

YELLOW CAB COMPANY OF CALIFORNIA *and* LEONARD P. REGAN  
LOCAL 640, CHAUFFEURS UNION, AFFILIATED WITH THE INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN &  
HELPERS OF AMERICA, AFL *and* LEONARD P. REGAN. *Cases Nos.*  
*21-CA-389 and 21-CB-135. March 12, 1951*

### Supplemental Order

On August 15, 1950, the Board issued a Decision and Order,<sup>1</sup> dismissing the complaint in these cases on the ground that it would not effectuate the policies of the Act to assert jurisdiction over the operations of the Respondent Yellow Cab. After the issuance of that decision the Board reexamined its policy concerning the exercise of jurisdiction and announced certain criteria for the assertion of jurisdiction.<sup>2</sup> On November 21, 1950, the Board issued its decision and Direction of Election in the case of *Red Cab, Inc.*<sup>3</sup> where, in applying the announced criteria, it asserted jurisdiction over taxicab operations similar to those of the Respondent Yellow Cab, and overruled its decision in the instant cases insofar as that decision conflicted with the decision in *Red Cab, Inc.*

Thereafter the General Counsel filed a motion to remand the instant cases to the Trial Examiner for issuance of an Intermediate Report covering the issues raised by the pleadings. The Respondent Union filed an opposition to the motion to remand.

The Board has considered the contentions of the parties, and hereby denies the General Counsel's motion to remand. In the opinion of the Board, sound policy precludes reconsideration of complaint cases which were disposed of before the adoption of the present jurisdictional standards.<sup>4</sup> The original decision in the instant cases was made in accord with practice in effect at that time concerning the exercise of jurisdiction. The Board will not disturb that decision or the dismissal of the complaint. This ruling, however, is not to be taken as a holding that the Board would not assert jurisdiction in proper new complaint or representation proceedings involving the Re-

<sup>1</sup> 90 NLRB 1884.

<sup>2</sup> For these criteria see: *WBSR, Inc.*, 91 NLRB 630; *W. C. King d/b/a Local Transit Lines*, 91 NLRB 623; *The Borden Company, Southern Division*, 91 NLRB 628; *Stanslaus Implement and Hardware Company, Limited*, 91 NLRB 618; *Hollow Tree Lumber Company*, 91 NLRB 635; *Federal Dairy Co., Inc.*, 91 NLRB 638; *Dorn's House of Miracles, Inc.*, 91 NLRB 632; *The Rutledge Paper Products, Inc.*, 91 NLRB 625; *Westport Moving & Storage Co.*, 91 NLRB 902.

<sup>3</sup> 92 NLRB 175.

<sup>4</sup> Cf. *Skyview Transportation Co., et al.*, 92 NLRB 1664, where, in a representation proceeding, which has only prospective effect, the Board reconsidered a decision in which it had declined to assert jurisdiction before the announcement of its present jurisdictional criteria, and in accordance with the present criteria, asserted jurisdiction over the operations of the employer involved.

spondent Yellow Cab or other employers involved in previously decided complaint cases whose operations meet present jurisdictional criteria.

### Order Dismissing Complaint

Upon charges duly filed by Leonard P. Regan, an individual, the General Counsel of the National Labor Relations Board, by the Regional Director for the Twenty-first Region (Los Angeles, California), issued his consolidated complaint dated December 27, 1949, against the above-named Respondents, alleging that they had engaged in and were engaging in unfair labor practices affecting commerce within the meaning of Section 8 (b) (1) (A) and (2), Section 8 (a) (1), (2), and (3), and Section 2 (6) and (7) of the National Labor Relations Act, as amended. The Respondents thereafter filed their answers denying that they were engaged in commerce within the meaning of the Act and denying that they had engaged in any unfair labor practices.

Pursuant to notice, a hearing was held from January 24 to 27, 1950, inclusive, at Los Angeles, California, before the undersigned Trial Examiner, and evidence was received on all issues raised in the pleadings. During the hearing counsel for each of the above-named Respondents moved to dismiss the complaint because of the alleged lack of jurisdiction of the Board, and ruling upon said motions was reserved by the undersigned. The said motions are herein considered and are disposed of in accordance with the findings and order hereinafter made.

Respondent Yellow Cab operates a fleet of taxicabs in the metropolitan area of Los Angeles, under franchises from the municipalities of Los Angeles, Beverly Hills, and Burbank, and from the County of Los Angeles. In a large portion of this area it is the only taxicab company presently operating. However, there are other taxicab companies operating in the communities known as Venice, Wilmington, and San Pedro, and in the San Fernando Valley area, all of which are part of the City of Los Angeles. There is also another cab company operating in the city of Burbank. Likewise, it may be noted that there is nothing in the ordinance under which Respondent operates to prevent the City of Los Angeles from issuing franchises to other companies to operate in the areas where Respondent is at present the only company operating.<sup>1</sup> Under its franchises it is authorized to operate approximately 900 cabs but actually operates an average of 650 per day. It is also authorized to maintain 460 taxi-stands at various points in its franchised area. It employs approximately 1,960 drivers on all shifts.

