

Decision No. 39306

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
CLARENCE MARSHALL to sell and JOSEPH  
DUGGAN to purchase an automotive pas-  
senger, baggage and Express Line op-  
erated between French Gulch and Trinity  
Center, California.

Application  
No. 27741

**ORIGINAL**

OPINION AND ORDER

Clarence Marshall, one of the applicants herein, is the owner of a certificate of public convenience and necessity, granted by Decision No. 36381, dated May 25, 1943, in Application No. 25332, authorizing the establishment and operation of a passenger stage service, as that term is defined in section 2-1/4 of the Public Utilities Act, for the transportation of passengers, baggage and shipments of express weighing not to exceed 500 pounds each, on passenger-carrying vehicles only, between French Gulch and Trinity Center and intermediate points. The passenger service has been operated in conjunction with United States mail service.

The application shows that Joseph Duggan has acquired the mail contract over the route now operated by Marshall. The latter accordingly desires to dispose of the passenger stage business and has agreed to sell and transfer the operative rights acquired by him pursuant to said Decision No. 36381, to Duggan for the sum of \$100. It appears that said Duggan has the necessary equipment and

financial resources to conduct the operations.

The Commission has considered the application of Clarence Marshall to transfer his operative rights and is of the opinion that a public hearing is not necessary and that the request should be granted as herein provided. In making this order the Commission is not making a finding of the value of the rights herein authorized to be transferred. Further, Joseph Duggan 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 an 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.

Therefore, Good Cause Appearing,

IT IS HEREBY ORDERED as follows:

1. Clarence Marshall may sell and transfer to Joseph Duggan, on or before October 31, 1946, the certificate of public convenience and necessity acquired by him pursuant to authority granted by Decision No. 36381, dated May 25, 1943, in Application No. 25332, such sale and transfer to be in accordance with the memorandum of agreement, dated July 1, 1946, filed in this proceeding as Exhibit "A".

2. Clarence Marshall and Joseph Duggan shall comply with the provisions of General Orders No. 79 and No. 80, and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and to the public.

3. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this 13th day of August, 1946.

Harold Hula  
Justus F. Cooney  
Thomas D. ...  
Frank ...  
A. J. ...  
Commissioners