

Decision No. 22584

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 H. A. CLELAND and J. M. CLELAND, doing
 business under the firm name and style
 of COTTONWOOD and SHINGLETOWN STAGE
 COMPANY to sell, and H. B. TAYLOR to
 purchase an automobile stage line
 operated between Cottonwood and Shingletown,
 California.

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 } Application
 } No. 16580
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ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

H. A. Cleland and J. M. Cleland, co-partners, have petitioned the Railroad Commission for an order approving the sale and transfer by them to H. B. Taylor of an operating right for an automotive service for the transportation of passengers and property between Cottonwood and Shingletown, and H. B. Taylor has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$50.00, all of which sum is declared to be the value of intangibles,

The operating right herein proposed to be transferred was established by H. A. and J. M. Cleland through operation prior to May 1, 1917, and the filing of tariffs and time schedules with the Railroad Commission. Their C.R.C. No. 1, filed under the fictitious name of Cottonwood and Shingletown Stage Company, issued March 9, 1918, and effective May 11, 1918, shows rates for the transportation of passengers, baggage and express between Cottonwood and Shingletown and intermediate points via Balls Ferry and Inwood. This tariff carries a restriction "no package

or baggage weighing over 100 pounds will be handled by passenger auto."

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

H. B. Taylor is hereby placed 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. 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.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

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

2- Applicants H. A. and J. M. Cleland shall immediately unite with applicant H. B. Taylor in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants H. A. and J. M. Cleland on the one hand withdrawing, and applicant Taylor on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants H. A. and J. M. Cleland shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicant Taylor shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicants H. A. and J. M. Cleland, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the names of applicants H. A. and J. M. Cleland, or time schedules satisfactory to the Railroad Commission.

4- The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5- No vehicle may be operated by applicant Taylor 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.

Dated at San Francisco, California, this 21st day of June, 1930.

Cl. Hoover
Ernest
Leon Whitall
Wm. D. Linton

COMMISSIONERS.