

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2471

IN THE MATTER OF:

Served September 23, 1983

Request for Interpretation by )  
OLD VET CARRIAGE CO., INC., )  
Regarding Regulation of Horse- )  
Drawn Carriages )

Case No. MP-83-03

By letter filed August 5, 1983, Old Vet Carriage Co., Inc., seeks an opinion as to whether this Commission regulates horse-drawn carriage tours between points of interest in Washington, D. C. Old Vet states that its carriages and drivers are properly licensed by the District of Columbia Department of Transportation.

The only Commission precedent on this point appears to be Order No. 682, served March 1, 1967. 1/ Therein, our predecessors said:

Article XII, Section 1(a) provides that: "This Act shall apply to the transportation for hire by any carrier of persons between any points in the Metropolitan District and to the persons engaged in rendering or performing such transportation service, . . ."

Section 2(a) defines a "carrier" as ". . . any person who engages in the transportation of passengers for hire by motor vehicle, street railroad, or other form or means of conveyance." [Emphasis added.]

Section 2(b) defines the term "motor vehicles" as ". . . any automobile, bus or other vehicle propelled or drawn by mechanical or electrical power on the public streets or highways of the Metropolitan District and used for the transportation of passengers."

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1/ Application of Horse Buses, Inc., for a Certificate of Public Convenience and Necessity. See also Order Nos. 694, 712 and 724.

Section 2(c) defines the term "street railways" as ". . . any streetcar, bus, or other similar vehicle propelled or drawn by electrical or mechanical power on rails and used for transportation of passengers."

The phrase "or other form or means of conveyance" is not defined. Does it embrace horse-drawn vehicles, or is the language modifying in nature, so as to be used to embrace only vehicles propelled by mechanical or electrical power?

There is nothing within the four corners of the Compact to guide us. Therefore, we refer to the legislative history of the Compact.

In commenting on the proposed legislation to establish the Compact, the Civil Aeronautics Board pointed out to the Congress that this language was unclear, and that it was concerned whether air-taxi transportation would fall within the jurisdiction of this Commission. 2/

The Interstate Commerce Commission also commented thereon, in more direct language. 3/ "Section 2(a) of Article XII defines the term "carrier" for purposes of the act to mean, 'any person who engages in the transportation of passengers for hire by motor vehicle, street railroad, or other form or means of conveyance.' Water transportation is excluded by Section 1(a) (1). Transportation by animals is a possibility." [Emphasis in original.]

The Committee made the following terse comment on the air-taxi issue: 4/ "Testimony developed that the basic purpose of the compact is to deal with the regulation of carriers involved in the

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2/ House Report 1621, 86 Cong. 2nd Sess., May 18, 1960, p. 34. [Footnote in original.]

3/ Id., p. 40 [Footnote in original.]

4/ Id., p. 21 [Footnote in original.]

mass movement of persons (mass transit) and that any limited air-taxi operations would, therefore, not be within the category of transportation regulated by the compact commission." It made no comment on the ICC observations. We conclude that it was the intent of the legislatures that such transportation be subject to our regulation. Special operations, such as proposed here, when conducted in motor vehicles are an integral part of the for hire transportation rendered by carriers regulated by the Commission pursuant to the Compact. It is axiomatic that regulatory laws are remedial in nature and are to be liberally construed. Our law is no exception, and in fact so provides. Article XI, Section 2. The corollary principle is that exemptions to the scope of the law are to be strictly construed. The Commission finds that the rendition of transportation for hire between points within the Metropolitan District in horse-drawn vehicles comes within the ambit of jurisdiction conferred upon the Commission by the Compact. [Emphasis added.]

We find the quoted analysis to be unconvincing.

In 1860, one line of horse-drawn "omnibuses" was operated in Washington, D. C., running from Georgetown to the Navy Yard via M Street and Pennsylvania Avenue. 5/ Horse-drawn rail service 6/ commenced on July 19, 1862, pursuant to a Congressional charter, and, later in that year, twenty then-surplus "omnibuses" were donated to the army for use as ambulances. 7/ Several acts of Congress extended the original routes, and on July 1, 1864, Congress chartered a second horse car company. 8/ By 1872, four additional horse-drawn railways had

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5/ L. King, Jr., 100 Years of Capitol Traction (1972 Taylor Publishing Company), page 3.

6/ The Washington and Georgetown Railroad Company.

7/ King, page 4.

8/ Metropolitan Railroad Company.

received charters. 9/ An act of March 3, 1875, chartered the Capitol, North O Street and South Washington Railway Company, which subsequently became The Belt Railway Company. "In 1888, the Brightwood Railway was chartered and eventually became the operator of the Metropolitan's Silver Spring [Md.] Branch." 10/ By 1896, ". . . while there were to be other new horsecar operations, the end of the era was at hand . . .," 11/ as electric and cable cars moved into prominence.

