

ORIGINAL

Decision No. 21528

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 J. A. THOMPSON (TUSTIN SANTA ANA
 STAGE LINE) to sell, and BENTLY J. HARRIS
 to purchase an automobile passenger line
 operated between Tustin and Santa Ana,
 California.)
) Application
) No. 15919
)

BY THE COMMISSION -

OPINION and ORDER

J. A. Thompson, operating under the firm name and style of Tustin Santa Ana Stage Line, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Bently J. Harris of an operating right for an automotive service for the transportation of passengers between Tustin and Santa Ana, and Bently J. Harris 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 \$4500.00. Of this sum \$3900.00 is declared to be the value of equipment and \$600 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted to Foster & Prather by the Railroad Commission in its Decision No. 5413, dated May 21, 1918, and issued on Application No. 3522. Said decision authorizes the operation of an automotive passenger stage service between Santa Ana and Tustin. No authority to serve intermediate points was granted. By Decision No. 19942, dated June 29, 1928, and issued on Application No. 14786, the Commission authorized Foster & Prather to transfer the right to Harry Kiser. By Decision No. 20360, dated October 20, 1928,

the Commission authorized Kiser to re-route his stages and to operate over and along the following route:

Leaving the Motor Transit Depot at Third and Spurgeon Streets, Santa Ana, California, going West on Third Street to Bush Street, North on Bush Street to Fourth Street, East on Fourth Street to Wright Street, South on Wright Street to First Street, East on First Street to "D" Street, Tustin, California, South on "D" Street to the Tustin Cafe at Main & "D" Streets, Tustin, California, returning on the same route.

By Decision No. 20451 of November 13, 1928, on Application No. 15123 Harry Kiser was authorized to transfer this operating right to J. A. Thompson, one of the applicants herein.

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.

Bently J. Harris 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 Thompson shall immediately unite with applicant Harris in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Thompson on the one hand withdrawing, and applicant Harris on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Thompson shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Harris shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Thompson which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Thompson 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 Harris 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 11th day of
September, 1929.

Thos. D. Lovitt
Chairman
Leon Whitehall
W. J. ...
COMMISSIONERS.