

McS

Decision No. 11202

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

-ooo-

In the Matter of the Application of )  
C. M. BLABON, J. R. CLEAVELAND and )  
D. MOYERS for the approval of an :  
agreement to transfer a certain part : Application No. 7803  
of the right to operate an automobile )  
stage line between Santa Cruz and :  
Fresno, California. )

Harry A. Encell for Applicants.

BY THE COMMISSION.

OPINION

C. M. Blabon and J. R. Cleaveland, co-partners, together with D. Moyers have filed a joint application with the Railroad Commission in which they petition for an order authorizing the co-partnership to sell and Moyers to purchase that portion of the operative right of the co-partners between Fresno and Los Banos operated in connection with a stage line, Fresno to Santa Cruz via Los Banos.

A public hearing on the above entitled application was held on June 16th, 1922, before Examiner Eddy at San Francisco, at which time the matter was submitted and it is now ready for decision.

Under Decision No. 7648 in Application No. 5192, dated May 27, 1920, Blabon and Cleaveland, co-partners, were granted a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers between Fresno and Santa Cruz, via Los Banos, and Hollister; such certificate containing restrictions with reference to local service between Fresno and Los

Banos and Watsonville and Santa Cruz. The Fresno-Los Banos restriction was required due to the fact that Moyers, one of the applicants in the present proceeding, was at the time rendering a local service between such points and that there was no further necessity for additional local service.

The co-partners now propose to sell that section of their operative right to Moyers under the assumption that Moyers' local service could adequately care for the passenger service destined, Fresno to Santa Cruz, through the operation of a connecting car transferring passengers at Los Banos.

The consideration involved is given as the sum of \$2,250.00 and includes no physical property whatsoever, but solely a section of a franchise heretofore issued to the co-partners. An application of this kind gives rise to a question of policy, which we believe should be at this time determined.

The certificate, a portion of which it is herein sought to sell, was obtained by the co-partners upon a showing that public necessity required the operation of a through stage service from Fresno to Santa Cruz. Moyers, one of the applicants herein, protested the granting of such certificate between Fresno and Los Banos, and was at the time rendering a similar service to that which applicants now contend would be adequate to care for through passengers by transferring at Los Banos. We are of the opinion that when an applicant obtains a certificate authorizing the operation of a through passenger service upon a showing made at the time that public necessity required such through service, it is not in the interest of the traveling public to permit him to thereafter sell for a substantial sum, sections or portions of such certificate on the ground that the traveling public would be adequately served by transferring from one stage line to another

at a connecting point.

If conditions have changed in this territory and there is no further necessity for the operation of the Santa Cruz-Fresno stages between Los Banos and Fresno, and it is the belief of the operators of this stage line that the traveling public will receive adequate service through transfer at Los Banos, their proper course of procedure would be the filing of an application for the modification of their existing operative right and upon a sufficient showing their existing operative right could be amended through an authorization permitting abandonment of the Los Banos-Fresno section.

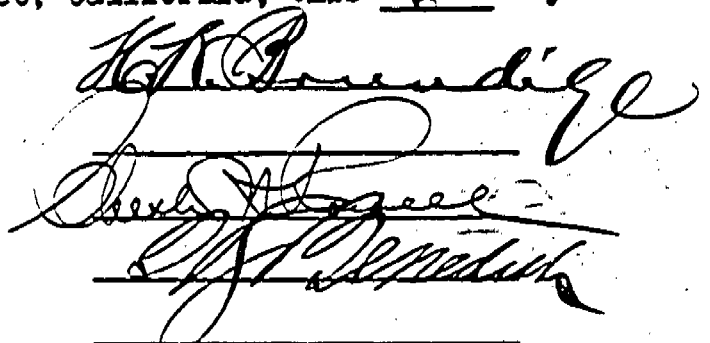
The Commission does not look with favor upon an applicant securing a franchise upon a showing that public necessity requires a specific through service and subsequently selling sections of such certificate for substantial amounts, and thereafter rendering a service different than the one their original operative right authorized.

#### ORDER

A public hearing having been held in the above entitled application, evidence submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that the above entitled application be, and the same hereby is denied.

Dated at San Francisco, California, this 6<sup>th</sup> day of November, 1922.

  
\_\_\_\_\_  
Commissioners