

Decision No. 10425

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 J. O. BRAY to sell, and THOMAS PETERSEN ) Application No. 14459  
 to buy the automobile freight line oper- )  
 ated between Fresno, Caruthers, )  
 Riverdale and Lanare. )

BY THE COMMISSION -

**ORIGINAL**OPINION and ORDER

J. O. Bray has petitioned the Railroad Commission for an order approving the sale and transfer by him to Thomas Petersen of operating rights for an automobile service for the transportation of property between Fresno and Lanare, and Thomas Petersen has asked for authority to purchase and acquire said operating rights and to hereafter operate thereunder, the sale and transfer to be in accordance with the terms set forth in the application herein.

The consideration to be paid for the property herein proposed to be transferred is approximately \$600, the actual amount being the sum owing by Bray to the State Board of Equalization as taxes. This amount is declared by applicants to be the value of intangibles, no equipment being involved.

The operating rights herein proposed to be transferred were acquired as follows:

Decision No. 12286, dated June 26, 1923, and issued on Application No. 9002 -- A. R. Peart authorized to operate auto trucking service for the transportation of freight and express between Fresno and Caruthers via Elm Avenue and Mountain View Avenue.

Decision No. 13521, dated May 5, 1924, and issued on Application No. 9994 -- J. R. Peart authorized to sell to J.O. Bray, operating right authorized by Decision No. 12286.

Decision No. 5914, dated November 14, 1918, and issued on Application No. 4198 -- O.L. Higdon authorized to operate auto trucking service for the transportation of freight and express between Fresno, Camden and Riverdale.

Decision No.7509, dated April 30, 1920, and issued on Application No.5222 - O.L. Wigdon authorized to operate freight and express service between Riverdale and Lanare, in connection with and as part of Fresno-Riverdale service.

Decision No.13994, dated August 30, 1924, and issued on Application No.10413 -- O.L. Wigdon authorized to transfer to J.O. Bray operating rights authorized by Decision No.5914 and No.7509.

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.

Thomas Petersen 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 J.O. Bray shall immediately unite with applicant Thomas Petersen in common supplement to the tariffs on file with the Commission, applicant Bray on the one hand withdrawing, and applicant Petersen on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Bray shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Petersen shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Bray which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Bray, 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 Petersen 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 \_\_\_\_\_ day of \_\_\_\_\_, 1928.

Leon Whitehall

C. S. Seaver

David R. Ricketts

M. J. Carr  
COMMISSIONERS.