

In the Matter of AIRLINE BUS COMPANY and BROTHERHOOD OF RAILROAD TRAINMEN

*Case No. 20-R-1394.—Decided October 31, 1945*

*Mr. William J. Hanrahan*, of San Francisco, Calif., for the Company.

*Mr. J. M. Merritt*, of Oakland, Calif., for the Brotherhood.

*Messrs. William A. Northway and R. E. Hasselman*, of San Francisco, Calif., for the AFL.

*Mr. Nathan Saks*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by Brotherhood of Railroad Trainmen, herein called the Brotherhood, alleging that a question affecting commerce had arisen concerning the representation of employees of Airline Bus Company, San Francisco, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert E. Tillman, Trial Examiner. The hearing was held at San Francisco, California, on July 10, 1945. The Company, the Brotherhood, and Almagated Association of Street, Electric Railway and Motor Coach Employees of America, Division 1225, A. F. L., herein called the AFL, 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

Airline Bus Company, a California corporation with its principal office in San Francisco, California, is a common carrier engaged in  
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carrying passengers for hire. It functions under a certificate of convenience and necessity from the California Railroad Commission, to which body it submits annual reports; it is also registered with the Interstate Commerce Commission, but submits no reports to that Commission. The Company operates its busses between San Francisco and Los Angeles, California, and in connection therewith maintains 3 northbound and 3 southbound passenger schedules daily. By agreement with 3 other bus lines, viz, All American Bus Lines, Inc., Pacific Greyhound Lines, and Dollar Lines, the Company honors for passage over its lines tickets presented by passengers arriving from, or bound for, points outside the State of California on these other lines. During the year 1944, the Company carried 68,762 passengers, of whom only 756, or 1 percent of the total number of passengers carried, were traveling on an interstate journey. During the month of May 1945, a typical month, the Company carried 5,500 passengers, of whom 83, or 1½ percent of the total number of passengers carried, were initiating or completing an interstate journey.<sup>1</sup>

The AFL, relying upon the small volume of the Company's interstate business, contends that the Company is not engaged in commerce within the meaning of the Act, and that the Board is, therefore, without jurisdiction. While we do not agree with the AFL's position that the Company's operations are beyond the purview of the Act,<sup>2</sup> we are, nevertheless, of the opinion that, in view of the insubstantial nature of the Company's interstate business, the policies of the Act will not be effectuated by the assumption of jurisdiction in this case. We shall, therefore, dismiss the petition.

### ORDER

Upon the basis of the foregoing findings of fact, and pursuant to Section 9 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Airline Bus Company, San Francisco, California, filed by Brotherhood of Railroad Trainmen, be, and it hereby is, dismissed.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Order.

<sup>1</sup> There is no evidence as to the dollar value of the Company's business.

<sup>2</sup> See *Matter of Turner Transportation Company & Shauncey City Lines*, 60 N. L. R. B. 87, and *Matter of Peerless Stages, Inc.*, 62 N. L. R. B. 1514. See also *N. L. R. B. v. Suburban Lumber Company*, 121 F. (2d) 829, 832 (C. C. A. 3), cert den 314 U. S. 693, in which the Court adopts the rule enunciated in *N. L. R. B. v. Fainblatt*, 306 U. S. 601, 607, that the . . . "Act [does not] depend on any particular volume of commerce affected more than that to which courts would apply the maxim de minimis," and holds that "De minimis in the law has always been taken to mean trifles—matter of few dollars or less."