

ORIGINAL

Decision No. 39592

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
F. M. SNELL, doing business as
SAN BERNARDINO-HIGHLAND-PATTON MOTOR
COACH LINE, for permission to sell
and transfer said business to
CHARLES C. TOWLE

} Application No. 27809
}
}

O P I N I O N

By the above entitled application F. M. Snell, doing business as San Bernardino-Highland-Patton Motor Coach Line, requests authority to sell to Charles C. Towle and the latter to acquire passenger stage operative rights between San Bernardino, Patton, Highland, Del Rosa, and intermediate points as more particularly described in the following decisions and amendments thereto: Decision No. 31751 in Application No. 22550; Decision No. 37617 in Application No. 25663, Decision No. 38665 in Application No. 26974, Decision No. 38950 in Application No. 26974, and Decision No. 39248 in Application No. 27479.

The application states that the sale and transfer will be for cash in the sum of \$47,250 and that an escrow has been opened with the Citizens National Trust and Savings Bank at San Bernardino with instructions that the purchase price shall be used in part to pay off all the indebtedness against all the equipment and buses involved so that after the sale and transfer there will be no indebtedness against any of the equipment or other personal property involved.

Of the purchase price of \$47,250, it is stated that \$37,256 is the value of equipment, one vacant lot and other personal property, \$1.00 the value of the operative rights and

(1)
 \$9,993 the good will and going concern value.

Applicant Snell reports the following revenues and expenses from his operations for the period January 1, 1942 to August 31, 1946:

	<u>Operating Revenue</u>	<u>Operating Expenses</u>	<u>Net Operating Revenue</u>
1942	\$ 21,020.74	\$ 18,695.10	\$ 2,325.64
1943	71,699.76	57,560.82	14,138.94
1944	95,813.69	85,089.63	10,724.06
1945	59,740.11	47,091.72	12,648.72
* 1946	39,018.84	38,033.82	985.02

(* First 8 months)

Information from the buyer is to the effect that he has had many years experience in urban public transportation of passengers and has a net worth of \$59,000.

San Bernardino Valley Transit Company, which provides a local and interurban service in San Bernardino, protests approval of the application on two grounds. First, that applicant Snell has other certificates in San Bernardino that are not included in the request for transfer, and, second, that applicant and Snell entered into an agreement providing for the issuance and exchange of transfers which was approved by the Commission; that no

(1) The property proposed to be transferred and the stated values are as follows:

7 units of passenger stages	\$ 31,000
1 Ford pick up truck	400
1 Vacant lot in San Bernardino	1,500
Miscellaneous shop and office equipment, tools, supplies etc.	4,356
Operative rights	1
Good will and going concern value	9,993
	<u>\$ 47,250</u>

representation is made in the application that the proposed purchaser will acquire the interests and obligations of Snell in and to such transfer agreement. Protestant requests that the application be granted upon the conditions that the purchaser acquire all the operative rights of Snell in San Bernardino as well as his interest in said transfer agreement.

A review of the application and documents filed in connection therewith show the proposal contemplates the transfer of any and all certificates and operative rights of Snell. After full consideration we do not believe a public hearing in this proceeding is necessary and that the application should be granted. The buyer will be required to assume the obligations of the seller with respect to transfer arrangements or joint fares presently effective with connecting carriers.

Charles C. Towle is hereby placed upon notice that operative rights as such, do not constitute a class of property which may be capitalized or used as an element of value in rate-fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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:

O R D E R

An application having been made requesting authority to transfer operative rights and property and good cause appearing,

IT IS ORDERED as follows:

(1) That F. M. Snell may, after the effective date hereof and on or before January 31, 1947, sell and transfer to Charles C. Towle, and the latter may purchase and acquire the property and operative rights referred to in the foregoing opinion and thereafter operate thereunder.

(2) That applicants shall comply with the provisions of General Order No. 79 and Part IV of General Order No. 93-A by filing in triplicate, and concurrently making effective, appropriate tariffs and time tables within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.

(3) That Charles C. Towle shall file with the Commission, within thirty days after acquiring the properties of F. M. Snell, copies of the journal entries used to record on his books the purchase of said properties and the distribution to primary accounts, and a copy of the bill of sale of said properties.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 4th day of November, 1946.

Harold P. Hills
Justus J. Cassius
Francis J. Dewey
Samuel Powell
A. J. Anderson
Commissioners