

Decision No. 23458

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HARRY DRAKE, conducting as sole owner certain automobile passenger stage lines under the name of TERMINAL ISLAND TRANSIT COMPANY, as transferer, and PETE DRAKE, as transferee, for an order authorizing the transfer of property necessary and useful in the performance of duties to the public, together with a certain permit and all rights thereunder, of line operated on Terminal Island between Ferry Landing in East San Pedro and Anaheim and Avalon Streets in Wilmington, California.

ORIGINAL

Application No. 23458

BY THE COMMISSION:

O P I N I O N

Harry Drake has petitioned the Railroad Commission for an order approving the transfer by him to Pete Drake of an operative right for the automotive transportation of passengers as a common carrier between Long Beach and Los Angeles (Wilmington District) and intermediate points. Pete Drake has petitioned for authority to acquire said operative right and hereafter to operate thereunder.

The transfer herein proposed is not by way of sale but is a gift from applicant Harry Drake to his son Pete Drake. Applicants aver that for the last several years Pete Drake, at the request of his father Harry Drake, has been engaged in the management and operation of the right proposed to be transferred and that Harry Drake desires to secure his son in the future operation, management, control and ownership of the operative right proposed to be transferred, together with all automotive equipment used in providing service thereunder.

The operative right proposed to be transferred was acquired by applicant Harry Drake under the authority of the Commission's Decision No. 25991, dated May 29, 1933, on Application No. 18883.

This does not appear to be a matter in which a public hearing is necessary and the application will be granted.

Pete Drake 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.

ORDER

IT IS ORDERED that Harry Drake is hereby authorized to transfer to Pete Drake and Pete Drake is hereby authorized to acquire the operative right and property referred to in the foregoing opinion, in accordance with the provisions as set forth in the application, and hereafter to operate thereunder, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

2. Applicant Harry Drake shall within thirty (30) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, unite with applicant Pete Drake in common supplement to the tariffs on file with the Commission

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covering the service given under the operative rights herein authorized to be transferred, applicant Harry Drake withdrawing, and applicant Pete Drake accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Harry Drake shall within thirty (30) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, withdraw all time schedules filed in his name with the Railroad Commission and applicant Pete Drake shall within thirty (30) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, file in triplicate, in his own name, time schedules covering service heretofore given by applicant Harry Drake, which time schedules shall be 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 obtained.

5. No vehicle may be operated by applicant Pete Drake 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.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 21st day of
May, 1940.

Ray & Riley
James R. Drake
Ray & Riley
H. L. M.
Justus J. Coe
COMMISSIONERS