As can be seen, all of the above-named companies were Congressionally chartered and regulated. Extensions of authorized routes required Congressional approval. Such regulatory supervision was transferred to the Public Utilities Commission of the District of Columbia on March 13, 1913, 12/ and that body was granted jurisdiction, inter alia, over every street railroad, street railway corporation and common carrier. A common carrier was defined as any entity ". . . owning, operating, controlling or managing any agency or agencies for public use for the conveyance of persons or property within the District of Columbia for hire." 13/ Hence, although it appears that horse-drawn railways, to the extent still functioning, may have been included under this regulatory scheme, there can be no question that such jurisdiction was dormant shortly thereafter.

By 1960, certainly, when Congress was considering the establishment of this Commission, horse-drawn vehicles were nostalgic memories. While "transportation by animals" certainly was (and is) possible, it was no longer a mode of public transit or a source of traffic congestion. 14/ All public transit of that day, and this, was

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9/ Connecticut Avenue and Park Railway Company, Union Railroad Company, Columbia Railway Company, and Anacostia and Potomac River Railroad Company.

10/ King, page 9.

11/ King, page 16.

12/ 37 Stat. 794, ch.150, §8, par 1. The PUC was later renamed "Public Service Commission of the District of Columbia" by Act of August 30, 1964, §21, Pub.L. 88-503.

13/ Ibid.

14/ See Title I, Article II of the Compact.

mechanized, and a subtle reflection of that fact is found in Title II, Article XII, Section 2(c) of the Compact which defines the term "street railways" as:

any streetcar, bus, or other similar vehicle  
propelled or drawn by electrical or mechanical  
power on rails and used for transportation of  
passengers. [Emphasis added.]

The definition of "motor vehicle" contains identical language. 15/

The above-cited House Report, 16/ in discussing the need for the Compact, refers to the July 1, 1959, transportation plan for the National Capitol Region and states:

As the first step, the plan recommends that immediate action be taken to improve the present public transit service by centralizing regulation of existing privately owned transit on a regional basis to overcome the barriers imposed by jurisdictional boundary lines. This is the function of the instant compact. [Emphasis added.] 17/ \* \* \*

Thus, the function of the instant compact is to improve transit service offered by the existing privately owned transit companies through coordinated regulation and improvement of traffic conditions on a regional basis. . . . the regulatory functions to be performed by the subject compact are not only required presently, but will be required as long as private transit continues to operate in the metropolitan area. [Emphasis added.] 18/

The House Report contains no discussion of the I.C.C.'s comment on the possibility of transportation by animal. 19/

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15/ Compact, Title II, Article XII, Section 2(b).

16/ See footnote 2.

17/ Op.Cit., page 5.

18/ Ibid., page 6.

19/ Ibid., see pages 21 and 22.

Based on this review of Washington's transportation history and the legislative history of the Compact, we find that the signatory jurisdictions and the Congress intended this Commission to deal with transit and traffic problems then existing and those which might develop in the future. We can divine no intent for us to regulate transportation by horse or any other form of conveyance not artificially powered. We further find, therefore, that the term "other form or means of conveyance" as used in Title II, Article XII, Section 2(a) of the Compact was intended to have a present and prospective meaning so as to include either then-common transportation modes or modes which might become common in the future. 20/

THEREFORE, IT IS ORDERED:

1. That the finding of Order No. 682 ". . . that the rendition of transportation for hire between points in the Metropolitan District in horse-drawn vehicles comes within the ambit of jurisdiction conferred upon the Commission by the Compact" is hereby overruled effective on the 31st day from the date of service of this Order.

2. That within five days of the date of service hereof the Executive Director shall cause the following notice to appear in a newspaper of general circulation within the Metropolitan District:

The Washington Metropolitan Area Transit Commission, by Order No. 2471, served September 23, 1983, has found that it has no jurisdiction over transportation for hire, by horse-drawn vehicles, between points in the Metropolitan District. A contrary finding in Order No. 682 is thus overruled. Any person objecting to Order No. 2471 must file an Application for Reconsideration in accordance with Commission Rule No. 28 no later than October 21, 1983. For further details, call the Commission at 331-1671.

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20/ Examples of the latter category might include elevated or underground railways, monorails or conveyor type systems.

3. That, absent the timely filing of any applications for reconsideration, this proceeding shall become administratively final on the effective date of this Order.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS WORTHY, SCHIFTER AND SHANNON:



WILLIAM H. MCGILVERY  
Executive Director