

Decision No. 20922

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
W. C. LAWRENCE and G. W. ESTES to
sell, and D. S. MITCHELL to purchase
the right to operate an auto stage
line between Susanville and Alturas,
California, and intermediate points.)
Application No. 15508)

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

W. C. Lawrence and G. W. Estes have petitioned the Railroad Commission for an order approving the sale and transfer by them to D. S. Mitchell of an operating right for an automotive service for the transportation of passengers and property between Susanville and Alturas and intermediate points, and D. S. Mitchell has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", 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 \$500; all of this sum is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted to W. C. Lawrence and G. W. Estes by Railroad Commission Decision No. 18275, dated April 26, 1927, and issued on Application No. 12391, which authorizes the operation by "*** W. C. Lawrence and Gilbert Estes, co-partners, of an automobile stage line as a common carrier of passengers and express between the cities of Susanville and Alturas, serving Johnsonville, Standish, Litchfield, Ravendale, Thermo, Madeline, Likely and intermediate points."

Express shipments are limited to shipments weighing not in excess of 100 pounds.

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.

D. S. Mitchell 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- Applicants Lawrence and Estes shall immediately unite with applicant Mitchell in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Lawrence and Estes on the one hand withdrawing, and applicant Mitchell on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Lawrence and Estes shall immediately withdraw time schedules filed in their names with the Railroad Commission and applicant Mitchell shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicants Lawrence and Estes, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the names of applicants Lawrence and Estes, 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 Mitchell 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.

6- This order shall not be construed by applicant Mitchell as authority for the linking up or joining of the operating right herein transferred with other rights owned by him.

Dated at San Francisco, California, this 29th day of March,
1929.

Thos B. Rauter

Os. Sawyer

Ernest

Leon Whittell

W. J. Carr
COMMISSIONERS.