

Decision No. 31724

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

REGULATED CARRIERS, INC., a corporation,)

Complainant,)

vs.)

GEORGE MULLINS, doing business under the
fictitious name and style of Mullins Truck
Line, FIRST DOE, SECOND DOE, THIRD DOE,
FOURTH DOE, FIFTH DOE, FIRST DOE CORPORA-
TION, SECOND DOE CORPORATION, THIRD DOE
CORPORATION, FOURTH DOE CORPORATION, FIFTH
DOE CORPORATION,)

Defendants.)

ORIGINAL

Case No. 3509

HARRY A. ENCELL, for Respondent.

BY THE COMMISSION:

OPINION, FINDINGS, JUDGMENT

In Case No. 3509, Regulated Carriers, Inc., a corporation, complainant, alleged common carrier operations by motor truck between Sacramento and Redding and intermediate points without a proper certificate or other authority on the part of George W. Mullins, together with certain fictitiously named defendants. Following hearings upon this case, the Commission, by Decision No. 26607, dated December 4, 1933, found that said defendant, George W. Mullins, was engaged as a transportation company, as defined in Section 1 (c) of the Auto Truck Transportation Act (Chapter 213, Statutes 1917, as amended), with common carrier status, for compensation over the public highways between fixed termini and over regular routes, to-wit: "usually and ordinarily between Sacramento and Redding, California, serving also as intermediate points, various cities, towns, communities

and other points en route," without first having obtained from the Commission a certificate of public convenience and necessity authorizing such service, as required by said Auto Truck Transportation Act. By its order in said decision, the Commission directed that said George Mullins should "cease and desist directly or indirectly or by any subterfuge or device from continuing such operations." By its terms, this order became effective twenty days after the date of service upon said defendant. The present record shows that personal service of Decision No. 26607 was made upon George Mullins in the County of Sacramento on December 8, 1933. Therefore, the order became effective as to said respondent on December 28, 1933.

On August 11, 1937, the affidavit and application for order to show cause (hereinafter referred to as affidavit) of Bernard J. Gabhart, as inspector of the Railroad Commission, together with the supporting affidavit of John P. Merrick, also an inspector of the Railroad Commission, were filed. On August 16, 1937, the Commission issued its order to show cause,⁽¹⁾ directing that George Mullins appear before the Commission at Sacramento on October 7, 1937, 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. 26607, as set forth in the affidavit. Thereafter, and on October 13, 1937 the Commission issued an order changing date of hearing of order to show cause, which order directed said George Mullins to appear before the Commission at Sacramento on November 16, 1937 and show cause as provided in the order to show cause. Public hearing was had before Examiner Gorman at Sacramento on November 16 and 17, 1937, at Red Bluff on November 18, 1937, at Redding on November

1. Exhibit 6 shows that personal service of the affidavit and of the order to show cause was made upon George Mullins on August 24, 1937, in the County of Sacramento.

23, 1937, at San Francisco on January 27, 1938, and at Sacramento on March 22, 1938. Defendant appeared in person and by counsel, evidence was offered, the matter submitted and it is now ready for decision.

The affidavit alleges in part that, notwithstanding the order of the Commission, and with full knowledge and notice of said order and the contents thereof, respondent Mullins, subsequent to the effective date of the order has failed and refused and he does now fail and refuse to comply with its terms, in that he has engaged, and is continuing to engage, in the business of the transportation of property for compensation as a common carrier as defined by the Public Utilities Act, over the public highways of this State, between fixed termini and over regular routes, to-wit: Usually and ordinarily between Sacramento and Redding and intermediate points, 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 (Sec. 50 3/4) and as formerly required by Chapter 213, Statutes 1917, as amended.⁽²⁾

The affidavit alleges four separate offenses occurring as follows: The first on August 14 and 15, 1936, the second on August 19 and 20, 1936, the third on August 21 and 22, 1936, and the fourth on October 23 and 24, 1936. In each of said offenses, the pick-up of property from various houses in Sacramento, the transportation over the public highways of such property to Redding and intermediate points, and the unloading of such property at Redding and intermediate points

