

LBM

Decision No. 23568

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
R. DONNELL,
for permission to mortgage warehouse
property.

ORIGINAL

Application No. 17255

BY THE COMMISSION:

OPINION AND ORDER

In this application R. Donnell has applied to the Railroad Commission for permission to execute a mortgage and a note in the principal amount of \$8,000.00 due on or before January 1, 1935, with interest at the rate of seven percent per annum.

It appears that R. Donnell is engaged in the business of operating a public utility warehouse at Davis for the storage generally of barley, wheat, oats and wool. During 1930 he purchased certain properties consisting of Lots 9, 10, 11 and 12 of Block 3, Range G, of the City of Davis, together with a warehouse building having a capacity of 13,800 square feet. His 1930 annual report to the Commission shows his investment in land and buildings at \$10,601.97 and his investment in equipment and miscellaneous property at \$10,363.11, making a total investment of \$20,965.08.

It further appears that in the purchase of the property referred to, R. Donnell executed a mortgage on the properties to secure the payment of an \$8,000.00 seven percent note payable as

follows:

| | |
|--------------------------|----------|
| On January 1, 1931 | \$1,000. |
| On January 1, 1932 | 1,000. |
| On January 1, 1933 | 1,000. |
| On January 1, 1934 | 1,000. |
| On January 1, 1935 | 4,000. |

He did not secure from this Commission permission to execute the mortgage and note, and in our opinion the two instruments are void, because of the provisions of Sections 51 and 52 of the Public Utilities Act. We believe, however, that R. Donnell's failure to secure the consent of the Railroad Commission was through inadvertence and with no intent to evade the provisions of the Public Utilities Act. When the matter of the necessity of such approval was called to his attention, he forthwith filed the present application and enclosed with it a copy of the mortgage.

We do not believe that this is a matter in which a public hearing is necessary. In our opinion the money, property or labor to be procured or paid for through the issue of the note is reasonably required for the purpose specified herein, which purpose is not in whole or in part reasonably chargeable to operating expense or to income, therefore,

IT IS HEREBY ORDERED, that R. Donnell be, and he hereby is authorized to issue his promissory note in the principal amount of \$8,000.00 payable on or before January 1, 1935, with interest at the rate of seven percent per annum, for the purpose of financing in part the cost of the real property and warehouse building, referred to herein, and to execute a mortgage substantially in the same form as the mortgage filed in this proceeding to secure the payment of said note.

The authority herein granted is subject to the following conditions:

- (1) The authority herein granted to execute a mortgage is for the purpose of this proceeding only and is

granted only insofar as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which it may be subject.

(2) R. Donnell shall, within sixty (60) days after the effective date of this order, file a verified report as required by the Railroad Commission's General Order No. 24, which order insofar as applicable, is made a part of this order.

(3) The authority herein granted will become effective when R. Donnell has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

DATED at San Francisco, California, this 6th day of April, 1931.

C. Scamney
Leon Whelan
W. A. Cunniff
M. B. Kinn
Fred G. Stewart
Commissioners.

Fee \$25 ⁰⁰/₁₀₀
RAILROAD COMMISSION
OFFICE OF THE SECRETARY
APR 8 1931
[Signature]
Fee # 28835