

Decision No. 20282.

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application	)	
of R.E. Mc Crary to sell and	)	
James M. Chunn to purchase an	)	
automobile passenger line	)	Application
operated between Newman, Patterson,	)	No. 14943.
Crow's Landing and Modesto,	)	
California.	)	

BY THE COMMISSION:-

**ORIGINAL**OPINION and ORDER

R.E. Mc Crary has petitioned the Railroad Commission for an order approving the sale and transfer by him to James M. Chunn of an operating right for the transportation of passengers and express between Newman, Patterson, Crow's Landing, and Modesto, and James M. Chunn has asked for authority to purchase and acquire said operating rights and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement of sale, a copy of which is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$1500, all of which sum is said to represent the value of intangibles.

The operating right herein proposed to be transferred was established by the Star Auto Stage Association by reason of operation prior to May 1, 1917. The original tariff filing covering the route served shows a passenger and express service, the transportation of express being limited to packages weighing not more than 100 pounds. With the approval of the Railroad Commission, as shown in Decision No. 7795, dated June 24, 1920, and issued on Application No. 5162, the operating right was transferred to applicant J.P. Smith. In Decision No. 16742, dated May 17, 1926, and issued on Application No. 12830, the Commission authorized Smith to transfer the right to E.C. Litten. By Decision No. 17710, dated December 3, 1925 and issued on Application No. 13354, it was trans-

ferred to applicant R.B. Mc Crary. We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

James M. Chunn 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.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

1-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 herein authorized.

2-Applicant, R.B. Mc Crary, shall immediately unite with applicant, James M. Chunn in common supplement to the tariffs on file with the Commission, applicant Mc Crary on the one hand withdrawing, and applicant Chunn on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3-Applicant Mc Crary shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Chunn shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Mc Crary which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Mc Crary or time schedules satisfactory to the Railroad Commission.

4-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.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of September 1928.

Leon S. White  
Chairman  
Paul S. Lewis  
Commissioner  
COMMISSIONERS.