

In the Matter of PEERLESS STAGES, INC. and BROTHERHOOD OF RAILROAD
TRAINMEN

Case No. 20-R-1305.—Decided July 30, 1945

Mr. John F. Balaane, of Oakland, Calif., for the Company.

Mr. J. M. Merritt, of Oakland, Calif., for the BRT.

Mr. Fred A. Hoover, of Menlo Park, Calif., for the Amalgamated.

Mr. Bruce C. Heath, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Brotherhood of Railroad Trainmen, herein called the BRT, alleging that a question affecting commerce had arisen concerning the representation of employees of Peerless Stages, Inc., of Oakland, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Wallace E. Royster, Trial Examiner. Said hearing was held at San Francisco, California, on May 21, 1945. The Company, the BRT, and the Amalgamated Association of Street, Electrical Railway, and Motor Coach Employees of America¹ appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Peerless Stages, Inc., is a California corporation maintaining its principal office at Oakland, California, and two terminals, one at Oakland

¹ The Amalgamated was served with notice of hearing and at the hearing moved to intervene. Said motion was allowed by the Trial Examiner

and the other at San Jose, California. The latter terminal is called the "Santa Cruz terminal." Since 1923, the Company has been engaged in carrying passengers for hire between Oakland and San Jose, California; between San Jose and Santa Cruz, California; and between Oakland and Palo Alto, California. None of the Company's lines extend beyond the boundaries of California. At present the Company operates 27 busses on its various routes and during 1944 it transported approximately 1,700,000 passengers. About 60 percent of its passengers consisted of war plant workers and military personnel; in addition, the Company honors interline tickets sold by Pacific Greyhound Lines for destinations outside of the State of California, and it operates a scheduled connection with the Southern Pacific Railroad Company at San Jose.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

The Brotherhood of Railroad Trainmen is a labor organization admitting to membership employees of the Company.

The Amalgamated Association of Street, Electrical Railway, and Motor Coach Employees of America, Local 1243, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By a letter dated February 2, 1945, the BRT advised the Company that a majority of its bus drivers had designated the BRT as their collective bargaining agent and requested a conference. The Company replied by letter dated February 6, 1945, and declined to participate in a conference because of an existing contract with the Amalgamated. The petition in the instant case was filed on February 3, 1945.

In July 1942, the Amalgamated and the Company entered into a collective bargaining contract which was to expire on September 30, 1943. The contract was renewable automatically from year to year thereafter unless either party served notice of termination 60 days prior to any anniversary date. Neither party has given notice to terminate and the Company and the Amalgamated contend that the contract, as automatically renewed in 1944, constitutes a bar to a present determination of representatives. However, since the contract may be terminated in approximately 2 months upon appropriate notice, we find that it is no bar to a determination of representatives within the next 30 days pursuant to our usual Direction of Election. However, any certification which we may issue as a result of the election, herein provided for, shall be for the purpose of designating a

representative to negotiate a new contract to succeed the presently existing one.²

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that BRT represents a substantial number of employees in the unit hereinafter found appropriate.³

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, in accord with an agreement of the parties, that all bus drivers employed by the Company, but excluding part-time drivers, assistant dispatchers, dispatchers, and all or any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Peerless Stages, Inc., of

² See *Matter of Joseph Dyson & Sons, Inc.*, 60 N L R B 867; *Matter of American Stores Co.*, 54 N L R B. 756; *Matter of Chrysler Motor Corporation*, 38 N L R B 1379; *Matter of Houde Engineering Corporation*, 36 N L R B 587

³ The Field Examiner reported that the BRT submitted 22 authorization cards, that the names of 20 persons appearing on the cards were listed on the Company's pay roll of February 20, 1945, which contained the names of 35 employees in the appropriate unit, and that the cards were dated January 1945

At the hearing the Amalgamated presented a petition dated May 17, 1945, signed by 22 employees of the Company which the Trial Examiner read into the record as follows

The undersigned employees of Peerless Stages, members of Local Division 1243, believe it would be to their advantage that their membership be transferred to Local Division 1225, and that Local Division 1243 be dissolved. They respectfully request that this be done. They hereby designate the Association (Amalgamated) as their sole bargaining agent in collective bargaining matters

Oakland, California, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Twentieth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause, and have not been rehired or reinstated prior to the date of the election to determine whether or not they desire to be represented by Brotherhood of Railroad Trainmen or by Amalgamated Association of Street, Electrical Railway, and Motor Coach Employees of America, Local 1243, affiliated with the American Federation of Labor,⁴ for the purposes of collective bargaining, or by neither.

⁴ Although as noted above, in footnote 3, the membership of Local 1243 is in the process of being transferred to Local 1225, no request was made by the Amalgamated for a corresponding change in its designation on the ballot. If the Amalgamated desires to appear on the ballot as Local 1225, it may direct its request to the Regional Director to whom the Board has delegated discretionary authority in such matters.