.	Age ____

FIRST PARTY JACK CUNNINGHAM
SECOND PARTY JOS. GALIK"

The car mentioned in this agreement bore temporary license No. 157016, and not B. E. License No. 6-9185, as erroneously stated in the agreement. This was the number of the Board of Equalization license issued to respondent for the year 1936.

The circumstances surrounding this transaction and Cunningham's entry into the transportation field, merit somewhat extended consideration. Cunningham, a destitute homeless man, was picked up by respondent on Howard Street near Third - "skid row", as he termed it - about the first of January and introduced into respondent's home as a "tenant", being permitted to use the telephone, so respondent stated, in connection with the business of chartering cars.(15)

On January 9th Cunningham met respondent, so he testified, by appointment, in front of the Argus Hotel, after most of the passengers had been picked up. There, he stated, Cunningham secured the signatures of the passengers to the contract and then handed it to respondent for his signature. Since the latter was then occupied in tying on the baggage, he did not observe all the passengers sign. Thereupon, respondent testified, Cunningham paid him $20.00 covering his compensation for this trip, respondent stating he did not know what Cunningham charged the passengers for compensation. Immediately following this trip Cunningham disappeared and respondent has never seen him since, nor had he ever encountered him before their meeting on Howard Street. This was the only occasion, he stated, when Cunningham chartered a car. Immediately preceding the departure, Cunningham somewhat solicitously requested respondent, so he testified, to oblige the passengers and to treat them courteously, this advice being somewhat stressed by respondent as indicative of Cunningham's interest in the transaction as charterer of the car.

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(15) In the course of his description of this transaction, respondent somewhat evasively denied that he ever permitted Cunningham to use the telephone, stating in this connection that he had none. However, when further questioned he admitted there was a telephone on the premises standing in the name of Mrs. Galik, his wife, as subscriber.

Respondent asserted that on the next day, when about to embark from Los Angeles, he entered into a charter contract, covering the transportation of three passengers, including Otto, with one "Charlie" whose last name he could not recall. Respondent was unable to produce this contract because it had been retained by Charlie. For the return trip Charlie paid respondent $15.00 for the load, the smaller compensation being due, respondent testified, to the lower price of gasoline prevailing in Los Angeles. Although respondent did not retain the contract covering the northbound trip, he was careful to preserve the document covering the journey from San Francisco, this being the usual procedure, he stated, "because on this end it is what they term, that the Greyhound is hostile. That is why we keep the contract ourselves."(16) Although respondent had made several other trips during the three months preceding the hearing, he was unable to recall the names of those to whom he had chartered the car.

It is true this Commission has held it has no certificating jurisdiction over those engaged in renting the use of a motor vehicle and the services of the driver on a "for hire" basis.

> In re California Charter Car Company, Decision No. 26504, on Application No. 18973, November 6, 1933.

Concluding that the application, viewed in its entirety, was essentially a request to certificate a service "which by its inherent characteristics cannot be rendered entirely between known or fixed termini or over regular and predetermined routes," the Commission also pointed out in that decision, that whether the statute may be evaded by the subterfuge of chartering a vehicle by

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(16) Tr. p. 179.

special contract when the actual offer is to serve each individual member of the public, is a question to be determined when it should arise.

For us to accept respondent's testimony as proof of an arrangement entered into in good faith to charter his car, would be an undue strain upon our credulity. Here, successive arrangements are alleged to have been entered into for chartering the car to numerous persons, none of whom was produced as a witness. On the trip southbound to Los Angeles the purported charterer was an itinerant picked up on Howard Street, whom respondent had never seen before and whom he never saw again after the car left the Argus Hotel. On the northbound trip the arrangement was made with one whose very name he cannot recall. So loose was this arrangement that this man whose name he did not know was permitted to keep the contract. In view of the circumstances surrounding the transaction, we must view the alleged contract in no other light than as a sham arrangement designed to conceal the true nature of respondent's undertaking, which was to engage in the transportation of passengers for hire, as a common carrier, over a regular route or between fixed termini.

