

ORIGINALDecision No. 43041

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 GRACE GREY ROBOTHAM, Executrix of)
 the Estate of Norman H. Robotham,)
 deceased, dba TWIN CITIES TRANSIT,)
 to sell and JESSE L. CARR to pur-)
 chase the operative rights and)
 certain property of TWIN CITIES)
 TRANSIT.)

Application No. 33835

In the Matter of the Application of)
 CHARLES R. MAHAN to operate a)
 passenger stage service between)
 Marysville, Yuba County, and Yuba)
 City, Sutter County, California.)

Application No. 33864

Desmond A. Winship, for applicant Grace Grey Robotham,
 also protestant in Application No. 33864.
Manwell and Manwell by Roy Manwell, for applicant
 Jesse L. Carr also protestant in Application
 No. 33864.
Charles R. Mahan, in propria persona also protestant
 in Application No. 33835.
Timothy J. Canty, for the Commission's staff.

O P I N I O N

The first of the above-entitled matters is a joint appli-
 cation in which Grace Grey Robotham, executrix of the estate of her
 husband Norman H. Robotham, deceased, (hereinafter at times referred
 to as seller) and Jesse L. Carr (hereinafter at times referred to as
 purchaser) request the Commission to authorize the sale and transfer
 of passenger stage operative rights between Marysville and Yuba City
 and a terminal building. (1)

(1) The operative rights referred to were granted in the following
 decisions:

<u>Decision No.</u>	<u>Date</u>	<u>Application No.</u>
40317	5/27/47	28419
41178	11/28/48	28946
43752	2/1/50	30770

The second of the above-entitled matters is an application by Charles R. Mahan seeking authority to operate a passenger stage service between the same points as covered in the proposed transfer.

A public hearing was held at Marysville before Examiner Daly on November 24, 1952, and the matter was submitted.

The proposed sale and transfer would be in accordance with an agreement executed by the seller and purchaser, which specifies a consideration of four hundred dollars for the operative rights and one hundred dollars for a frame terminal building located at Yuba City. According to the agreement, the consideration is to be paid in full upon the Commission's grant of authority to transfer. The purchaser appears to be financially capable of rendering the service here proposed to be transferred.

The record indicates that Norman H. Robotham died March 12, 1952, and from that date to September 30, 1952, the seller conducted operations of the Twin Cities Transit Company. During that period the seller in an attempt to maintain service suffered a personal loss of \$2,435. On September 30, 1952, both buses owned and operated by Twin Cities Transit broke down and service was suspended. The suspension of service aroused such public interest that a committee of five was appointed by the Marysville-Yuba County Chamber of Commerce to determine ways and means of resuming service. On October 7, 1952, the seller entered into an agreement of sale with an individual by the name of George R. Summy, and Summy operated said service until October 21, 1952, when service was again discontinued because of Summy's failure to obtain adequate public liability and property damage insurance. On October 21, 1952, the seller entered into an agreement with the purchaser, Carr, and service was resumed on October 23, 1952, and has been continuously maintained since that date. Due to the fact that the estate was without funds,

it was alleged that the purchaser advanced the necessary funds to maintain and operate one of the buses belonging to Twin Cities Transit, and further advanced funds for the necessary insurance.

The record further indicates that the purchaser is now and for some time past has been engaged in the taxicab business. The present one-bus service is supplemented by the use of a taxicab. If the proposed transfer is authorized, purchaser testified that he will buy two 30-passenger GMC buses valued at approximately \$6,000 apiece.

The application of Charles R. Mahan was filed in response to an invitation by the Marysville-Yuba County Chamber of Commerce extended to those wishing to present plans of proposed bus operations between Marysville and Yuba City. The invitation was extended following the suspension of service on September 30, 1952. According to his testimony, applicant Mahan has 20 years' experience in the bus transportation business having been employed by Nevada County Bus Line, Gibson Lines, Mt. Lassen Transit Company and for several years as superintendent in charge of maintenance for Twin Cities Transit Company. He proposes to charge the same fares as charged by the existing service, i.e., ten cents for adults and five cents for children. He further proposes to purchase two 27-passenger Ford buses valued at \$2,000 apiece. It is his belief that the financial success and the adequacy of service of a small operation can best be achieved if the operator does his own driving and mechanical work, as he proposes to do.

The public witness testimony disclosed that during the time that applicant Mahan supervised the operations of Twin Cities Transit between Marysville and Yuba City the service was dependable and satisfactory. Subsequent to Mr. Robotham's death, however, the service was spasmodic. Since October 23, 1952, the date when purchaser Carr commenced operating for the seller, service again has

been satisfactory. The manager of the Marysville-Yuba County Chamber of Commerce stated that since October 23, 1952, the main complaints received by the Chamber were from people who were unaware that service was being supplemented by the use of a taxicab. These complaints, he felt, were attributable to the fact that the cab bore no markings identifying it with the bus operations and thus created the impression that service had again been discontinued. The witness asserted that the only interest of the Chamber was in securing a good dependable service.

There is nothing in the record to indicate that the proposed transfer would be adverse to the public interest. Nor does the evidence show a need for more than one passenger stage operation between the points involved.

After full consideration of the evidence the Commission is of the opinion and so finds that the proposed transfer would not be adverse to the public interest, and it will be authorized. Accordingly, the application of Charles R. Mohan will be denied.

Jesse L. Carr 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

Applications having been made as above entitled, public hearing held thereon, the matters submitted and the Commission being duly advised in the premises,

IT IS ORDERED:

(1) That after the effective date hereof and on or before March 15, 1953, Grace Grey Robotham, executrix of the estate of Norman H. Robotham, deceased, may sell and transfer to Jesse L. Carr the operative rights and property referred to in the above opinion.

(2) That, within thirty (30) days after the consummation of the transfer, Jesse L. Carr shall notify this Commission in writing of that fact, and within said period shall file with the Commission a true copy of said bill of sale or other instrument of transfer which may be executed to effect said transfer.

(3) That within ninety (90) days after the effective date hereof and on not less than five (5) days' notice to the Commission and the public, Jesse L. Carr shall file in triplicate, and concurrently make effective, appropriate tariffs and timetables.

(4) That Application No. 33864 is hereby denied.

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

Dated at San Francisco, California, this 9th day of December, 1952.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners