

March 8, 1950

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ARIZONA ATTORNEY GENERAL

William T. Brooks, Chairman
Arizona Corporation Commission
The Capitol
Phoenix, Arizona

Dear Mr. Brooks:

We have your letter of February 9 requesting an opinion:

"Please give us your opinion as to whether a person having a contract with the United States Government for hauling mail for compensation, over the public highways of Arizona, would come under the jurisdiction of the Arizona Corporation Commission."

Our investigation discloses that so long as a person is engaged exclusively in the business of hauling mail he would not come within the jurisdiction of the Arizona Corporation Commission; however, this would not excuse him from complying with safety regulations relating to use of the highways and the vehicle licensing regulations of the State, assuming, of course, that he were operating his own vehicle and not a vehicle owned by the United States Government, 25 Am. Jr., p. 564, Highways, Sec. 271; State v. Wiles, 199 P. 749, 18 ALR 1163.

The cases uniformly hold that one having a contract for carriage of the mails is not an instrumentality of the federal government but is rather a personal contractor doing merely work for the government. State v. Wiles, supra, at p. 1166.

The statement contained in the first paragraph above applies only so long as the person in question continues to carry nothing but the mails. As soon as he undertakes to carry "property or passengers" he is undertaking to engage in the business of a motor carrier within the meaning of Section 66-501 ACA 1939; at such time, of course, it becomes mandatory upon the person engaging in such business to comply with all of the requirements pertaining to motor carriers. In the case of In re Barker, PUR 1927B, 163 at p. 170, the following statement is made:

" * * * the transportation of passengers or freight for hire is an independent business having nothing to do with the carriage of the mail, and the regulation and control of the former cannot in any manner interfere with the transportation of the mail. All that was necessary in

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Page two
March 8, 1950

order that defendant might escape liability under this act was for him to proceed with his mail route and refuse to accept passengers for transportation for hire, as his contract for carrying the mail does not come within the definition of either passengers or freight. * * * "

It is therefore our opinion that the Corporation Commission should abstain from attempting to control or regulate the operations of persons engaged exclusively in the hauling of the United States mails. However, this does not mean that such persons are not amenable to the safety laws and regulations of this state relating to use of the highways. However, if and when such persons began hauling either passengers or property other than the mails, then the Corporation Commission would have jurisdiction to control them as to the independent business.

Yours very truly,

FRED O. WILSON
Attorney General

CALVIN H. UDALL
Assistant Attorney General

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