

ORIGINAL

Decision No. 7828

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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Pickwick Stages, Northern Division, Inc.,	}	Case No. 1346.
Complainant.		
vs.	}	
E. Craig, John Doe Moore, Richard Roe		
Bellow, Harry Cole, John One, John Two,		
John Three.		

N. C. Folsom for Complainant.  
 S. V. Wright and J. F. Frick  
 for Defendant, E. Craig.

BY THE COMMISSION:

O P I N I O N

In this proceeding Pickwick Stages, Northern Division, a corporation, alleges that the operation of a stage line by E. Craig, J. H. Moore, R. R. Bellows (hereinafter referred to as W. R. Belles) and Harry Cole between Los Olivos and Santa Maria is not in accordance with the provisions of Chapter 213, Statutes of 1917, in that no authority has ever been secured from the Railroad Commission in accordance with such statutory enactment; that E. Craig sold or leased the right to operate a stage service from Santa Barbara to Santa Maria without securing authority from the Railroad Commission for such transfer; that Charles B. Lloyd, who was granted a certificate of public convenience and necessity by the Railroad Commission on March 2, 1918, (Decision No. 5171 on Application No. 3472), abandoned operation and discontinued service between Santa Maria and Los Olivos and by such abandonment and discontinuance has forfeited all rights secured under said certificate;

that, after the discontinuance of service by Charles B. Lloyd between Los Olivos and Santa Maria, E. Craig at irregular intervals maintained a stage service between Santa Maria and Los Olivos and later operated a daily service without authority, as conferred by a certificate of public convenience and necessity from the Railroad Commission or permits from the governing bodies of the political subdivisions between Los Olivos and Santa Maria; that E. Craig sold or leased the right to operate a stage service between Santa Barbara and Santa Ynez and Santa Maria to J. H. Moore, W. R. Belles, Harry Cole and other defendants herein; that additional service between Santa Barbara and Santa Maria has been established by such defendants; that the right of the defendant, Craig, at no time exceeded the right to operate a stage service between Santa Barbara and Santa Ynez and that the operation by defendant, Craig, between Santa Maria and Los Olivos is without right and contrary to the provisions of Chapter 213, Statutes of 1917; that the operation of a stage service by other defendants herein between any of the points mentioned and based on a purchase or lease of any rights from defendant, Craig, is contrary to the provisions of Chapter 213, Statutes of 1917. The prayer of complainant asked that, if operation of the stage service between Los Olivos and Santa Maria is found to be conducted and carried on by E. Craig, said defendant be prohibited and restrained from continuing the operation of such service; that, if the other defendants herein mentioned are maintaining service between Santa Barbara and Santa Maria and intermediate points under any form of lease or alleged purchase of rights from defendant, Craig, such defendants and each of them be prohibited and restrained from operating any stage line service between Santa Barbara and Santa Maria and

intermediate points; that, if it should be determined that through a purported lease or sale defendant, Craig, has ceased to operate his service between Santa Barbara and Santa Ynez, all rights had by reason of operation prior to May 1, 1917, should be cancelled and set aside by reason of such abandonment of service and that he be prohibited and restrained from further operation; that the operative rights of Charles B. Lloyd accruing by reason of certificate granted in Decision No. 5171 of the Railroad Commission on Application No. 3472 be cancelled and set aside by reason of the abandonment of service by said defendant, Lloyd, between Los Olivos and Santa Maria and intermediate points; that the rights of Harry Cole accruing by reason of operation prior to May 1, 1917, be cancelled and set aside account abandonment of service between Los Olivos and Santa Maria and intermediate points.

Defendant, E. C. Craig, filed his answer denying that defendant, Cole, abandoned operations or discontinued service between Santa Maria and Los Olivos and alleging that said defendant, Cole, transferred his runs to Charles D. Lloyd; denies that Charles D. Lloyd abandoned operation and discontinued service between Santa Maria and Los Olivos and alleges that said Lloyd and defendant, Craig, at all times after the transfer by defendant, Cole, to defendant, Lloyd, operated a joint schedule between Santa Maria and Santa Barbara until about the first day of August, 1918, at which time said Lloyd transferred and assigned his stage business to defendant, Craig, and that thereafter defendant, Craig, has continuously maintained the above mentioned joint schedule and has protected the run; denies that defendant, Craig, on or about May, 1919, or at any other time sold and leased the right to operate a stage service

between Santa Barbara to Santa Ynez to defendants, Cole, Moore, Bellows or any other person or persons; denies that defendant, Craig, has at any time exceeded his right to operate stage service between Santa Barbara and Santa Ynez or that the operation of a stage line between Santa Barbara and Los Olivos is without right or contrary to the provisions of Chapter 213, Statutes of 1917.

