

ORIGINALDecision No. 20418.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
 M. BERNARDO for certificate of public
 convenience and necessity to
 operate passenger and express service
 between Chico and Redding, via
 Red Bluff, including all intermediate
 stations, said express business
 to be limited to packages under 150
 pounds in weight.

Application No. 9276.

Ware and Ware, by Allison Ware, for
 Applicant.

E. J. Foulds and H. W. Hobbs, by
 H. W. Hobbs, for Southern Pacific
 Motor Transport Company.

Warren E. Libby, for Pickwick Stages
 System, Protestant.

C. R. Detrick, for Western Pacific
 Railroad Company and Sacramento
 Northern Railway, Interested Party.

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION AND ORDER

The applicant herein seeks an order clarifying the certificate of public convenience and necessity granted by this Commission in its Decision No. 12867, dated November 26, 1923, in Application No. 9276, in which authority was granted to applicant to operate a stage line as a common carrier of passengers and express between Red Bluff and Chico.

A public hearing was held at San Francisco on October 24,

1928, before Examiner Gammon.

The decision cited above granted to the applicant a certificate of public convenience and necessity to operate a stage line for the transportation of persons and express between Chico and Red Bluff but did not specifically authorize service to the intermediate points between said termini.

Applicant now alleges that he intended, by his original application, to seek permission to serve the intermediate points of Vina, Los Molinos, Tehama, Gerber, Los Flores and Proberta, as well as the termini of Chico and Red Bluff. This contention is borne out by the actual wording of the application which specifically prays for a certificate to operate "between Chico and Redding via Red Bluff, including all intermediate points." While no mention is made of intermediate points in the order following the opinion in Decision No. 12867, we are satisfied such omission was due entirely to inadvertence. The order did specifically direct the applicant "to file tariff of rates and time schedules in conformity with the exhibits attached to the application." Reference to these exhibits shows that all the intermediate points referred to are contained in the time schedules and tariffs; that such time schedules and tariffs were duly filed by applicant; and, that he has been continuously serving all such intermediate points for the past five years.

Pickwick Stages System entered a protest in this proceeding but withdrew such protest upon being assured that service between Red Bluff and Redding was not contemplated.

It appears to the Commission that public convenience and necessity require the operation of an automotive passenger and express service between Chico and Red Bluff and intermediate points

and the order will so provide.

M. Bernardo 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.

O R D E R

A public hearing having been held in the above entitled matter, evidence having been submitted and the Commission being fully advised,

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation, by M. Bernardo, of an automobile stage line as a common carrier of passengers and express between Red Bluff and Chico and intermediate points, including Vina, Los Molinos, Tehama, Gerber, Los Flores and Proberta; and,

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

(1) That applicant shall, within ten (10) days from the date hereof, file his acceptance of the certificate herein granted, which acceptance shall contain the statement that the certificate herein granted is accepted as a certificate issued in lieu of and not in addition to the certificate heretofore granted by Decision No. 12867.

(2) That no express package, weighing in excess of one hundred (100) pounds, with the exception of ice cream and

