



Russell Seymour, for Robert Bromberg, Receiver in Bankruptcy of the Estate of John B. Auld, and an applicant in Application 14207.

Jess E. Stephens, City Attorney of Los Angeles, by Milton Bryan, Deputy City Attorney, for the City of Los Angeles.

James Gunn and J. O. Marsh, for the Board of Public Utilities and Transportation of the City of Los Angeles.

Forrest A. Betts and H. O. Marler, for the Pacific Electric Railway.

James H. Mitchell, City Attorney of City of Burbank, for the City of Burbank.

J. D. Radcliffe and A. B. Gridley, for the Council of City of Burbank.

Chas. B. Wood and Leigh Rothenberg, for the Chamber of Commerce of the City of Burbank.

Roy Campbell, for Magnolia Park District of the City of Burbank.

J. L. Eigholz for Magnolia Park Improvement Association (Burbank).

Carl Bush, for Hollywood Chamber of Commerce.

LOUTTIT, Commissioner -

#### O P I N I O N

Five separate matters are involved in the above entitled proceedings, namely:

Application No.14232 - Pasadena-Ocean Park Stage Line, Inc., seeks certificate of public convenience and necessity to extend its present automotive stage service from Universal City to Burbank and to operate said extension as a part of its Culver City-Universal City Stage Line.

Case No.2435 - Investigation on the Commission's own motion into the practices and operations of J. B. Auld and C.Auld, co-partners, operating a public utility auto stage service between Los Angeles and Burbank.

Case No.2436 - Investigation on the Commission's own motion into the practices and operations of John B. Auld, operating a public utility auto stage service between Burbank and Hollywood.

Application No.14188 - Original Stage Line, Inc., for certificate of public convenience and necessity to operate an automobile stage service, also for the transportation of express matter between Hollywood and Burbank via alternate routes.

Application No.14207 - Robert Bromberg, receiver in bankruptcy of the estate of John B. Auld, bankrupt, to sell, and Original Stage Line, Incorporated, to purchase, an automobile stage line operated between Burbank and Hollywood, via First National Studios.

Public hearings were held in Los Angeles, the five matters were consolidated for hearing, evidence was taken, an order of submission made and the consolidated matters are now ready for decision.

The evidence clearly indicates that there was an abandonment of service by J. B. Auld and C. Auld, a co-partnership, between Los Angeles (Hollywood) and Burbank, or what is described as the Magnolia Avenue line. No authority to abandon service or to discontinue operation was obtained from the Commission. The service in question was operated under authority of a certificate of public convenience and necessity granted to the Aulds, as co-partners, by the Railroad Commission in its Decision No.17191, dated August 5, 1926, and issued on Application No.13060. This certificate authorized operation of an automotive passenger service over and along the following route:

"Beginning at Southern Pacific Crossing and Lankershim Boulevard (Hewitt Station), thence southerly on Lankershim Boulevard to Magnolia Avenue, thence easterly on Magnolia Avenue to San Fernando road (Burbank); thence southeasterly on San Fernando road to Orange Grove Avenue, thence northeasterly on Orange Grove Avenue to Fourth Street, thence northwesterly on Fourth Street to Cypress Avenue, thence northeasterly on Cypress Avenue to 10th Street, thence southeasterly on 11th Street to Alameda Avenue (Burbank City limits) and return via same route."

The above described right is the subject of the Commission's order issued on its own motion, instituting an investigation into the operations of the Auld brothers under said right, which order is entitled Case No.2435. Clearly this right should be revoked because of abandonment of service and the order herein will so provide.

As to the Commission's order, issued on its own motion, (Case No.2436), instituting an investigation into the operations of John B. Auld between Hollywood and Burbank (Dark Canyon line), the evidence shows that while there was a slight disruption of service as a result of bankruptcy proceedings involving the estate of John B. Auld, there was no real abandonment of service. Case No.2436 should, therefore, be dismissed and the order herein will so provide.

Consideration will now be given to Application No.14207, which is an application by Robert Bromberg, receiver in bankruptcy of the estate of John B. Auld, bankrupt, to sell, and Original Stage Line, Inc., to purchase the operating right heretofore issued by the Railroad Commission to John B. Auld, and under which Auld, up to the time of the bankruptcy proceedings, operated an automotive passenger service between Hollywood and Burbank. This right was established by the Commission in its Decision No.13005, dated January 9, 1924, and issued on Application No.9622. The right granted to Community Investment Company, Inc., in that decision authorizes the operation of an automotive passenger service over and along the following route:

Beginning at the junction of Hollywood boulevard and Highland Avenue; thence north in Highland Avenue to Ventura Boulevard, and northerly to its junction with the Dark Canyon Road, and thence northerly and westerly over said road to Olive Street, continue in Olive Street to its junction in Tenth Street and returning by the same identical route.