Defendants, Harry Cole, James Moore and W. R. Belles filed answer denying that defendant, Cole, abandoned operations and discontinued service between Santa Maria and Los Olivos alleging that he transferred said run to Charles B. Lloyd; denies that Charles B. Lloyd abandoned operations and discontinued service between Santa Maria and Los Olivos and alleged that said Lloyd and defendant, E. Craig, at all times after the transfer by defendant, Cole, to defendant, Lloyd, operated a joint schedule between Santa Maria and Santa Barbara until about August 1, 1918, at which time Lloyd transferred and assigned his stage business to defendant, E. Craig, and that thereafter defendant, Craig, has continuously maintained said joint schedule and protected the run; denies that defendant, Craig, on or about May, 1919, sold or leased the right to operate a stage service between Santa Barbara and Santa Ynez to defendants, Cole, Moore and Belles, or that such or any sale or lease was ever made by defendant, Craig, to such defendants and allege that, if the Railroad Commission can and will authorize such transfer, defendants, Cole, Moore and Belles, now employees of defendant, Craig, in the operation of the stage line run referred to, will secure from said Craig the right to operate such stage line.

A public hearing on this

matter was conducted by Examiner Handford at Santa Maria on May 6, 1920, at which time the matter was duly submitted and is now ready for decision.

E. C. Craig, defendant herein, acquired operative rights between Santa Barbara and Santa Ynez and intermediate points by reason of operating a stage line on May 1, 1917, such date being that recognized by the legislature as the date on which operators in good faith were not required to secure a certificate of public convenience and necessity from the Railroad Commission and permits from the governing bodies of the various political subdivisions through which a route operated. Tariff of E. C. Craig Stage Line designated as Local Passenger Tariff No. I (C. R. C. No. I.) issued May 1, 1917, to be effective May 1, 1917, was filed by E. C. Craig with the Railroad Commission on July 9, 1917. On January 22, 1918, Charles B. Lloyd filed an application with the Railroad Commission for a certificate of public convenience and necessity to operate a stage or truck service between Santa Maria and Los Olivos, such application being assigned Number 3472 on the Commission's docket. After a public hearing at Santa Maria, Decision No. 5171 was issued by the Railroad Commission on March 2, 1918, granting the desired certificate with the provision that a supplemental order should be obtained evidencing the filing of the local permits, as required by Section 3 of Chapter 213, Statutes of 1917, and on April 29, 1918, under Decision No. 5342, the Commission by its first supplemental order acknowledging the filing of the certified copies of permits issued by the Board of Supervisors of the County of Santa Barbara and the Board of Trustees of the City of Santa Maria.

The following extract from the opinion in Decision

No. 5171 is of interest in this proceeding:

"Applicant has been operating since January 14, 1918, over the route in question, twenty-five miles of which is paved.

He purchased for \$500.00 the supposed right to operate said line from one Harry Coles. It was assumed by the parties to the transaction that because Mr. Coles has been operating prior to May 1, 1917, he had a transferable right under Chapter 213, Laws of 1917. The only effect of the statute upon those operating in good faith prior to said date is to exempt them from the necessity of procuring local permits from local authorities and certificates of public convenience and necessity from the Railroad Commission. The right recognized by the statute is personal and is not transferable."

The records of the Railroad Commission show that the Los Alamos and Santa Maria Valley Stage Line, Harry Cole, Proprietor, first filed Local Passenger Tariff No. 1 (C. R. C. No. 1) on February 24, 1917, tariff to become effective March 1, 1917, also Local Passenger Tariff No. 2 (C. R. C. No. 2), cancelling Local Passenger Tariff No. 1 filed June 29, 1917, effective July 1, 1917; also notice of transfer from Harry Coles to Charles B. Lloyd dated January 12, 1918; also notice of adoption of tariffs formerly issued by Harry E. Coles, as proprietor of the Los Alamos and Santa Maria Valley Stage Line to Charles B. Lloyd effective January 18, 1918; Joint Passenger Tariff No. 1 (C. R. C. No. 3) issued by Charles B. Lloyd, as proprietor of Los Alamos and Santa Maria Valley Stage Line, showing through rates between Santa Maria and Santa Barbara in which Craig Stages, E. C. Craig, proprietor, participated by concurrence Form P. 2, No. 1 filed May 13, 1918, to be effective May 14, 1918. The files of the Commission show no joint rates as having been filed by E. C. Craig and Harry Cole when the latter

claimed proprietorship of the Los Alamos and Santa Maria Valley Stage Line.

