

Decision No. 17568

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
A. B. BLAND for certificate of
public convenience and necessity to
operate passenger auto stage service
between Alamo Store, Bond's Corner
Calcexico and Intermediate points.

ORIGINAL
Application No. 9589

In the Matter of the Application of
A. B. BLAND to sell and transfer and
VIRGIL N. SAMS to purchase a one-half
interest in passenger auto stage line
operated between Holtville and Yuma
Bridge.

Application No. 9613

In the Matter of the Investigation
into the Methods and Practices of
Operations of A. B. BLAND, on the
Commission's own Initiative.

Case No. 1972

Richard T. Eddy for Applicant and Respondent Bland,
and for Applicant Sams.
Warren E. Libby for Pickwick Stages, Incorporated,
intervener.
Joseph Hellin for Southern Pacific Railway, Pro-
testant.
T. Morgan for United Stages, Protestant.

BY THE COMMISSION:-

O P I N I O N

Under date of January 10th, 1924 this Commission issued its order to A. B. Bland to appear and show cause, if any be had, why the certificate heretofore granted him under Decision No. 7601 on Application No. 5549 decided May 18th, 1920 should not be revoked and annulled because said applicant under date of January 27th, 1923 had declined to accept the certificate therein granted; also, why certificate heretofore granted said applicant under Decision No. 10768 on Application No. 7844 dated

July 25, 1922 should not be revoked for the reason that said applicant had abandoned the operation provided for in such certificate; also, why certificate granted under Decision No. 12087 on Application No. 8745 dated May 16th, 1923 should not be revoked for the reason that said operation had not been conducted under the certificate granted.

A. B. Bland and Virgil N. Sams have made application to the Railroad Commission to transfer from Bland to Sams one-half interest in the certificate granted under Decision No. 12087 on Application No. 8745.

Public hearing was conducted by Examiner Williams at Los Angeles in the foregoing matters which were by stipulation of all parties consolidated for hearing and decision. By stipulation of all parties no hearing was held upon Application No. 9589 and at request of applicant this application was reserved for future setting before the Commission.

At the outset respondent A. B. Bland stipulated that the certificate heretofore granted to him by Decision No. 7601 on Application No. 5549 for automobile stage service as a common carrier of passengers between Holtville and Calexico and certain intermediate points, also certificate granted said respondent under Decision No. 10768, Application No. 7844 authorizing operation of automobile stage service as a common carrier of passengers and small packages between Brawley and Holtville serving Alamorio as an intermediate point, be revoked and annulled with said respondent's consent, without testimony.

Testimony was received in defense of the order to show cause why the certificate granted under Decision No. 12087 on Application No. 8745 should not be revoked and also on the

application of applicant to transfer to Sams a one-half interest in the operation authorized by this certificate. Under this testimony it was admitted by applicant, as a witness called by the Commission, that the certificate so granted and dated May 16th, 1923, was duly accepted by Bland and that thereupon he made arrangements with Virgil N. Sams of Yuma, Arizona to conduct the operation over the route specified, it being understood that Sams was to furnish all equipment, maintain all schedules, receive all monies and bear all expenses incident to the transportation of passengers between Yuma and Holtville. After one year Sams was to receive one-half interest in the operating rights. This operation was begun June 15th, 1923 and continued until the time of the hearing. Sams on the witness stand confirmed arrangements for this operation and testified that he had retained all the money collected from passengers in this service, that he had sustained a loss of approximately \$200.00 a month in maintaining the operation and that he had continued in the belief that eventually it would become a profitable operation. Both Bland and Sams testified that it was understood when the operation became profitable Sams would receive an interest in it that would recover the losses sustained in the present operation.

In September, 1923 Sams and Bland entered into a lease, a copy of which was tendered for filing with the Commission but which was rejected because of irregularity. A new lease was drawn up but not filed with the Commission which provided that Bland should pay to Sams \$4.00 for each one way trip between termini or \$8.00 minimum daily. This lease (Commission Exhibit "B") was admitted by Bland to be a mere compliance with the Commission's

rules that it did not alter the relationship between himself and Sams and that the operation was not conducted under the terms of the lease. Bland called this lease "camouflage" in his testimony and declared it was made for his "protection" against enemies.

Twice before respondent Bland received authority from this Commission to conduct passenger automobile service as a common carrier between Holtville and Yuma Bridge and in each instance abandoned the service. In Decision No. 12087 this Commission required Bland to stipulate that if for any reason he discontinued service under the authority granted he should surrender his certificate for cancellation. It was the attitude of respondent Bland that the arrangements he had made with Sams were in general compliance with this stipulation although irregular in method and that such service had been given every day except three days since June 15th, 1923. That Sams did give the service seems indisputable from the testimony and that it was an unprofitable service as conducted appears true. However, the plain intent of Decision No. 12087 was to obligate Bland to perform service under full responsibility such as is required of any other person or corporation offering transportation service to the public of California.

The record is explicit and complete in establishing the fact that Bland did not himself give any service; that he sought Sams in Yuma and induced him to perform this service, operating from the Yuma terminus. During all of the period of operation there was no accounting between lessor and lessee, (assuming that such relation existed) and the operation was conducted by Sams without any authority or legal right so do do. We, therefore, find as a fact that Bland was unable to furnish the service and that he permitted Sams to operate under color of the Bland certificate and that at no time was any operation performed by

Bland. The testimony of Bland and Sams is so complete and conclusive upon these points as not to justify further discussion.

In view of the established facts related above, which are contrary to the legal duty of any certificate holder, it is obvious that the certificate granted under Decision No. 12037 on Application No. 8745 should be revoked and annulled. Basing our decision on the facts above related also it follows that no transfer of any interest in this certificate between Bland and Sams may be authorized and that therefore Application No. 9613 herein should be denied.

O R D E R

An order having been issued on January 10th, 1924 to A. B. Bland to show cause why the certificates of public convenience and necessity heretofore granted him under Application Number 5549, Decision No. 7601 and also under Application 7844, Decision No. 10768 and also Application No. 8745, Decision No. 12087 should not be revoked, a public hearing having been held, the matters being duly submitted and the Commission now being fully advised and basing its order on the findings of fact as set forth in the opinion preceeding this order,

IT IS HEREBY ORDERED that the certificate of public convenience and necessity heretofore granted by the Commission by its Decision No. 7601 on Application No. 5549 dated May 18th, 1920 and Application No. 7844, Decision No. 10768 dated July 25th, 1922 and Application No. 8745, Decision No. 12087 dated May 16th, 1923 be and the same hereby are revoked and cancelled and that no further operation by said A. B. Bland may be given over the routes specified in said certificates.

A. B. Bland and Virgil N. Sams having made application

to the Railroad Commission of the State of California to sell and transfer a half interest in the certificate granted by Decision No. 12087 on Application No. 8745 granting to A. B. Bland authority to operate automobile stage service as a common carrier of passengers, baggage and packages between Holtville and Yuma Bridge and intermediate points, a public hearing having been held, the matter having been submitted and now being ready for decision.

IT IS HEREBY ORDERED that said application be and the same hereby is denied.

Dated at San Francisco, California, this 17th
day of May 1924.

W. H. Sawyer

Waring Martin
Egerton Shaw