2. NOTE.—Statutes 1935, Chapter 664, in repealing the Auto Truck Transportation Act (Stats. 1917, ch. 213, as amended), provides as follows: " * * * provided, however, that any certificate of public convenience and necessity heretofore issued by the Railroad Commission shall not be terminated by this repeal, but shall be deemed to have been issued under this act; and such repeal shall not affect any pending application for such certificates, or any proceedings pending under said act so repealed, it being the intention of this act to continue in effect the provisions of the act so repealed by incorporating the same herein, except as the same may be amended hereby."

are alleged in detail. It is further alleged that said property was so transported by said George Mullins as a highway common carrier, within the meaning of Sections 2 3/4 and 50 3/4 of the Public Utilities Act; that the trucks and equipment and the operations thereof in connection with said transportation and delivery of property were owned and/or controlled and/or operated and/or managed and/or directed by said Mullins; that said transportation was performed for compensation. Each of said offenses contains allegations to the effect that the acts mentioned are in violation and disobedience of said Decision No. 26607; that each and all of such violations were committed with full knowledge and notice thereof on the part of respondent Mullins; that said order was at all of said times in full force and effect; that respondent has violated said order with full notice and knowledge of its contents and with the intention to violate it; that when said decision was rendered and at the time of its effective date, respondent, George Mullins, was able to comply, and ever since has been and now is able to comply, therewith; and that his failures and refusals to comply with the terms of said decision and order, as therein set forth, were committed in violation of law and in contempt of the Commission.

We shall now direct attention to the operations of respondent Mullins, for the purpose of determining the nature of such operations in the period covered by the offenses alleged in the affidavit and supporting affidavit. The operations of said respondent and his trucks and equipment were witnessed on the dates set forth in the affidavit, by the following inspectors of the Transportation Department of the Railroad Commission: B. J. Gabhart and J. P. Merrick on August 14 and 15, 1936; B. J. Gabhart and A. C. Seidel on August 19 and 20, 1936; B. J. Gabhart and A. C. Seidel on August 21 and 22, 1936; J. P. Merrick and Otto Liersch on October 23 and 24, 1936. Inspectors Gabhart, Merrick and Seidel testified in detail as to such operations, and in this

respect stated that they witnessed the picking up and loading of property onto the trucks of respondent Mullins from various business houses in Sacramento (about sixteen in number); the transportation of such property over the public highways to Redding and intermediate points, and the unloading and delivery of this property at such points, including Chico, Red Bluff, Anderson, Cottonwood, Vina, Dairyville, Los Molinos and Redding, to approximately fifty consignees. Such testimony also disclosed that in some instances said respondent personally drove one of his trucks in conducting the pick-ups and line hauls, and that such operations, respectively, were performed at approximately the same time of day; that his equipment consisted of one International tractor, one Reliance semi-trailer and a Reo truck equipped with refrigeration facilities, which Reo truck was used in the transportation of meats to Chico only. Exhibits Nos. 7, 8 and 9, consisting of photostatic copies of certified certificates of reregistration, obtained from the Division of Registration of the Department of Motor Vehicles, show that all the vehicles above named were and are registered in the name of George W. Mullins and that he was also legal owner of the vehicles at the times of the operations alleged in the affidavit.

C. E. Miller, a truck driver employed by respondent Mullins, testified that at the time of the alleged offenses (at which period he was driving for said respondent), Mullins operated between the points in question three times per week. Such fact was corroborated by the shipper witnesses, who testified to their respective utilization of Mullins' service. In this respect, the record discloses that some shippers (whether consignee or consignor) utilized the service several times each week, some a few times per month and others very seldom, or spasmodically. Mullins' service (i.e. his schedule of three times per week from Sacramento to Redding and intermediate points) was regularly maintained.

Through the respondent, as part of his case, there were received in evidence certain documents which he termed "contracts," and there were also introduced into the record by reference certain records of the Railroad Commission, namely, Exhibit No. 6 in Application No. 19630 and Application No. 19938, which consisted of thirty documents purporting to be contracts between Mullins on the one hand, and various consignors or consignees, on the other hand. Practically all these documents bear date of January 1, 1934, and all are of the same form.⁽³⁾ In addition to these thirty documents, the record discloses that there were about six additional purported form contracts entered into by Mullins and individuals or firms. Four of these were with persons other than those included in said Exhibit No. 6. These comprise all the so-called contracts that the record discloses. There were also two or three shipper witnesses who were not sure whether they had entered into contracts or not. Practically all carriage by respondent

(3) The following form of printed contract was used by respondent Mullins:

AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____ by and between _____ with a principal place of business at _____, party of the first part, and _____ of Sacramento, California, party of the second part,

WITNESSETH:

WHEREAS, the party of the first part is engaged in the general business of dealing in _____, at _____ in the City of _____, California, and is desirous of entering into a contract with the party of the second part for the transportation of said commodities from and to its said place of business; and

WHEREAS, the party of the second part is willing to enter into an agreement for the transportation of said commodities by means of auto trucks as a private or contract carrier, and not otherwise,

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

Mullins was either to or from a person or firm with whom he had entered into an arrangement, evidenced by such documents, and such person or firm paid the freight charges.

I

The party of the second part will transport said commodities for the party of the first part from _____, said transportation service to be performed by means of auto truck.

II

The party of the first part agrees to turn over to the party of the second part for delivery in accordance with this agreement all shipments of said commodities originating in or at either or any of the places designated or covered by paragraph number 'I' hereof.

III

The party of the first part agrees to compensate party of the second part for said service at and in accordance with the charges attached to this agreement as Exhibit "A".

IV

The party of the second part will present to party of the first part an itemized statement, weekly, covering the services rendered during the preceding week, and party of the first part agrees to pay party of the second part for the services rendered under this agreement weekly.

V

The party of the second part shall be responsible for any loss, damage or breakage, to said shipments transported in accordance with this agreement, while in the custody of party of the second part, his agents or employees, except when such damage or breakage is caused by acts of God, or other acts not under its control, and the party of the second part agrees to carry suitable accident, fire and theft insurance on all shipments transported for party of the first part by second party.

VI

The party of the second part agrees to operate and maintain in the transportation service covered by this agreement, motor equipment suitable to the requirements of said transportation service.

The record establishes these two facts: first, that these documents did not reach the status of mutually binding enforceable contracts, and, second, the parties paid but little, if any, attention to them and did not live up to them. Relative to the first statement above, one or more of the following facts existed in regard to nearly every shipper, if not every shipper. The points between which the transportation was contemplated were not stated; the blank space for the period of notice of cancellation of the instrument, was left blank; there was no provision for the quantity of merchandise to be transported; and there was a failure to provide for the rate of payment for the transportation services either in the document itself or in a contemplated exhibit. In reference to the statement above that the parties paid but little, if any attention to the documents, the record is replete with testimony of shipper witnesses that they did not know the terms of the documents, nor could they remember, with any degree of certainty, when or if they signed them, nor, for the most part, could they find them after diligent search. It is also significant that the documents provided for payment on a weekly basis but in many instances this provision was not observed. It is of greater significance that in those instances

VII

This agreement shall remain in full force and effect for a period of _____ days from the date hereof and shall continue thereafter until cancelled upon _____ said written notice by either party.

VIII

This agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF the parties hereto have caused their signatures to be affixed hereto, and their corporate seals, if any, to be likewise affixed hereto, under competent authority so to do, and have executed this instrument in duplicate, this _____ day of _____, 193__.

Party of the first part

Witness:

Party of the second part

where the document provided for shipment of all the merchandise the shipper witnesses testified they were not bound to such provision, and in practice many shippers utilized the service of others as well. The attitude of the shipper witnesses toward the purported contracts is aptly expressed by witnesses who voluntarily stated that they did not regard them as binding. The record is replete with such views toward these documents. From the facts set forth above, it would be winking at regulation to hold that such documents were bona fide agreements. In a few cases shipper witnesses ceased using Mullins' service practically altogether, or altogether, and in not one of the above mentioned cases did a protest follow on the part of respondent that such shippers were committing a breach of contract, (4) or was there any other type of protest.

Attention should be called to the fact that two of the largest consignors in Sacramento, namely, Bert McDowell Company and Wellman Peck & Co. engaged in the practice of paying the freight charges in the first instance and then rebilling the transportation charges to their customers.

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4. Excerpts from Transcript illustrating that respondent Mullins would not protest when shippers ceased to utilize his service.

"Q. Did Mr. Mullins voice any objection to you because you used any other transportation method? A. No sir." (Tr., P. 415) (The purported contract between witness Fitzpatrick of McColl's Ice Cream Company at Redding and Mullins provided for "all" shipments to be transported by Mullins.)