The witness Otto denied ever having signed any contract covering either trip, and he specifically and categorically denied having signed the one introduced in evidence. For the purpose of comparison, his signature was submitted as an exemplar, as was also his signature appearing upon a page of the register of the New Russ Hotel, Los Angeles, bearing date January 9th. A comparison of these signatures with the purported signature appearing on Exhibit 2 does not support respondent's testimony that the latter is genuine. Substantial differences appear which lead us to conclude otherwise.

From the record it is established that on two distinct occasions respondent transported the witness Otto as a passenger in his automobile between San Francisco and Los Angeles, collecting in

each instance an additional cash fare. In so doing, respondent was acting as a common carrier of passengers for compensation between these points.

(7) STATUS OF WITNESSES DAY AND OTTO AS ACCOMPLICES OF RESPONDENT.

Respondent contends that witnesses Day and Otto conspired together to induce him to violate Section 50-1/4, Public Utilities Act, their sole purpose in arranging for Otto's trip to Los Angeles and return being to apprehend respondent in the act of violating this statute. Since each of them, it is claimed, acted in violation of law, they became accomplices with each other and with respondent. Consequently, their testimony standing alone, it is asserted, is insufficient proof of respondent's actions, corroboration being required by the terms of Section 1111, Penal Code.

From the testimony of witness Day it appears that he instructed Otto to accompany respondent between San Francisco and Los Angeles, and for this purpose paid him $25.00 to cover expenses. Day was then familiar with the terms of the cease and desist order and suspected that respondent might be operating contrary to its provisions. In this connection, Day stated he was manager of Passenger Carriers' Association, an organization engaged in assisting in the enforcement of laws regulating the transportation industry. From Otto's testimony, it appears that on the day preceding the first trip, i.e., January 8th, he called respondent over the telephone from Day's office, the latter or an associate listening to the conversation over an extension telephone. His expenses were advanced and he was instructed to travel with respondent.

Section 1111, Penal Code, provides that:

> "* * * An accomplice is hereby defined as one who is liable to prosecution for the identical offense charged against the defendant on trial in the cause in which the testimony of the accomplice is given."

Obviously, neither Day nor Otto was engaged in operating as a passenger stage corporation in respect to the trips described in their testimony.

And it is well established that a mere informer is not to be considered an accomplice.

> "There is ample evidence from which the jury could find that neither of these witnesses cooperated with defendants for an unlawful purpose, and that each was doing everything in his power to detect crime. Our conclusion is that the evidence is sufficient to justify a finding by the jury that these witnesses were feigned accomplices, and as such, their testimony required no corroboration."

People v. Fitzgerald, 14 Cal. App. (2d) 180, 199.

> "It is well established that merely engaging in a scheme for the purpose of detecting, exposing and punishing crime does not constitute one an accomplice whose testimony requires corroboration."

People v. Spaulding, 81 Cal. App. 615, 617.

Detectives employed by an enforcement league, to whom defendant sold intoxicating liquor in violation of law, are not to be deemed accomplices.

People v. Heusers, 58 Cal. App. 103, 104.
See also: People v. Keseling, 35 Cal. App. 501, 504.

This contention cannot be sustained.

It is apparent that respondent's operations herein complained of are violative of the cease and desist order. The defenses urged in justification have not, in our opinion, been established; respondent has failed entirely to excuse his disobedience of the order. For these violations he is guilty of contempt and will be punished accordingly.

F I N D I N G S

Upon consideration of the record in this proceeding, the Commission hereby makes the following findings of fact:

(1) On December 10, 1932, the Railroad Commission rendered its Decision No. 25434 in which it was found as a fact that respondent Joe Galik was engaged as a passenger stage corporation and as a common carrier of passengers, for compensation, over the public highways between San Francisco and Los Angeles, without first having obtained a certificate of public convenience and necessity therefor, as required by the Public Utilities Act; and in which said respondent Joe Galik was ordered immediately to cease and desist such operation as a passenger stage corporation unless and until a proper certificate of public convenience and necessity should have been obtained, and said respondent was thereby directed not to conduct such service, either directly or indirectly, or by his agents, employees, representatives or assignees. That said order by its terms became effective twenty days after personal service thereof upon said respondent. Said order has never been set aside, cancelled or revoked, and is still in force and effect.

