

# ORIGINAL

Decision No. 43524

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

HERMAN HENSLEY, an individual doing  
business under the fictitious firm  
name and style of COPPER BOWL,

Complainant,

vs.

THE PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Case No. 5056

Sisenwein & Lewis, by Joseph Lewis and Max Sisenwein,  
for complainant; Pillsbury, Madison & Sutro and  
Lawler, Felix & Hall, by Leslie C. Tupper, for  
defendant; Arthur Sherry, on behalf of the Special  
Crime Study Commission on Organized Crime.

## O P I N I O N

Under date of April 18, 1949, complainant filed a verified complaint alleging, in substance, that on or about April 1, 1949, complainant had been notified, in writing, by the Pacific Telephone and Telegraph Company, to the effect that the telephone facilities at his place of business, a restaurant and beer parlor, at 1801 Glendale Boulevard, Los Angeles 26, California, known as the Copper Bowl, would be disconnected immediately inasmuch as said facilities were allegedly being used as an instrumentality to aid and abet the violation of the law; that said service was not used as an instrumentality in violation of any law, or which aided or abetted the violation of any law, and that a great injustice would

result should the telephone facilities be disconnected. Upon the basis of these allegations, this Commission issued an Order Granting Temporary Interim Relief in Decision No. 42782, dated April 21, 1949, in Case No. 5056. This order set the matter for hearing and directed the telephone company to refrain from disconnecting telephone service to complainant pending hearing and decision in this matter.

The defendant company filed an answer to the foregoing complaint, alleging that the notice advising of the proposed disconnection of the telephone service was given by the telephone company because it had reasonable cause to believe that the use made, or to be made, of the aforesaid telephone service was prohibited by law.

Public hearing in this matter was held before Commissioner Huls and Examiner Syphers in Los Angeles, on October 5, 1949, at which time evidence was adduced and the matter submitted.

Complainant testified that he had purchased the business known as the Copper Bowl on or about October 26, 1948, and that at the time of said purchase complainant was not aware of any activities in violation of the law, with respect to the use of the telephone facilities, and that such facilities had not been used by him, or to his knowledge by anyone else, for any unlawful purpose. The telephone facilities in question consist of a wall pay telephone listed under number NOrmandy 9490.

Defendant, The Pacific Telephone and Telegraph Company, introduced into evidence a letter (Exhibit No. 1) which that company received from the Special Crime Study Commission on Organized Crime and pointed out that it was because of this letter that the telephone company sent the notice to the complainant.

The telephone company requested that the matter be continued in order that further evidence might be presented; however, the request for continuation was denied inasmuch as there was no evidence to show, or no offer of proof, indicating that this complainant had in any way used the telephone facilities in violation of the law.

In view of these facts, we find that the Order Granting Temporary Interim Relief should be made permanent so long as the telephone service is used lawfully and in accordance with the applicable rules, regulations, rates, and charges.

O R D E R

It is ordered that The Pacific Telephone and Telegraph Company be, and it hereby is, directed to continue to furnish this complainant the telephone service temporarily installed pursuant to Decision No. 42782, supra.

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

Dated at San Francisco, California, this 15<sup>th</sup> day of November, 1949.

R. Z. [Signature]  
Justice J. Calles  
Harold [Signature]  
[Signature]  
COMMISSIONERS