

Decision No. 28969

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
B. LIEBERG to sell, and VERNON B.
BRADBURY to purchase and mortgage
an automobile freight line operated
between Menlo Park and San Francisco,
California.

Application No. 20643

BY THE COMMISSION:

ORIGINAL

OPINION

This is an application for an order authorizing B. Liedberg to sell and transfer auto truck operative rights and properties to Vernon B. Bradbury, and authorizing Vernon B. Bradbury to execute a chattel mortgage and to issue a promissory note for \$5,000. in acquiring such rights and properties.

The application shows that B. Liedberg, doing business under the firm name and style of Menlo Park & San Francisco Parcel Delivery is, and for some time has been, engaged in transporting parcels by auto truck, under and by virtue of prescriptive operating rights, between Menlo Park and San Francisco and intermediate points and that in such operations he uses one Ford 1-1/2 ton truck. The annual financial reports heretofore filed with the Commission by said Liedberg for the last ten calendar years show, among other things, results from the operation of the line, as follows:-

<u>Calendar Year</u>	<u>Operating Revenue</u>	<u>Operating Expenses</u>	<u>Profit for Year</u>
1935	\$2,920.80	\$1,273.20	\$1,647.60
1934	2,637.85	1,299.89	1,337.96
1933	2,787.10	1,351.59	1,435.51
1932	3,091.75	1,292.14	1,799.61
1931	3,302.75	1,316.78	1,985.97
1930	3,755.45	1,058.94	2,696.51
1929	3,138.85	1,066.46	2,072.39
1928	2,789.05	1,048.08	1,740.97
1927	2,821.75	1,069.06	1,752.69
1926	2,791.80	2,519.40	272.40

It is recited that applicant Liedberg now proposes, and has made arrangements, to sell and transfer his operative rights and equipment to Vernon B. Bradbury for the sum of \$5,000., of which \$250. is said by applicants to represent the value of the equipment and \$4,750. the value of the rights. It appears that of the purchase price applicant Bradbury proposes to pay the sum of \$3,500. in cash, immediately upon approval of the application, with funds to be borrowed by him from Madeleine Haas and to pay the remaining \$1,500. in monthly installments commencing November 1, 1936. To secure the payment of the two amounts, applicant Bradbury has arranged to issue a promissory note for \$5,000. payable to Samuel Lilienthal, as trustee, for the ratable benefit of Madeleine Haas and B. Liedberg, and to execute a chattel mortgage covering the operative rights and equipment to be acquired by him.

A copy of the proposed chattel mortgage and a copy of the \$5,000. note are attached to the application as Exhibits "C" and "B" respectively. Exhibit "B" shows that the note is dated as of June 24, 1936 with interest from July 1, 1936 at the rate of five percent. per annum, payable semi-annually, and with the principal payable in installments of \$75. or more on the first day of each and every month, beginning November 1, 1936 and continuing until said principal and interest have been paid. From the declaration of trust (Exhibit "D") signed by Samuel Lilienthal, trustee, it appears that all payments collected by him on the note will be remitted in the amount of seventy percent. thereof to Madeleine Haas and in the amount of thirty percent. to B. Liedberg.

It will be observed that a substantial part of the consideration being paid by Vernon B. Bradbury for the properties of B. Liedberg has been assigned to operative rights. Though the order herein authorizes the transfer of the properties mentioned in the application, it should be understood that we are not making a finding of the value of the properties.

In making the order herein the Commission wishes to place all the parties to these transactions 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, which monopoly feature, however, may be changed or destroyed at any time by the state, which is not in any respect limited in the number of rights which may be given.

We believe that the note in question should be issued as a non-negotiable note.

ORDER

Application having been filed for an order authorizing the transfer of operative rights and properties and the execution of a chattel mortgage and note, and the Commission being of the opinion that this is not a matter in which a public hearing is necessary, that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the note is reasonably required, therefore,

IT IS HEREBY ORDERED that B. Liedberg be, and he hereby is, authorized to sell and transfer, on or before September 30, 1936, the operative rights and properties referred to in the foregoing opinion, to Vernon B. Bradbury, and Vernon B. Bradbury be, and he hereby is, authorized, in acquiring such rights and properties, to issue on or before September 30, 1936, a non-negotiable five percent. note for \$5,000. payable as set forth in Exhibit "B" attached to the application herein, and to execute a chattel mortgage substantially in the same form as that filed as Exhibit "C", attached to the application herein, provided that said chattel mortgage be modified so as to provide for the issue of a non-negotiable note.

The authority herein granted is subject to the following conditions:-

1. The consideration to be paid for the properties 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 properties for rate fixing or any purpose other than the transfer herein authorized.

2. The order herein authorizing the transfer of operative rights shall in no way be construed to be determinative of the extent or value of said operative rights.

3. B. Liedberg and Vernon B. Bradbury shall within twenty(20) days after the effective date of this order, join in common supplement, to be filed in triplicate, to the tariffs on file with the Commission in the name of the transferor, said B. Liedberg on the one hand withdrawing and Vernon B. Bradbury on the other hand accepting and establishing as his own such tariffs and all effective supplements thereto.

4. B. Liedberg within twenty(20) days after the effective date of this order shall withdraw immediately time schedules filed in his name with the Railroad Commission and Vernon B. Bradbury shall file, in duplicate, in his own name, new time schedules which shall be identical with those now on file in the name of B. Liedberg, or time schedules satisfactory to the Commission.

5. The rights and privileges herein authorized to be transferred may not hereafter be sold, leased, transferred nor assigned, nor service thereunder discontinued, increased or changed by Vernon B. Bradbury unless the written consent of the Railroad Commission has first been secured.

6. No vehicle may be operated by Vernon B. Bradbury under the authority granted, 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.

7. The authority herein granted to execute a chattel mortgage is for the purpose of this proceeding only, and is given only insofar as this Commission might have jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said chattel mortgage as to such other legal requirements to which it may be subject.

8. Vernon B. Bradbury, within thirty(30) days after the execution of the note herein authorized, shall file a copy thereof with the Railroad Commission.

9. The authority herein granted to sell and transfer operative rights and properties and to execute a note and chattel mortgage shall lapse and become void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein, unless for good cause shown, the terms shall be extended by further order of the Commission.

10. The authority herein granted will become effective when Vernon B. Bradbury has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

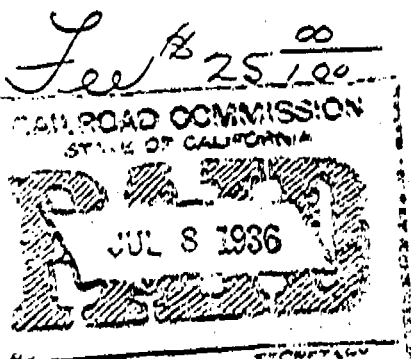
DATED at San Francisco, California, this 7th day of July, 1936.

M. B. Lewis

M. A. Lewis

Walter H. Brown
Frank R. Wallace

Commissioners.



Fee # 32780