(2) A certified copy of said Decision No. 25434 was personally served by the Sheriff of the City and County of San Francisco upon respondent Joe Galik at San Francisco, California, on December 17, 1932, and the said Joe Galik had personal knowledge of the making of said order and its contents.

(3) On February 4, 1936, there was filed with the Railroad Commission the affidavit of Howard Day, in which it was alleged, in substance, that the said Joe Galik, notwithstanding the order of the Railroad Commission in its Decision No. 25434, and with full knowledge

of the contents and provisions thereof, subsequent to the effective date thereof failed and refused to comply with said order in that he is continuing to engage as a passenger stage corporation and as a common carrier of passengers, for compensation, and in that he has operated or caused to be operated a passenger stage or passenger stages, as defined by the Public Utilities Act, over the public highways of this State, between fixed termini or over regular routes, and specifically between San Francisco and Los Angeles, without first having obtained from the Railroad Commission a certificate of public convenience and necessity authorizing such operation, as required by the Public Utilities Act.

(4) Upon said affidavit being received and filed, the Commission regularly, on March 2, 1936, made and issued its order requiring said respondent Joe Galik to appear before Examiner Austin on Tuesday, April 7, 1936, in the Court Room of the Commission, Fifth Floor, State Building, San Francisco, California, and then and there show cause, if any he had, why he should not be punished for contempt for his failure and refusal to comply with the terms and conditions of said Decision No. 25434 and for his continued operation as a common carrier passenger stage corporation, without obtaining a certificate, between San Francisco and Los Angeles, in violation of said decision and of the laws of the State of California. Said order to show cause, together with the said affidavit upon which it was based, was personally served upon respondent Joe Galik at San Francisco on March 18, 1936. Thereafter said respondent duly answered said order to show cause, and a public hearing was had in said matter on April 7th and 22nd, 1936.

(5) Notwithstanding the order of the Railroad Commission contained in said Decision No. 25434, and with full knowledge and notice of said order and of the contents thereof, and subsequent to

the effective date thereof, the said respondent Joe Galik has failed and refused to comply with the terms thereof, and continued to engage as a passenger stage corporation and as a common carrier of passengers, for compensation, over the public highways of this State, and specifically between San Francisco and Los Angeles, and particularly on the 9th and 10th days of January, 1936, without first having obtained from the Railroad Commission a certificate of public convenience and necessity therefor, as required by said Public Utilities Act.

(6) Notwithstanding said order of the Railroad Commission contained in said Decision No. 25434, and with full knowledge and notice of said order and of the contents thereof, and subsequent to the effective date thereof, said respondent Joe Galik operated or caused to be operated a passenger stage or stages, as defined in said Public Utilities Act, over the public highways of the State of California, to-wit: between San Francisco and Los Angeles, without first having obtained from the Railroad Commission of the State of California a certificate declaring that public convenience and necessity require such operation.

(7) On January 9, 1936, said respondent Joe Galik operated an automobile as a common carrier, for compensation, over the public highways of this State between San Francisco and Los Angeles; said automobile was a seven-passenger Packard sedan bearing California temporary license number 157016; six adult passengers and one infant were carried in said automobile from San Francisco to Los Angeles, as aforesaid; each of said six adult passengers so carried, as aforesaid, paid to respondent Joe Galik an individual fare of $5.00 for transportation from San Francisco to Los Angeles, California, and said passengers were and each of them was so transported from San Francisco to Los Angeles in said automobile in return for said

compensation.

(8) On January 10, 1936, said respondent Joe Galik operated an automobile as a common carrier, for compensation, over the public highways of this State between Los Angeles and San Francisco; said automobile was a seven-passenger Packard sedan bearing California temporary license number 157016; three adult passengers were carried in said automobile from Los Angeles to San Francisco, as aforesaid; each passenger so carried, as aforesaid, paid to respondent Joe Galik an individual fare of $5.00 for transportation from Los Angeles to San Francisco, California, and said passengers were and each of them was so transported from Los Angeles to San Francisco in said automobile in return for said compensation.