By Decision No.16993 of the Commission, dated June 25, 1926, this right was transferred to John B. Auld, As has been stated, Auld gave service in accordance with this right up to the time of the bankruptcy proceedings when service, after a break too slight/<sup>to</sup>be considered as an abandonment, was undertaken.

by the duly appointed receiver, Mr. Bromberg, one of the applicants herein, a copy of whose appointment as receiver in the matter of John B. Auld by the bankruptcy court has been filed with the Commission. Mr. Bromberg operated the line until it was sold, subject to the approval of the Railroad Commission, to Original Stage Line, Inc., the sale being approved by an order of the referee in bankruptcy of the United States District Court. A copy of the court's order of approval is attached to and made part of Application No.14207, which application was filed jointly by Receiver Bromberg and Original Stage Line, Inc., immediately after the court sale.

Application No.14207 for an order of the Commission approving the sale and transfer by Receiver Robert Bromberg to Original Stage Line, Inc., of the operating right heretofore granted to John B. Auld by the Railroad Commission in its Decision No.16993 should be granted and the order herein will be made accordingly.

There now remains to be disposed of Applications Nos.14232 and 14188. Each of these applications, No.14232 by Pasadena-Ocean Park Stage Line, Inc., and No.14188 by Original Stage Line, Inc., asks for a certificate of public convenience and necessity to operate an automobile service in territory served by John B. Auld and Auld Bros. They were filed largely because of the threatened discontinuance of the service given by John B. Auld and the actual discontinuance of the service given by Auld Bros. The order herein will transfer to Original Stage Line, Inc. the operating right heretofore issued by this Commission to John B. Auld, making unnecessary further consideration of that part of the Original line's application for a new certificate authorizing a service identical with that given by Auld between Burbank and Hollywood under the right created by Decision No.13005 and transferred to Auld by Decision No.16993..

As to the alternate routing proposed by Original Stage Line, which is mainly through territory formerly served by Auld Bros., which service was abandoned by them, as the record in this proceeding shows, it appears from testimony offered by residents of the territory proposed to be served and citizens of Burbank that public convenience and necessity require the re-establishment of this service through the issuance of a new certificate. Certificate will, therefore, be granted for passenger service only, the evidence not justifying granting authority to transport express.

In Application No.14232 Pasadena-Ocean Park Stage Line, Inc., asks for authority to operate, as an extension of its present service between Culver City and Universal City, a service from Universal City to Burbank. Granting of authority for such a service over the route proposed is not justified by the evidence, particularly in view of the fact that for a large part of the distance the service proposed by the Pasadena-Ocean Park Company will be over the route traversed by Original Stage Line under the Auld right herein transferred. There is not enough business for two lines in that territory. Application No.14232, then, will be denied.

After giving full consideration to all the evidence in the various matters involved in this consolidated proceeding, I am of the opinion and hereby find as a fact:

- 1- That John B. and C. Auld abandoned the automotive service authorized to be performed by them by Decision No.17191 and that the operating right granted by said decision should be revoked and annulled.
- 2- That there was no abandonment of service by John B. Auld between Hollywood and Burbank, as authorized by Decision No.16993 and that, therefore, Case No.2436 should be dismissed.
- 3- That the application of Robert Bromberg, receiver in bankruptcy of the estate of John B. Auld, to sell, and Original Stage Line, Inc., to purchase operating right heretofore granted to John B. Auld should be granted and the operation of the line by Receiver Bromberg pending bankruptcy proceedings approved.

4- That the application of Original Stage Line, Inc., as amended, for a certificate to operate automotive passenger and express service between Hollywood and Burbank as to the alternate route should be granted, the service to be limited to the transportation of passengers only.

5- That the application of Pasadena-Ocean Park Stage Line, Inc., for authority to extend its service between Culver City and Universal City to Burbank should be denied.

