CASES ADJUDGED

IN THE

SUPREME COURT OF THE UNITED STATES

AT

OCTOBER TERM, 1943.

CHICAGO, ST. PAUL, MINNEAPOLIS & OMAHA RAILWAY CO. ET AL. v. UNITED STATES ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MINNESOTA.

No. 482. Argued March 8, 1944.—Decided April 10, 1944.

1. The findings upon which the Interstate Commerce Commission based its authorization of motor carrier operations in this case were supported by the evidence; and the court below properly declined to substitute its own inferences from the testimony for those of the Commission and to weigh the evidence anew. P. 2.
2. Upon application by a motor carrier under §§ 206 (a) and 207 (a) of Part II of the Interstate Commerce Act for authorization of operations over certain routes, the Commission, upon the facts found, had power under § 208 (a) to authorize the applicant to serve intermediate points on the routes, though the applicant had not sought authority in respect of the intermediate points. P. 3.
3. The record does not sustain the claim that the protestants were denied the opportunity for an adequate hearing before the Commission. P. 3.

50 F. Supp. 249, affirmed.

Appeal from a decree of a district court of three judges dismissing a suit to set aside in part an order of the Interstate Commerce Commission.

Mr. Amos M. Mathews, with whom *Mr. Warren Newcome* was on the brief, for appellants.

Mr. Nelson Thomas, with whom *Solicitor General Fahy* and *Messrs. Walter J. Cummings, Jr.* and *Daniel W. Knowlton* were on the brief, for the United States et al.; *Mr. Perry R. Moore,* with whom *Mr. Frederick H. Stinchfield* was on the brief, for Cornelius W. Styer; and *Mr. Fred W. Putnam* for the Glendenning Motorways, Inc.,—appellees.

MR. JUSTICE JACKSON delivered the opinion of the Court.

Appellants are five railroads operating in Minnesota and North Dakota. They claim to be aggrieved by an order of the Interstate Commerce Commission granting operating authority to a motor carrier of goods in that territory. Appellee Cornelius Styer, doing business as Northern Transportation Company, made application for two classes of common-carrier rights. As to certain routes he sought "grandfather rights" under § 206 (a) of Part II of the Interstate Commerce Act, 49 U. S. C. § 306 (a). As to certain others, he sought authority under §§ 206 (a) and 207 (a) of the Act, 49 U. S. C. §§ 306 (a), 307 (a), by showing that the proposed service "is or will be required by the present or future public convenience and necessity." After due hearings both classes of rights were granted. Styer later transferred them to the appellee Glendenning Motorways, Inc.

The railroads brought an action in the District Court for Minnesota against the Commission and the carriers to annul the Commission's certificate, pursuant to 28 U. S. C. § 41 (28). The cause came on before a court of three judges who dismissed the complaint on the merits. It was brought here by direct appeal.

It is contended that there is no evidence to support the findings on which the Commission granted operating rights. The court below examined the evidence as to each challenged finding and found each "not unsupported by

evidence." It declined, quite properly, to substitute inferences of its own for those drawn by the Commission from testimony and declined to weigh anew conflicts in it. This was no error, and we affirm the findings. *Gregg Cartage & Storage Co.* v. *United States,* 316 U. S. 74; *Rochester Telephone Corp.* v. *United States,* 307 U. S. 125.

The question of law in the case is whether the Commission on its finding need for such service had power to authorize service of intermediate points not asked for by the applicant. The applicant has accepted and is defending the grant, but the competing rail carriers complain of it.

In the grandfather case Styer stated that he did not claim and was not applying for authority to carry goods in interstate commerce from any Minnesota point to any Minnesota point. But he had begun operations only two months prior to the "grandfather" date. The Commission found that he had held out service to such intermediate points and that there was public need for it.

In the convenience and necessity case, before hearing Styer filed an amendment to his application which withdrew request for authority as to "all service in interstate commerce between points in Minnesota." The Commission, however, found that he had served such intermediate points on the route as shippers had requested it, that such service was fulfilling a public need, and was required by the public convenience and necessity.

It is said that these actions withdrew the intermediate points from issue and threw the protesting parties off their guard and that they did not have opportunity for adequate hearing on the matters ultimately decided. However, after receiving the report of Division 5 recommending granting, as was done, the railroads filed a petition for reconsideration. It is not in evidence. Whether surprise was claimed and evidence was indicated that could

be added on rehearing, we do not know. The Court endeavors to protect the right of parties to fair hearings, but it will not presume that their rights have been substantially denied when they do not embrace the opportunity to prove their grievance in the court below.

It is clear that the Commission on the facts found had power to include in the authorization provision for service greater than the carrier had asked. Section 208 (a) of the Act provides that in any certificate issued under either § 206 or § 207 "there shall, at the time of issuance and from time to time thereafter, be attached to the exercise of the privileges granted by the certificate such reasonable terms, conditions, and limitations as the public convenience and necessity may from time to time require, including terms, conditions, and limitations as to the extension of the route or routes of the carrier." 49 U. S. C. § 308 (a).

Judgment affirmed.

POLLOCK *v.* WILLIAMS, SHERIFF.

APPEAL FROM THE SUPREME COURT OF FLORIDA.

No. 345. Argued February 10, 1944.—Decided April 10, 1944.

1. A statute of Florida which makes guilty of a misdemeanor any person who, with intent to defraud, obtains an advance upon an agreement to render services, and which provides further that failure to perform the services for which an advance was obtained shall be prima facie evidence of intent to defraud, *held* violative of the Thirteenth Amendment and the federal Antipeonage Act. Pp. 5, 17.
2. In view of the history and operation of the Florida statute, it can not be said that a plea of guilty is uninfluenced by the statute's threat to convict by its prima facie evidence section; hence the entire statute is invalid, and a conviction under it, though based upon a plea of guilty, can not be sustained. P. 15.
3. That upon a trial of the defendant his testimony in respect of his intent would have been competent is immaterial. P. 25.

153 Fla. 338, 14 So. 2d 700, reversed.