"Q. Has Mr. Mullins ever protested to you because you have not used his line? A. No, he has not." (Witness Fitzpatrick, Tr. p. 419)

"Q. Now, you say that you ceased using Mr. Mullins about the first of 1937? A. To the best of my recollection, yes, sir.

Q. Did you give Mr. Mullins any written or verbal notice that you intended to cease using his transportation facilities? A. No, sir.

Q. You just stopped? A. Yes, sir.

Q. Is that the fact? A. Yes, sir.

Q. Did Mr. Mullins ever make any protest to you because of the fact that you had ceased using his facilities? A. No, sir.

Q. Did he ever have any conversation with you after you ceased using his facilities? A. No, sir." (Witness Story, Tr. pp 433-4)

or consignees. Upon the bottom of the invoices submitted by Bert McDowell to his customers, there appeared a separate item for the freight charges and the customers paid to Bert McDowell both the price of the goods and the amount stated as the freight charge. In several instances also, Chanslor & Lyon engaged in the practice of rebilling the freight charges. The record does not establish that in any instance relative to the above firms was such rebilling done with the knowledge of Mullins.

The following passage from In re Hiron 32 CRC 48 at page 52, is of significance:

"If the contractor is not himself the real owner of the goods and does not obligate himself to pay the transportation charges without recourse to others, his part in the transaction is merely that of agent for the real shippers."

The direct and voluntary testimony of respondent Mullins developed by examination by his counsel and cross examination established that he entered into an oral arrangement with the River Lines, a common carrier, in which goods were to be transported by the River Lines from San Francisco to Sacramento. Here they would be delivered to Mullins who undertook to transport them from Sacramento to points north in the Sacramento Valley to be delivered to persons with whom

"Q. *** Was any protest made by Mr. Mullins because of your discontinuance of the shipments over his line? A. Why, he asked me several times why we stopped.

Q. Did he protest? A. Not particularly; he just wanted to know why we quit." (Witness LeFebvre of Redding, Tr. p. 488)

"MR. CROSSLAND: When did you cease using Mr. Mullins' truck line as a hauler for you? A. About the middle of 1936.

Q. And when you ceased did you give him notification that you were not going to use his line any more? A. I did not.

Q. Did he object to your not using his line any more?

A. Only in the most friendly way.

Q. Will you explain that a little?

A. Naturally he come and solicited my business again, wanted to know why.

he had his purported contracts. It was understood that the goods were to be shipped freight prepaid, and Mullins was to receive his compensation from the River Lines, who in turn was to be paid by the shipper. Respondent voluntarily testified that pursuant to such arrangement, he has handled M.J.B. coffee from San Francisco to a Mr. Tolley, a Mr. McCuen and J. M. Tingly, and to points all along the east side of the Valley as well as points in the vicinity of the places of business of the above named individuals, who were located at Dairyville, Tehama and Los Molinos, respectively. The record also shows that the same procedure was practiced in relation to a shipment from Rath Packing Company of San Francisco to L. O. Turner of Los Molinos. Shipments were also made from Butler Bros. and Dunham, Carrigan & Hayden Company, consignors at San Francisco, to Story & Bartell at Anderson, through River Lines and Mullins. It should be added that in some instances, the consignees paid the freight charges. It is thus apparent from the above facts that respondent Mullins was performing a transportation service for persons with whom he had no arrangement whatsoever. Further indication that Mullins was performing a transportation service for persons with whom he had no arrangement is evidenced by the following instances where no rebilling was involved. Mr. W. M. Norvell, a druggist at Red Bluff, testified in substance that he received merchandise from Kirk-Geary Company, Zellerback Paper Company and California Candy Company and that from each of these consignors some shipments were sent freight collect, and some freight prepaid, and by the testimony of S. R. Pritchett of Vina, who testified

Q. I see, did he protest when you — A. No.

Q. --were not using him? A. No.

Q. Did Mr. Mullins state to you when you ceased hauling by him, that he was going to have you stand by the contract, that you must haul by him? A. No." (Witness Norvell, druggist at Red Bluff, Tr. pp.371-2)

that shipments were consigned prepaid from the Peerless Cracker Company from Sacramento. The record does not disclose that Mullins had even purported contracts with any of these consignors.

