

Decision No. 22351

Chamberlain

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
FLOYD BENSON SMITH to sell and C.D.)
CHAMBERLAIN to purchase an automobile)
(passenger and express) line operated)
between Chico, Butte County, California,)
and Hamilton City, Glenn County,)
California, and between Chico, Butte)
County, California, and Willows, Glenn)
County, California.)

Application
No. 16444

BY THE COMMISSION -

OPINION and ORDER

Floyd Benson Smith has petitioned the Railroad Commission for an order approving the sale and transfer by him to C. D. Chamberlain of operating rights for an automotive service for the transportation of passengers and property between Chico and Willows and intermediate points, and C. D. Chamberlain has petitioned 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, 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 \$3000. Of this sum \$2750 is declared to be the value of equipment and \$250 is declared to be the value of intangibles.

The operating rights herein proposed to be transferred originally consisted of two separate rights, one covering service between Chico and Willows, via Hamilton City and Orland, and the other between Chico and Hamilton City.

The Chico-Willows right was established by one J.W. Young under authority of Decision No. 7147, dated February 20, 1920, and issued on Application No. 4705. Young was authorized to transport passengers only between Chico and Willows and intermediate

points. By Decision No.10551, dated June 8, 1922, and issued on Application No.7837 this right was transferred to L. C. Hall. By Decision No.11758, dated March 6, 1923, and issued on Application No.8298, Hall was authorized to transport "light freight" on his passenger stages, the Commission, in its order defining light freight as

"newspapers, ice cream, dairy products and package merchandise. No single article of merchandise shall have a weight in excess of one hundred (100) pounds and no single shipment from one consignor to one consignee shall exceed two hundred (200) pounds."

Hall transferred the passenger and light freight rights above described to R. E. Riley, the Commission approving in its Decision No.11844, dated March 29, 1923, and issued on Application No.8808. Riley transferred the rights to Ernest B. Blue under authority of Decision No.12787, dated November 5, 1923, and issued on Application No.9487.

The other operating right, that between Chico and Hamilton City, was established by one Guy E. Heaton, who operated prior to May 1, 1917, and subsequent thereto to the date of the transfer of the operating right to J. R. Langille, which transfer was approved by the Commission in its Decision No.8547, dated February 21, 1921, on Application No.6551. Subsequently, (Decision No.10986, dated September 14, 1922, and issued on Application No.8240), Langille transferred the right to Martin & Rosebrook, who in turn transferred it to Applicant Blue, as shown by the Commission's Order in Decision No.15151, dated July 7, 1925, on Application No.11281.

By Decision No.15438, dated September 21, 1925, and issued on Application No.11705, the above described rights were consolidated and the consolidated right transferred by Blue to Floyd Benson Smith, one of the applicants herein. Provision No.4 in Decision No.15438 reads as follows:

"Applicant Smith shall add to the Local Freight tariff filed in compliance with the order herein, the following rule:

'Only such light freight accepted for transportation as may be transported on passenger cars of applicant used in the service between Chico and Willows and intermediate points.' "

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.

C. D. Chamberlain 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 Smith shall immediately unite with applicant Chamberlain in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Smith on the one hand withdrawing, and applicant Chamberlain on the other hand accepting and establishing such tariffs and all effective supplements thereto, or tariffs satisfactory to the Railroad Commission.

3- Applicant Smith shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant Chamberlain shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Smith, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Smith, 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 Chamberlain 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 1st day of May,
1930.

Cl. L. Lundy

Thos. B. Loutch

M. J. Curran

COMMISSIONERS.