

Decision No. 38941**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CHARLES F. KANE for authority to)
 sell and transfer his warehouse tariff) Application No. 27360
 permit, and of CHARLES H. KANE, JAMES)
 C. S. GRAHAM, and CHARLES P. COSTA for)
 authority to acquire said warehouse tar-)
 iff permit.)

OPINION AND ORDER

Charles F. Kane operates a for-hire drayage and public utility warehouse business in San Francisco. He proposes to sell this business, including warehouse operative rights, property and equipment, to Charles H. Kane, James C. S. Graham, and Charles P. Costa, for a cash consideration of \$13,000. The purchasers have been associated with the seller in conducting the business for a number of years. No change is proposed in the warehouse service or in the rates therefor.

It appears that this is a matter in which a public hearing is not necessary and that the application should be granted. This action is not a determination of the existence, character or extent of operative rights. It merely permits the purchasers to acquire whatever operative right is held by the seller.

Charles H. Kane, James C. S. Graham and Charles P. Costa are 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 in a designated community. 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.

Good cause appearing,

IT IS HEREBY ORDERED that Charles F. Kane, be and he is hereby authorized to sell and transfer to Charles H. Kane, James C. S. Graham and Charles P. Costa, a partnership, the public utility warehouse property involved in this application and whatever operative right Charles F. Kane may now possess to conduct operations as a public utility warehouseman, in accordance with the terms of the agreement attached to the application; and that said partnership, concurrently with the commencement of warehouse operations, shall file rates, rules and regulations identical with those now maintained by Charles F. Kane, in conformity with the regulations governing the construction and filing of warehouse tariffs set forth in the Commission's General Order No. 61 and on not less than five (5) days' notice to the Commission and to the public.

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 7th day of May, 1946.

David C. Quinn
Thomas J. Quinn
Francis J. Quinn
James J. Quinn
Harriet H. Quinn
 Commissioners