

Decision No. 31168

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

SACRAMENTO NORTHERN RAILWAY,
a corporation, THE WESTERN PACIFIC
RAILROAD COMPANY, a corporation,

Complainants,

vs.

CALIFORNIA-NEVADA STAGES, INC.,
a corporation,

Defendant.

Case No. 4074

ORIGINAL

L. N. Bradshaw for Sacramento Northern Railway
and The Western Pacific Railroad Company;

Sanborn & Roehl, by E. H. Sanborn, for California-
Nevada Stages, Inc.

BY THE COMMISSION:

O P I N I O N

The complaint in the above entitled action alleges, and defendant admitted in its answer, that by Decision No. 14567 in Application No. 10828, and Decision No. 21143 in Application No. 15226, defendant was permitted to engage in the transportation of passengers and certain classes of property as a common carrier for hire between the cities of Sacramento and Marysville and intermediate points, via the cities and towns of Roseville, Lincoln, and

Wheatland; that by Decision No. 23347 in Application No. 17041, defendant was authorized to, and subsequently did, acquire the operative rights of C.C.Cochran to operate as a common carrier of passengers, baggage and certain classes of express, over and along the so-called Garden Highway route via Nicolaus, Wilson School, Tudor, Knights Landing Junction, Oswald and Bogue, between Sacramento and all intermediate points between Sacramento and Yuba City, and between Marysville and all intermediate points between Marysville and Sacramento, subject to the restriction that no local service be rendered between Marysville and Yuba City, and that no service other than local service be rendered between Sacramento and Yuba City and between Sacramento and Marysville.⁽¹⁾ The complaint further alleged, and defendant denied, that defendant had consolidated the operative right granted by Decision No. 23347 with the rights theretofore owned by it. The complaint further alleged, and defendant further admitted in its answer, that defendant had rendered a through service in the transportation of through passengers and property as a common carrier for compensation over the Garden Highway route between Sacramento and Marysville and between Sacramento and Yuba City, but defendant alleged that it had been operating lawfully under its tariffs on file with the Commission, and that said tariffs contained and provided for through fares and through rates for the transportation of passengers and property between points located on the several divisions of defendant's lines.

A public hearing was held before Examiner Austin at Sacramento, at which defendant appeared by its Assistant to the President, and by counsel.

(1) This right was granted to C.C.Cochran by Decision No. 15013, dated June 6, 1925, on Application No. 10598, and Decision No. 19167, dated December 23, 1927, on Application 12474.

Complainants introduced in evidence defendant's tariff, C.R.C.No. 5, as well as several local excursion tariffs, naming limited roundtrip and one-way fares. From an examination of C.R.C. No. 5, it appears that Rule No. 1, relative to application of fares, provides that no service will be rendered by the carrier wholly over its Garden Highway Division between Sacramento and Yuba City, California; between Sacramento and Marysville, California; nor locally between Yuba City and Marysville. A footnote provides that passengers and baggage may leave or enter Sacramento proper for or from Yuba City or Marysville, California, via the Garden Highway Division, by using California-Nevada Stages, Inc. service between Sacramento proper and American River Bridge "Y". In Index No. 100 of said tariff, one-way and roundtrip fares are published between Yuba City and Sacramento, and Marysville and Sacramento, over the Garden Highway route. While such fares are flagged "Basing Fares Only", complainants introduced in evidence excerpts from the testimony of Beverly C. Gibson, Assistant to the President of defendant corporation, in a hearing in Applications Nos. 19882, 19954 and 19953, held on September 10th, 11th and 12th, 1935, in which the witness testified that the corporation carried passengers from Sacramento to points outside the City of Sacramento, over the Roseville right, to a point where the route diverges from that of the Roseville right, and thence over the Garden Highway route through to Marysville on the same stage.

From the evidence in the instant case it further appears that from defendant's stage depot in Sacramento, the stages destined for both the Garden Highway and Roseville routes ran along an identical route to a point outside the city limits of Sacramento, at which point the Roseville stage continued in a northeasterly direction, and the Garden Highway stage turned west. Since part of

the routes on both divisions were identical, and since passengers did not change stages at the American River Bridge "Y", defendant cannot assert that the operation of its stages on the Garden Highway Division was not wholly over said division.

Defendant contended that certain supplements to its tariffs indicated that through service was performed over the Garden Highway, between Sacramento, on the one hand, and Marysville and Yuba City, on the other. In this regard, defendant apparently has reference to its C.R.C.Nos. 79, 80, and 93, which rates were authorized by the Commission and subsequently extended by proper authority on two further occasions. At all times, however, the authority granted was limited and made subject to the rules and regulations contained in defendant's C.R.C. No. 5.

It is elementary that the mere filing of the tariff cannot enlarge an operative right given to defendant, nor can the fact that it operates in violation of its certificate under a tariff lawfully on file with the Commission serve to extend the scope of its certificate. In Re Blair, 21 C.R.C. 530, 534; Motor Transit Co., 24 C.R.C. 807, 821.

From the evidence it appears, and the Commission finds, that defendant carried through passengers between Sacramento and Yuba City and Sacramento and Marysville, over the Garden Highway; that through fares were published between Sacramento, on the one hand, and Marysville and Yuba City, over the Garden Highway Division, on the other hand; that such through operations and through fares were unlawful and in violation of the terms of Decision No. 15013, dated June 6, 1925 on Application No. 10598, Decision No. 19167 of December 23, 1927 on Application No. 12474, and Decision No. 23347 on Application No. 17041. Our order will require discontinuance of such service.

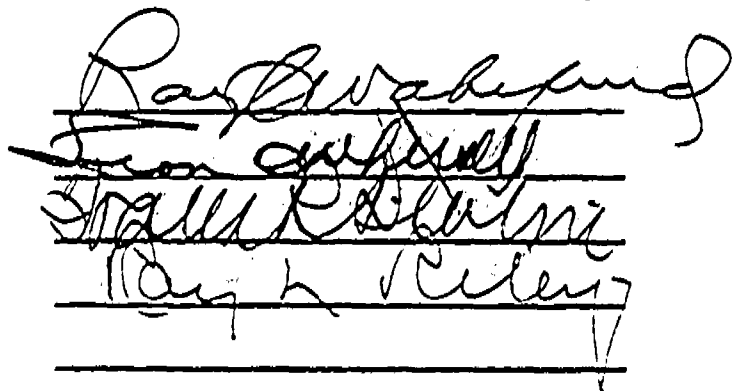
An order of the Commission directing the suspension of an operation is in its effect not unlike an injunction by a court. A violation of such order constitutes a contempt of the Commission. The California Constitution and the Public Utilities Act vest the Commission with power and authority to punish 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 Co. v. Keller, 33 C.R.C. 571.

O R D E R

Public hearing having been had in the above entitled proceeding, evidence having been received, the matter having been duly submitted, and the Commission now being fully advised;

IT IS HEREBY ORDERED that defendant, CALIFORNIA-NEVADA STAGES, INC., a corporation, immediately cease and desist and hereafter abstain from transporting through passengers between Sacramento and Yuba City, and between Sacramento and Marysville, over the Garden Highway, and that defendant immediately cancel any and all provisions published in its tariff on file with the Commission which provide for through transportation of passengers and through fares between Sacramento and Yuba City, and Sacramento and Marysville, over the Garden Highway Division.

Dated at San Francisco, California, this 5th day of August,
1938.



COMMISSIONERS