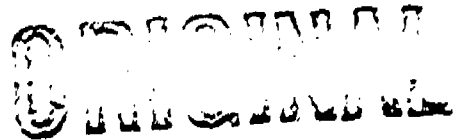


Decision No. 24419

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of )  
 BENTLY J. HARRIS to sell and )  
 RICHARD C. WINCHELL to purchase )  
 an automobile passenger line ) Application No.17912  
 operated between Tustin and Santa )  
 Ana, California. )

BY THE COMMISSION -

OPINION and ORDER

Bently J. Harris has petitioned the Railroad Commission for an order approving the sale and transfer by him to Richard C. Winchell of an operating right for an automotive service for the transportation of passengers between Tustin and Santa Ana, and Richard C. Winchell 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 made a part of the application herein.

The consideration to be paid for the property herein proposed to be transferred is given as \$420.76. Of this sum \$420.76 is declared to be the value of equipment and nothing is declared to be the value of intangibles.

The operating right herein proposed to be transferred was created by Decision No.5413, dated May 21, 1913, on Application No.3522, granting certificate to Foster & Prather for the operation of an automotive passenger service between Tustin and Santa Ana without intermediate points . By Decision No.19942, dated June 29, 1928, on Application No.14786, Foster & Prather were authorized to transfer the right to Harry Kiser who, by Decision No.20451 of November 13, 1928, on Application No.15123, was authorized to transfer it to J. A. Thompson. Thompson was authorized by Decision No.21536, dated September 11, 1929, on Application No.15919 to transfer the right to Bently J. Harris,

applicant herein. The operation is conducted over the following route by authority of Decision No.23155, dated December 10, 1930, on Application No.17039:

Leaving Motor Transit Depot at Third and Spurgeon Streets, Santa Ana, California, going west on Third Street to Broadway, north on Broadway 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 Third Street, east on Third Street to Prospect, south on Prospect to Main Street, west on Main Street to D Street, and north over regular route to Santa Ana, California.

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.

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

3- Applicant Harris shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Winchell shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Harris, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Harris 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 Richard C. Winchell 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 25<sup>th</sup> day of  
January, 1932.

C. L. Arney  
Leon Whitney  
M. J. Conroy  
W. B. Lewis  
Fred G. Stewart  
COMMISSIONERS.