

**ORIGINAL**

Decision No. 59944

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

TOM DONOVAN,

Complainant,

vs.

Case No. 6422

PACIFIC TELEPHONE AND TELEGRAPH  
COMPANY, a corporation,

Defendant.

Tom Donovan, in propria persona.

Lawler, Felix & Hall, by David A. Workman, for the  
defendant.

Roger Arnebergh, City Attorney, by Laurence Corcoran,  
Deputy City Attorney, for the Los Angeles Police  
Department, intervener.

O P I N I O N

By the complaint herein, filed on February 16, 1960, Tom Donovan requests that the telephone service formerly furnished to him at 871 Sunset Boulevard, Los Angeles, California, by the defendant be ordered restored.

On February 29, 1960, by Decision No. 59721, in Case No. 6422, the Commission ordered that the telephone service be restored to the complainant pending hearing on the matter.

On March 10, 1960, the telephone company filed an answer, the principal allegation of which was that the telephone company, pursuant to Decision No. 41415, dated April 6, 1948, in Case No. 4930 (47 Cal. P.U.C. 853), on or about February 5, 1960, had reasonable cause to believe that the telephone service furnished to T. F.

Donovan and M. E. Donovan at 871 Sunset Boulevard, Los Angeles, California, was being or was to be used as an instrumentality directly or indirectly to violate or to aid and abet the violation of the law and that having such reasonable cause the defendant was required to disconnect the service pursuant to this Commission's Decision No. 41415, supra.

A public hearing was held on March 29, 1960, in Los Angeles, before Examiner Kent C. Rogers.

The complainant testified that he, Tom Donovan, is also known as T. F. Donovan, and that he and his brother, M. E. Donovan, have a service station at 871 Sunset Boulevard, Los Angeles, California, and that the defendant furnished service thereat prior to January 30, 1960; that on January 30, 1960, in his absence, the telephone was removed and some of his employees were arrested; and that he needs the telephone in the business and will not permit it to be used for illegal purposes in the future. On cross-examination by the city attorney, the complainant testified that on January 30, 1960, he was the only Tom working in the business.

Exhibit No. 1 is a letter from the Commander of the Vice Detail of the Los Angeles Police Department to the defendant advising the defendant that on January 30, 1960, complainant's telephone under number MADison 9-1788 at 871 Sunset Boulevard was being used for the purpose of disseminating horse racing information which was being used in connection with bookmaking in violation of Section 337a of the Penal Code; requesting that the defendant disconnect the service; and advising that the telephone instrument was removed. An employee of the telephone company testified that this letter was received by

the defendant on February 5, 1960, and that a central office disconnection was effected pursuant thereto on February 11, 1960; and that service was reconnected pursuant to this Commission's Decision No. 59721, supra, on March 3, 1960. The position of the telephone company was that it had acted with reasonable cause as that term is used in Decision No. 41415, supra, in disconnecting the telephone service inasmuch as it had received the letter designated as Exhibit No. 1.

A police officer connected with the Vice Detail of the City of Los Angeles Police Department testified that on January 30, 1960, he called complainant's place of business and asked for Tom; that the answering party said that Tom was not there; that the witness then said he was Al and was advised that he could place horse race bets over the telephone with Tom; that the answering party then accepted a horse race bet over the telephone; that the witness and other officers then went to complainant's place of business and arrested an employee of complainant; that on the premises by the telephone was a written recordation of the bet that the witness had placed over the telephone, as well as other bets; and that the telephone was removed.

After full consideration of this record we now find that the action of the telephone company was based upon reasonable cause as that term is used in Decision No. 41415, supra. We further find that the complainant's telephone was used as an instrumentality to violate or to aid and abet the violation of the law in that it was used in connection with bookmaking.

ORDER

The complaint of Tom Donovan against The Pacific Telephone and Telegraph Company, a corporation, having been filed, a public hearing having been held thereon, the Commission being fully advised in the premises and basing its decision upon the evidence of record and the findings herein,

IT IS ORDERED that the complainant's request for restoration of telephone service is denied and that the temporary interim relief granted by Decision No. 59721, supra, is vacated and set aside.

IT IS FURTHER ORDERED that upon the expiration of thirty days after the effective date of this order, the complainant herein may file an application for telephone service and if such application is made, The Pacific Telephone and Telegraph Company shall install telephone service to the complainant's place of business at 871 Sunset Boulevard, Los Angeles, California, such installation being subject to all duly authorized rules and regulations of the telephone company and to the existing applicable law.

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

Dated at San Francisco, California, this 19<sup>th</sup>  
day of April, 1960.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
Theodore J. Jensen  
Commissioners