It appears from the record in this proceeding that Charles B. Lloyd, who was granted an operative right in the Commission's Decision No. 5171 issued under date of March 2, 1918; on Application No. 3472 discontinued operation without authority of the Commission, such unauthorized discontinuance constituting a relinquishment of whatever rights were conveyed by the Commission under such certificate; that E. C. Craig commenced unauthorized operation between Los Olivos and Santa Maria over the line formerly operated by Charles B. Lloyd. No tariffs or schedules were filed with the Railroad Commission covering such operation nor could same have been accepted until defendant, E. C. Craig, had secured a certificate of public convenience and necessity from the Railroad Commission; Craig furnishing the unauthorized operation under the joint tariff hereinabove referred as having been filed by E. C. Craig and Charles B. Lloyd under date of May 13, 1918 ( C. R. C. No. 3 ) Joint Passenger Tariff No. 1.

The testimony in this proceeding shows that on or about June 1, 1919, defendant, Craig, entered into an agreement with James H. Moore for the operation of the stage line heretofore operated by Craig between Santa Barbara and Santa Maria and that a written agreement was entered into under date of June 20, 1919, whereby Craig leased to Moore, for a term of two years at a monthly rental of \$30.00 for each car operated by Moore over the route, all rights, easements and franchises held by Craig and covering operation between Santa Barbara and Santa Maria and intermediate points; the lessee agreeing not to sublet the line or any portion thereof without the written per-

mission of the lessor. An agreement was also entered into under date of June 20, 1919, by which two cars were to be sold to James H. Moore by defendant, E. C. Craig, for a total amount of \$2,400.00 payable at the rate of \$100.00 per month on each car together with interest on all deferred payments at the rate of eight percent per annum. The purchaser to pay all taxes, licenses and assessments levied against such property after the first day of June, 1919.

The evidence in this proceeding is conclusive that defendant, E. C. Craig, on or about June 1, 1919, made a verbal arrangement with James H. Moore for the lease of the line - Santa Barbara to Santa Maria - and that on June 20, 1919, a written lease was executed confirming the verbal understanding. No cars were operated by the defendant, Craig, in stage service over the line after the lease was entered into and the line continued to be operated by James H. Moore until April, 1920, at or near which time the defendant, Craig, took over the equipment held by Moore under sales agreement account non-payment of agreed installments. The evidence also indicates that tickets were sold from Santa Barbara and other points over the portion of the line - Los Olivos to Santa Maria - although the contention was made at the hearing by the attorneys for defendant, E. C. Craig, that, if tickets were sold or fares accepted over the portion of the line between Los Olivos and Santa Maria, such actions were beyond the control of defendant, Craig, in that he was not operating the line, same having been leased to James H. Moore.

The conditions regarding claims for operative rights over the portion of the line between Los Olivos and Santa Maria, as revealed by the testimony in this proceeding, indicate that



defendant, E. C. Craig, attempted to operate such portion of the line without legal authority and further that the leasing of his line from Santa Barbara to Santa Maria, (no operative rights existing over the portion between Los Olivos and Santa Maria), cancelled any operative right that existed between Santa Barbara and Los Olivos for the reason that the provisions of Chapter 213, Statutes of 1917, provided no method by which a lease of a line could be made; all transportation companies, as defined by such statute operating as common carriers being required to secure a certificate of public convenience and necessity from the Railroad Commission and permits from the governing bodies of all political subdivisions through which a route operated. Chapter 280, Statutes of 1919, which amended Chapter 213, Statutes of 1917, provided a method for the sale, assignment, lease, transfer or inheritance of operative rights requiring, however, authorization by the Railroad Commission. Chapter 280, Statutes of 1919, was effective July 22, 1919, and the lease from Craig to Moore was dated June 20, 1919, confirming the terms of a verbal arrangement which, according to the testimony in this case, became effective June 1, 1919.

