

Decision No. 23919

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 B. L. HALVERSON to sell and )  
 E. H. BARTLETT to purchase an automo- ) Application  
 bile passenger and freight line oper- ) No.17486  
 ated between Modesto and La Grange, )  
 California. )

BY THE COMMISSION -

OPINION and ORDER

ORIGINAL

B. L. Halverson, operating under the fictitious name of Modesto La Grange Stage, has petitioned the Railroad Commission for an order approving the sale and transfer by him to E.H. Bartlett of an operating right for an automotive service for the transportation of passengers and property between Modesto and La Grange, and E. H. Bartlett has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer 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 \$500.00. Of this sum nothing is declared to be the value of equipment and \$500.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was established by prescriptive operation by Star Auto Stage Association. This right was transferred to one Cadrett by Decision No.7795, on Application No.5162, and transferred to B. L. Halverson, co-applicant herein, by Decision No.8707 on Application No.6469. The right involved in all these transactions included the transportation of passengers, baggage and express between Modesto and La Grange, serving as intermediates Empire, Halfway House, New Hope, Hinman Ranch, Waterford, Hickman,

Robert's Ferry and Bassos, and this right remains in Halverson's name.

By Decision No.8610, on Application No.6511, Halverson acquired certificate for the transportation of freight between Modesto and La Grange.

By Decision No.11502, on Application No.8128, the above rights were consolidated and a new certificate granted covering all operations under preceding rights. It is this consolidated right that is now sought to be transferred to Bartlett.

By Decisions Nos.8707 and 9320, on Applications Nos.6469 and 6921, certificates were granted to Halverson to extend passenger and freight operation from La Grange to Don Pedro Dam. By authority of Decision No.12311, on Application No.9160, Halverson was authorized to discontinue the extension of service from La Grange to the dam.

While it thus appears that Halverson is in possession of the existing rights, investigation by this Commission reveals that Halverson transferred the business to Howard Bartlett, who again transferred it to E.H. Bartlett, all without the approval of this Commission, as required by law. This was done by applicants in ignorance of legal requirements. To comply with the law the instant application has been filed.

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.

E. H. Bartlett 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 B. L. Halverson shall immediately unite with applicant E.E. Bartlett in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Halverson on the one hand withdrawing, and applicant Bartlett on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Halverson shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Bartlett shall immediately file, in duplicate, in his name time schedules covering service heretofore given by applicant Halverson, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Halverson, 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 Bartlett 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 3rd day of

August, 1931.

C. A. Seamy  
Leon Whitely  
M. A. Carr  
W. B. Jones  
Fred G. Stewart  
COMMISSIONERS.