(9) Each and all of the acts mentioned in the foregoing paragraphs (5) to (8), inclusive, are in violation of said Decision No. 25434 of the Railroad Commission; that the failure and refusal, and failure or refusal, of respondent Joe Galik to cease and desist from performing the matters and things set forth in said paragraphs (5) to (8), inclusive, and in each of said paragraphs, were and are and was and is in violation and disobedience of said Decision No. 25434; that all of said violations of said decision were and each of them was committed with full knowledge and notice thereof upon the part of said respondent Joe Galik; that said order of the Railroad Commission was at all times mentioned herein, and in said paragraphs (5) to (8), inclusive, of said findings, and in each of said paragraphs, and now is, in full force and effect; that said respondent Joe Galik has violated said order of said Railroad Commission with full notice and knowledge of the contents thereof and with the intent on his part to violate the same; that at the time said Decision No. 25434 was rendered and at the time of the effective date thereof,

said respondent Joe Galik was able to comply and has been at all times since and was at the time of said violations and each of said violations of said decision, able to comply therewith, and with the terms thereof.

(10) The failure of said respondent Joe Galik to comply with the said order of the Railroad Commission, and his continuance to operate as a passenger stage corporation and as a common carrier of passengers, as aforesaid, is in contempt of the Railroad Commission of the State of California and its order.

J U D G M E N T

Joe Galik having appeared in person and by counsel, and having been given full opportunity to answer the order to show cause of March 2, 1936, and to purge himself of his alleged contempt:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the said Joe Galik has been guilty of contempt of the Railroad Commission of the State of California in disobeying its order made on December 10, 1932, in its Decision No. 25434, by failing and refusing to desist from operation as a passenger stage corporation, as defined in the Public Utilities Act, and as a common carrier of passengers, for compensation, over the public highways between San Francisco and Los Angeles, California, without first having obtained from the Railroad Commission a certificate of public convenience and necessity authorizing such operation, as required by the Public Utilities Act; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that for said contempt of the Railroad Commission and its order, as

aforesaid, the said Joe Galik be punished by a fine of Five Hundred Dollars ($500.00) and five (5) days' imprisonment, said fine to be paid to the Secretary of the Railroad Commission of the State of California within five (5) days after the effective date of this Opinion, Findings and Judgment, and said imprisonment to be in the County Jail of the City and County of San Francisco, State of California; and

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that in default of the payment of the aforesaid fine, said Joe Galik be committed to the County Jail of the City and County of San Francisco, State of California, until such fine be paid or satisfied in the proportion of one (1) day's imprisonment for each Five Dollars ($5.00) of said fine that shall so remain unpaid; and

IT IS HEREBY FURTHER ORDERED that the Secretary of the Railroad Commission, upon this Opinion, Findings and Judgment becoming effective, prepare an appropriate order of arrest and commitment, in the name of the Railroad Commission of the State of California, for the imprisonment of said Joe Galik in the County Jail of the City and County of San Francisco, State of California, for a period of five (5) days, said order of arrest and commitment to be directed to the Sheriff of the City and County of San Francisco, and to which shall be attached and made a part thereof a certified copy of this Opinion, Findings and Judgment; and

IT IS HEREBY FURTHER ORDERED that the Secretary of the Railroad Commission, if said fine is not paid within the time specified above, prepare an appropriate order of arrest and commitment, in the name of the Railroad Commission of the State of

California, for the imprisonment of said Joe Galik in the County Jail of the City and County of San Francisco, State of California, as hereinabove directed, said order of arrest and commitment to be directed to the Sheriff of the City and County of San Francisco, and to which shall be attached and made a part thereof a certified copy of this Opinion, Findings and Judgment; and

IT IS HEREBY FURTHER ORDERED that as to said respondent Joe Galik this Opinion, Findings and Judgment shall become effective twenty (20) days after personal service of a certified copy thereof upon said respondent.

The foregoing Opinion, Findings and Judgment are hereby approved and ordered filed as the Opinion, Findings and Judgment of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9th day of July, 1937.

Commissioners.