

Decision No. 16579

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
W. B. SHIVELY for certificate of
public convenience and necessity to
operate passenger, freight, express
and baggage service between Eureka
and Bridgeville, California.

Application No. 9616

ORIGINAL

BY THE COMMISSION -

FIRST SUPPLEMENTAL ORDER

WHEREAS, W. B. Shively, to whom the Railroad Commission in its Decision No. 13461, dated April 23, 1924, and issued on Application No. 9616, granted a certificate of public convenience and necessity to operate an automobile service for the transportation of passengers, freight, express and baggage between Eureka and Bridgeville and intermediate points, sold his business, including said certificate, or operating right, to George H. Cox, said sale and transfer being made in ignorance of the provisions of the Auto Stage and Truck Transportation Act requiring that the approval of the Railroad Commission must be obtained before an operating right may be transferred, and

WHEREAS, since April, 1925, when the Commission was first made cognizant of the illegal transfer by a letter from Mr. Cox, every effort has been made to locate said W. B. Shively in an endeavor to secure his signature to an application for an order approving a transfer of his operating right to said George H. Cox, said efforts being fruitless, and

WHEREAS, George H. Cox, being desirous of conducting an automobile service within the law, filed an application for a certificate of public convenience and necessity to operate between the points served under the certificate heretofore granted to Shively, and

WHEREAS, the Railroad Commission in its Decision No.18454, dated April 16, 1925, and issued on Application No.12243, granted to said George H. Cox the certificate petitioned for by him, finding with reference to the Shively transfer, that

***** Shively and applicant herein entered into an agreement for the sale of this (Shively's) operating right to applicant, and pursuant to this contract, Shively signed an instrument consenting to this transfer, which later was found to be defective. Shively disappeared and efforts to locate him, in order to correct this error, proved ineffective. He abandoned the operation of this line which was then taken over by applicant herein who has continuously operated it ever since. In the meantime applicant made diligent search for Shively, tracing him to Sparks, Nevada, when he was lost sight of. Applicant brought suit in the Superior Court of Humboldt County, California, for a specific performance of the contract to transfer this operative right but was unable to serve process on Shively."

Now, therefore, good cause appearing,

IT IS HEREBY ORDERED that the certificate of public convenience and necessity heretofore granted to W.B.Shively in Decision No.13461 on Application No.9616 be, and the same hereby is revoked and annulled.

Dated at San Francisco, California, this 26th day of April, 1926.

H. B. Brundage

C. C. Seavie

Leon A. White

COMMISSIONERS.