The evidence further discloses the following facts:

Decision No. 26607, being the cease and desist order against respondent Mullins, was rendered December 4, 1933, and became effective on December 28, 1933. The respondent immediately thereafter, on January 1, 1934, and shortly thereafter, entered into the thirty purported contracts heretofore adverted to. He testified that such contracts represented substantially all his patrons at that time. His testimony shows that he continued to serve many of the shippers and still serves many of the shippers that he served prior to the desist order. It also appears that respondent served new customers after the desist order evidencing that he was willing to serve those shippers who were willing to enter into one of his incomplete "form contracts."

The record does not disclose that there has been any substantial change in the nature of the business conducted by him after the desist order from that which was conducted by him before such order. It is apparent that defendant has evidenced a willingness to serve that portion of the public willing to observe the mere formality of signing one of his form contracts. We have seen that in some instances he failed even in this precaution.

FINDINGS

Upon consideration of the record in this proceeding, the Commission hereby makes the following Findings of Fact:

1. On December 4, 1933, the Railroad Commission rendered its Decision No. 26607, in which it was found as a fact that respondent, George Mullins, was engaged as a Transportation Company, as defined in Section 1 (c) of the Auto Truck Transportation Act (Chapter 213, Statutes 1917, as amended), with common carrier status, for compensation over the public highways between Sacramento and Redding, California, and intermediate points, without first having obtained from the Commission a certificate of public convenience and necessity therefor authorizing such service, as required by said Auto Truck Transportation Act, and in which said respondent George Mullins was ordered immediately to cease and desist such operation as such transportation company, 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 any subterfuge or device. 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 full force and effect.

2. A certified copy of said Decision No. 26607 was personally served by the Sheriff of the County of Sacramento upon respondent George Mullins, in Sacramento County, California, on December 8, 1933, and this by its terms became effective December 28, 1933, and the said George Mullins had personal knowledge of the making of said order and its contents, and at all times thereafter was able to comply therewith.

3. On August 11, 1937, there was filed with the Railroad Commission, the affidavit of Bernard J. Gabhart, an inspector of

the Railroad Commission, together with the supporting affidavit of John P. Merrick, also an inspector of the Railroad Commission, in which it was alleged in substance that the said George Mullins, notwithstanding the order of the Railroad Commission in its Decision No. 26607, 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 thereafter continued to engage in the business of the transportation of property for compensation as a highway common carrier, as defined by the Public Utilities Act, over the public highways of this State, usually and ordinarily between fixed termini and over regular routes, to-wit, between Sacramento and Redding, California, and intermediate points, without first having obtained from the Commission a certificate of public convenience and necessity authorizing such operation, as required by the Public Utilities Act, and as formerly required by Chapter 213, Statutes of 1917, as amended.

4. Upon said affidavits being received and filed, the Commission regularly, on August 16, 1937, made and issued its order requiring said respondent, George Mullins, to appear before the Commission at Sacramento on October 7, 1937, 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. 26607, and because of his continued operation as a highway common carrier, without obtaining a certificate, between Sacramento and Redding and intermediate points, in violation of said decision and of the laws of the State of California. Said Order to Show Cause, together with the said affidavits upon which it was based, was personally served upon respondent, George Mullins, in the County of Sacramento on August 24, 1937. Thereafter and on October 18, 1937, the Commission issued an order changing date of hearing of order to show cause

which order directed said George Mullins to appear before the Commission at Sacramento on November 16, 1937, and show cause as provided in the order to show cause. Public hearing was had before Examiner Gorman at Sacramento on November 16 and 17, 1937, at Red Bluff on November 18, 1937, at Redding on November 23, 1937, at San Francisco on January 27, 1938, and at Sacramento on March 22, 1938. At said hearings, respondent appeared in person and was represented by counsel. The matter was submitted on March 22, 1938.

