

Decision No. 20533

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 O. W. TALBOT and CURTIS C. BENDER)
 to sell, and of TONEY COREY to pur-) Application No. 15125
 chase an undivided one-half interest)
 in an automobile stage line between)
 Sacramento and Plymouth, California.)

BY THE COMMISSION -

ORIGINALOPINION and ORDER

O. W. Talbot and Curtis C. Bender, co-partners, have petitioned the Railroad Commission for an order approving the sale and transfer to Toney Corey of O. W. Talbot's one-half interest in an operating right for an automotive service for the transportation of passengers and property between Sacramento and Plymouth, and Toney Corey has asked for authority to purchase and acquire said one-half interest and with Curtis C. Bender as a partner to operate said service. The sale and transfer is to be in accordance with an agreement, a copy of which, marked Exhibit "A" is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$1250. Of this sum \$1000 is declared by applicants to be the value of equipment and \$250 is said to be the value of intangibles.

The operating right, a one-half interest in which is herein proposed to be transferred, was granted by the Railroad Commission in its Decision No. 6619, dated August 29, 1919, and issued on Application No. 4757, to O. W. Talbot and A. E. Kinsworth, co-partners, who were authorized to transport passengers, baggage and light freight (limit single unit 100 pounds) between Sacramento and Plymouth and intermediate points, the application for a certificate naming as intermediates Perkins, Walsh Station, Eagle Nest, Slough House, Bridge House, Consumne, Michigan Bar, Forest Home and

Four Corners. With the approval of the Commission, as shown in its Decision No.8454, dated December 20, 1920, and issued on Application No.6371, Ainsworth transferred his interest in the operating right to Louis Seely, one of the applicants herein. By Decision No.9233, dated December 3, 1921, and issued on Application No.7206, Talbot and Seely were authorized to operate between Sacramento and Plymouth via Central House. By Decision No.18865, dated October 4, 1927, and issued on Application No.14020, the Commission authorized Seely to transfer his interest to Curtis G. Bender, one of the applicants herein.

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.

Curtis G. Bender and Toney Corey are 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- Applicants Talbot & Bender shall immediately unite with applicants Bender & Corey in common supplement to the tariffs on file with the Commission, applicants Talbot & Bender on the one hand withdrawing, and applicants Bender and Corey on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Talbot & Bender shall immediately withdraw time schedules filed in their names with the Railroad Commission and applicants Bender and Corey shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicants Talbot & Bender, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the names of applicants Talbot & Bender, 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 applicants Bender & Corey unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 30th day of November, 1928.

Leon Whitehall

Chairman

M. J. Carr
COMMISSIONERS.