In connection with the transfer by Receiver Bromberg of the Auld operating right to Original Stage Line, Inc., and the issuance to Original Stage Line of a certificate authorizing the alternate service as herein described, Original Stage Line, Inc., is hereby placed upon notice that "Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

I recommend the following form of order:

ORDER

Public hearings having been held on the above entitled applications, the matters having been duly submitted, the Commission being now fully advised and basing its order on the findings appearing in the opinion preceding this order,

IT IS HEREBY ORDERED that the operating right heretofore granted to J. B. and C. Auld, co-partners, in Decision No. 17191 be and the same hereby is revoked and annulled, and

IT IS HEREBY FURTHER ORDERED that J. B. Auld, for the partnership, shall immediately cancel tariff of rates and time schedules on file with the Railroad Commission covering service heretofore

authorized by Decision No.17191, and

IT IS HEREBY FURTHER ORDERED that the operation by Robert Bromberg, receiver for the estate of John B. Auld, bankrupt, of the automotive passenger stage service formerly conducted by said John B. Auld be and the same is hereby approved.

IT IS HEREBY FURTHER ORDERED that Case No.2436 be and the same is hereby dismissed, and

IT IS HEREBY FURTHER ORDERED that Application No.14232 be and the same is hereby denied, and

IT IS HEREBY FURTHER ORDERED that Application No.14207 be and the same is hereby granted, subject to the following conditions:

1- That the operating right herein authorized to be transferred shall be the operating right heretofore granted by Railroad Commission Decision No.13005 which right, transferred to John B. Auld by Decision No.16993, authorizes operation of an automotive passenger stage service over and along the following route:

Beginning at the junction of Hollywood boulevard and Highland Avenue; thence north in Highland Avenue to Ventura Boulevard, and northerly to its junction with the Dark Canyon Road, and thence northerly and westerly over said road to Olive Street, continue in Olive Street to its junction in Tenth Street and returning by the same identical route.

2- That the order herein shall not be construed as authorizing Original Stage Line, Inc., to operate any different service than that authorized in said Decision No.16993 and shall not be construed as in any way authorizing Original Stage Line, Inc., to hook up, join, merge or consolidate said operating right with rights now owned by it.

3- The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer authorized.

4- Applicant Robert Bromberg, as receiver of the estate of John B. Auld, shall immediately unite with applicant Original Stage Line, Inc., in common supplement to the tariffs on file with the Commission, applicant Auld on the one hand withdrawing, and applicant Original Stage Line, Inc., on the other hand accepting and establishing such tariffs and all effective supplements thereto.



5- Applicant Robert Bromberg, as receiver of the estate of John B. Auld, shall immediately withdraw time schedules filed in Auld's name with the Railroad Commission, and applicant Original Stage Line, Inc., shall immediately file, in duplicate, in its own name, time schedules covering service heretofore authorized to be given by John B. Auld, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of Auld, or time schedules satisfactory to the Railroad Commission.

6- The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

7- No vehicle may be operated by applicant Original Stage Line, Inc., unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY  
DECLARES that public convenience and necessity require the operation by Original Stage Line, Inc., of an automotive service for the transportation of passengers only between Hollywood, and Burbank via Hollywood way and Magnolia Avenue over and along the following route:

Between 10th and Olive in the city of Burbank, along Olive Street to San Fernando road, thence easterly on San Fernando road to bus depot about one-half block away, thence on San Fernando Road westerly to Magnolia Avenue, thence westerly on Magnolia Avenue to Hollywood way, thence southerly on Hollywood way to Olive Avenue, thence on Olive Avenue to Pass Avenue, thence to Hollywood way, sometimes called Dark Canyon road, thence into Tujunga drive to Highland Avenue, returning by the same route,

said operation to be conducted in conjunction with and as part of the service Original Stage Line, Inc., is herein authorized to perform under authority of certificate of public convenience and necessity acquired from the estate of John B. Auld, bankrupt, and not as a separate service and

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for such a service be and the same is hereby granted to Original Stage Line, Inc., subject to the following conditions:

1- Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof, said acceptance to contain the declaration that the certificate granted herein is accepted not as a separate operating right but as part of the operating right acquired by applicant by purchase from the estate of John B. Auld and that the service to be performed thereunder will be operated as an alternate routing of said service, a through service to be given in each instance.

2- Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, subject to the limitations imposed herein and in accordance with the amended application of applicant, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed twenty (20) days from the date hereof.

3- The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4- No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

5- Original Stage Line, Inc., shall file a sketch clearly showing route to be followed under the certificate herein authorized, which routing shall be in accordance with route proposed herein and shall also clearly set forth operation performed under authority of the John B. Auld right transferred by the Commission's order herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 12 day of

February, 1928.

Leon Whitell  
Chas. J. Deane  
Wm. H. Deane  
Thos. J. Deane  
M. J. Deane  
COMMISSIONERS.