5. Notwithstanding the order of the Railroad Commission contained in said Decision No. 26607, and with full knowledge and notice of said order and of the contents thereof, and with ability to comply therewith, and subsequent to the effective date thereof, said respondent, George Mullins, has failed and refused to comply with the terms thereof, and has continued to engage in the business of the transportation of property for compensation as a highway common carrier, over the public highways of this State, usually and ordinarily between fixed termini and over regular routes, to-wit: Between Sacramento and Redding, California, and points intermediate to said points; and particularly on the 14th and 15th days of August, 1936, between said termini and the intermediate points of Chico, Red Bluff, Anderson and Los Molinos; on the 19th and 20th days of August, 1936, between said termini and the intermediate points of Chico, Red Bluff, Anderson, Cottonwood, Vina and Los Molinos; on the 21st and 22nd days of August, 1936, between said termini and the intermediate points of Chico, Red Bluff, Anderson, Cottonwood, Vina, Dairyville and Los Molinos; and on the 23rd and 24th days of October, 1936, between said termini and the intermediate points of Chico, Red Bluff, Anderson, Cottonwood, Dairyville and Los Molinos; that all of such operations were conducted without the respondent having

first obtained from the Railroad Commission a certificate of public convenience and necessity therefor, as required by said Public Utilities Act.

6. Notwithstanding the said order of the Railroad Commission contained in said Decision No. 26607, and with full knowledge and notice of said order and of the contents thereof, and with ability to comply therewith, and subsequent to the effective date thereof, said respondent, George Mullins, operated, and caused to be operated auto trucks used in the business of the transportation of property as a highway common carrier, as defined in the Public Utilities Act, for compensation over the public highways of the State of California, usually and ordinarily between fixed termini and over regular routes, to-wit: Between Sacramento on the one hand and Redding and points intermediate to said points, including Chico, Red Bluff, Anderson, Cottonwood, Vina, Dairyville and Los Molinos, on the other hand, and has, usually and ordinarily, rendered and does now render thereby a regular service of the transportation of property for the public generally, 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. Each and all of the acts mentioned in the foregoing paragraphs 5 and 6 were and are in violation of said Decision No. 26607 of the Railroad Commission; that the failure or refusal of respondent, George Mullins, to cease and desist from performing the matters and things set forth in said paragraphs 5 and 6 and in each of said paragraphs, were and are, and was and is, in violation and disobedience of said Decision No. 26607; 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 George Mullins; that said order of the Railroad Commission was, at all times mentioned herein and in said paragraphs 5 and 6 of said Findings, and in each of said paragraphs, and now is in full force and effect; that said respondent, George Mullins, has violated said order of said Railroad Commission with full knowledge and notice of the contents thereof and with the intent on his part to violate the same; that at the time said Decision No. 26607 was rendered, and at the time of the effective date thereof, said respondent, George Mullins, 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.

8. The failure of said respondent, George Mullins, to comply with the said order of the said Railroad Commission, and his continuance to engage in the business of transportation of property for compensation as a highway common carrier, as aforesaid, is in contempt of the Railroad Commission of the State of California and its order.

JUDGMENT

George Mullins having appeared in person and by counsel and having been given full opportunity to answer the Order to Show Cause of August 16, 1937, and to purge himself of his alleged contempt,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the said George Mullins has been guilty of contempt of the Railroad Commission of the State of California in disobeying its order made on December 4, 1933, in its Decision No. 26607, by failing and refusing to desist from operations as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, and as

formerly defined by Section 1 (c) of the Auto Truck Transportation Act (Chapter 213, Statutes 1917, as amended), for compensation over the public highways between Sacramento and Redding, California, and intermediate points, 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 as formerly required by said Auto Truck Transportation Act.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that for said contempt of the Railroad Commission and its order, as aforesaid, the said George Mullins be punished by a fine of five hundred dollars (\$500), and that said George Mullins be, and he is hereby fined in said sum of five hundred dollars (\$500), said fine to be paid to the Secretary of the Railroad Commission of the State of California within thirty (30) days after the effective date of this Opinion, Findings and Judgment.

IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that in default of the payment of the aforesaid fine, said George Mullins be committed to the County Jail of the County of Sacramento, State of California, until such fine be paid or satisfied, in the proportion of one day's imprisonment for each five dollars (\$5.00) of said fine that shall remain unpaid; 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 or orders of arrest and commitment, in the name of the Railroad Commission of the State of California, for the imprisonment of said George Mullins in the County Jail of the County of Sacramento, State of California, as hereinabove directed, 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, George Mullins, this Opinion, Findings and Judgment shall become effective twenty (20) days after personal service of a certified copy thereof upon said George Mullins.

Dated at ~~San Francisco~~ ^{Los Angeles}, California, this 6th day of February, 1939.

Raymond K. K. K.
Raymond K. K. K.
Raymond K. K. K.
Justus D. Caeser
Commissioners