

Decision No. 36418

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of J. G. JONES, to sell, and J. A. BARDIN, to purchase, an automobile bus line known as the JONES TRANSPORTATION SERVICE, operated between California State Polytechnic School and San Luis Obispo, California, between Security City and San Luis Obispo, California, and between points within the City of San Luis Obispo.

ORIGINAL

Application No. 25532

BY THE COMMISSION:

O P I N I O N

The application herein requests authorization for the transfer of a passenger stage business, including the operative right and three White buses, from J. G. Jones to J. A. Berdin. A certificate authorizing service between San Luis Obispo, Security City, California Polytechnic School and all intermediate points was issued to Jones on December 9, 1941. (Decisions Nos. 34833 and 36026, Application No. 24583.)

The total consideration involved is almost \$9,000. The applicants assert that \$1,000 of this sum represents the value of the operative right, and the remainder the value of the equipment. Such may be the understanding between the parties, but it should be clearly understood that the authorization hereinafter granted is not an approval of the purchase price in any respect, nor a finding of value for the purpose of rate fixing, issuance of securities, accounting, or for any other purpose. No examination has been made by this Commission, nor by its authorized representatives, of the physical assets involved in this transfer as to their existence, value or ownership.

J. A. Bardin is placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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.

The transfer as proposed herein appears to be in the public interest and the application will therefore be granted. A public hearing is not necessary.

O R D E R

IT IS ORDERED:

(1) That J. G. Jones is authorized to sell and transfer to J. A. Bardin, and J. A. Bardin is authorized to acquire, the passenger stage operative right created by Decision No. 34833, rendered December 9, 1941, as amended by Decision No. 36026, rendered December 15, 1942, and the automotive equipment described in the agreement attached to the application and marked Exhibit A, which agreement said J. G. Jones and J. A. Bardin may execute.

(2) That the authority herein granted is subject to the provisions of section 52 (b) of the Public Utilities Act, and further to the condition that J. A. Bardin, his successors and assigns, shall never claim before this Commission or any court or other public body, a value for said operative rights, or claim as the cost thereof an amount in excess of that paid for said rights by those to whom said rights were originally granted.

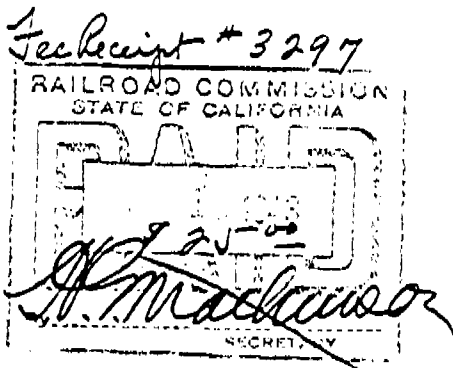
(3) That applicants herein shall comply with the rules of the Commission's General Order No. 79 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission.

(4) The authority herein granted shall become effective when there has been paid to the Railroad Commission the minimum fee of \$25.00 required by section 57 of the Public Utilities Act.

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

Dated at San Francisco, California, this 8th day of June, 1943.

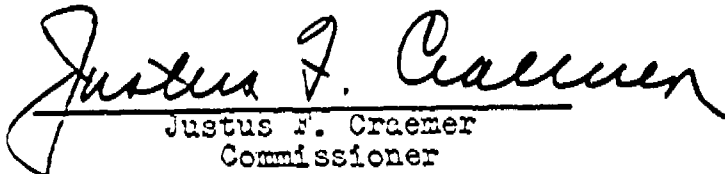
Francis D. Havenner



Richard Kachig
Walter Olson
COMMISSIONERS

By Commissioner Craemer

I concur in the result only. The Commission should authorize the sale and acquisition of the operative right here involved. However, it is difficult for me to understand the meaning or purpose of what is said in the opinion and order relative to the values agreed upon by the parties. No issue is raised in this matter to justify any such discussion, and, if there were, I would deem it more appropriate for the Commission to declare without ambiguity just what it has in mind.


Justus F. Craemer
Commissioner