After careful consideration of the evidence in this proceeding, we are of the opinion and find the following facts:

FIRST: That prior to May 1, 1917, defendant, E. Craig, was operating in good faith an automobile stage service between Santa Barbara and Santa Ynez and intermediate points; that prior to May 1, 1917, Harry Cole was operating an automobile stage service between Santa Maria and Los Olivos; that Harry Cole abandoned operation between Santa Maria and Los Olivos; such suspension of service constituting abandonment of

any operative rights obtained by the fact of his having operated a stage line prior to May 1, 1917, in accordance with the provisions of Chapter 213, Statutes of 1917.

SECOND: That Charles B. Lloyd was granted a certificate of public convenience and necessity by the Railroad Commission for the operation of an automobile stage line between Santa Maria and Los Olivos, Decision No. 5171 under date of March 2, 1918, and Decision No. 5342 under date of April 29, 1918, having been issued in Application No. 3472.

THIRD: That Charles B. Lloyd suspended operation without receiving permission from the Railroad Commission for such suspension, such suspension of operation without authority constituting a relinquishment of operative rights, as conferred by the decisions of the Railroad Commission hereinabove referred to.

FOURTH: That E. C. Craig leased to J. H. Moore, in accordance with the terms of a written instrument dated May 20, 1919, the operative rights of a stage line between Santa Barbara and Santa Maria, said Craig possessing at such time no operative rights excepting those between Santa Barbara and Santa Ynez, Los Olivos being an intermediate point on such line; that said E. C. Craig operated no cars over such line after his lease to J. H. Moore until some time in the spring of 1920 at which time he took over the equipment formerly sold by him to Moore under lease contract and again commenced the operation of the entire line Santa Barbara to Santa Maria.

FIFTH: That the transfer of the operative rights heretofore held by defendant, E. C. Craig, between Santa Barbara and Los Olivos to J. H. Moore under the agreement dated June 20,

1919, and the cessation of operation thereafter by E. C. Craig constituted a relinquishment of such operative rights, as conferred by the legislative enactment known as Chapter 213, Statutes of 1917, in that no provision existed in such enactment authorizing a transfer of operative rights unless a certificate of public convenience and necessity was obtained from the Railroad Commission and permits from the governing bodies of all political subdivisions through which the route operated. The resumption of service by defendant, E. C. Craig, in the spring of 1920, after J. H. Moore, the lessee, under the above mentioned agreement failed to meet the financial terms of such agreement, was unauthorized and could not be undertaken until a certificate of public convenience and necessity had been received from the Railroad Commission.

O R D E R

A public hearing in the above entitled proceeding having been held, the matter having been duly submitted and the Commission being fully advised and basing its order on the findings of fact set forth in the foregoing opinion.

IT IS HEREBY ORDERED,

FIRST: That no operation of an automobile stage line as a common carrier over the highways between Los Olivos and Santa Maria be conducted hereafter by defendant, E. C. Craig, until such time as a certificate of public convenience and necessity be secured from this Commission, as provided for in Chapter 213, Statutes of 1917, as amended by Chapter 280, Statutes of 1919.

SECOND: That no operation of an automobile stage line between Santa Barbara and Los Olivos and intermediate points be conducted hereafter by defendant, E. C. Craig, until a certi-

ificate of public convenience and necessity will have been secured from the Railroad Commission in accordance with the provisions of the above mentioned statutory enactment.

THIRD: That the operative rights of Charles B. Lloyd, as granted by the Railroad Commission in its Decision No. 5171 and Decision No. 5342 on Application No. 3472, no longer exist by reason of unauthorized suspension of service without the permission of the Railroad Commission; unauthorized suspension of service being deemed to constitute a relinquishment of said operative rights.

FOURTH: That the operative rights of Harry Cole existing by reason of operation prior to May 1, 1917, and in accordance with the provisions of Chapter 213, Statutes of 1917, are no longer existant by reason of his unauthorized suspension of service; such suspension of service, when unauthorized by this Commission being deemed a relinquishment of such operative rights.

The complaint in this proceeding as to defendants, W. R. Belles, John One, John Two, John Three, is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 9<sup>th</sup> day of June, 1920.

H. H. Bunting  
Frank Martin  
H. H. Bunting  
Frank Martin  
Commissioners.