The stock of Respondent Yellow Cab is wholly owned by Yellow Cab Company of San Francisco, which also owns the stock of Yellow Cab Company of Alameda County. Although these companies have some officers in common, they are separately managed and there is no interchange of personnel. They also bargain with separate unions. The San Francisco company has since the latter part of October 1948 also owned the stock of Airport Transit Corporation which operates 10 small busses and 10 limousines between certain hotels in Los Angeles and Hollywood and the Municipal and Lockheed Air Terminals. The latter company is under a separate manager and there is no evidence of any integration of its operations with any of the taxicab companies.

In the fiscal year ending July 31, 1949, Respondent's<sup>2</sup> cabs operated over 30 million revenue miles and carried approximately 14 million passengers. The

<sup>1</sup> Prior to the period in issue another company was franchised in Los Angeles and operated in competition with Respondent, but subsequently went out of business.

<sup>2</sup> Unless otherwise indicated, all references to the business of Respondent are to the Respondent, Yellow Cab Company of California

Company's gross revenues amounted to \$10,200,000. During this period its principal purchases, consisting of tires, gas, oil, repair parts, meter parts, paints, and cleaning materials, amounted to approximately \$1,500,000. Of this amount, purchases of gasoline and oil account for \$944,900. These were purchased from the Standard Oil Company of California and, so far as appears from the record, these products were produced and refined entirely within the State of California. It also receives tires on a rental basis from Goodyear Tire and Rubber Company for which it paid \$128,000 during the fiscal year mentioned above. These tires were manufactured almost exclusively in Goodyear's plant in Los Angeles, California. It purchased meter rolls amounting to \$9,638 and uniforms amounting to \$30,000, both of which were received from outside the State of California. It expended \$42,000 for automobile parts and \$22,400 for batteries, both of which items were purchased from Los Angeles dealers, the point of origin of which items does not appear from the record. The only purchase of out-of-State equipment in any substantial amount is a purchase of new taxis and parts from the James F. Waters Company of San Francisco, which products originated in Detroit, Michigan. The record does not disclose what these purchases amounted to in the fiscal year ending July 31, 1949. However, in the calendar year 1948 the purchases of these taxicabs, apparently for replacement purposes, amounted to \$300,337.64, and the purchases of parts amounted to \$44,747. In the calendar year 1949 the purchase of cabs declined to \$18,421.37 and the purchase of parts amounted to \$52,712.53. Other expenditures during the fiscal period ending July 31, 1949, cited by the General Counsel as apparently having some connection with commerce, were \$45,000 for advertising in newspapers, \$10,000 for advertising in the local transit system, \$44,700 paid to the Pacific Telephone and Telegraph Company for the lease of call boxes,<sup>3</sup> and approximately \$100,000 for insurance premiums, mainly to Lloyds of London and to Pacific Indemnity Company.

Respondent's taxicab operations are confined entirely to the City of Los Angeles and its environs. It makes no trips outside the State of California. Although Respondent maintains taxicab stands all over the area in which it is franchised, the principal points of origin of its passenger traffic are the better residential districts and the various hotels and night clubs. So far as appears from the record, the overwhelming proportion of Respondent's business is of a purely local service nature having no connection with interstate commerce.

In seeking to establish the jurisdiction of the Board over Respondent's operations, the General Counsel relies principally on the fact that some of Respondent's taxicabs are stationed at various terminals used by interstate carriers in Los Angeles and that a small percentage of the trips made by Respondent's taxicabs are to and from these terminals. The record discloses that on an average day, Respondent's cabs make 25,268 paid trips in the City of Los Angeles and its environs. Of these 1,407 (5.5 percent) involve the carriage of passengers to and from the Los Angeles Union Passenger Terminal (railroad station); 343 (13 percent) to and from the Santa Fe Bus Terminal; 401 (15 percent) to and from the Greyhound Bus Terminal; 201 (0.7 percent) to and from the Los Angeles Municipal Air Terminal; and 369 (1.4 percent) to and from the Pacific Electric Company Terminal. At the railroad terminal, Respondent maintains taxi-stands on railroad property for which it pays the Union Terminal \$600 a month and has the exclusive right to solicit and transport passengers from the station grounds in for-hire vehicles. So far as appears from the record, the taxi fares are paid exclusively by the passengers, and the railroads' only

<sup>3</sup> Respondent leases 176 call boxes in the Los Angeles area which are used by its drivers to call in to a central switchboard for orders

connection with the transaction is that they permit the Respondent to maintain cabs at the station in consideration of the monthly payments mentioned above. At the Municipal Airport, Respondent is authorized to stand 6 taxicabs at curb locations on airport property for which privilege it pays \$100 a month. It does not have any exclusive right at the Airport Terminal, the bulk of the passengers there being carried by the separate Air Transit Corporation in its own busses and limousines. With respect to the other three terminals mentioned above, Respondent does not maintain any stands on terminal property, its taxicabs merely utilizing street-stands located on the public streets adjacent to these terminals.

No evidence was adduced by the General Counsel to show the extent to which the above terminals are utilized by interstate carriers. With respect to the Union Terminal, the only evidence of the railroad traffic at the station is a time-table introduced in evidence by the General Counsel which shows the time of arrival and departure of 29 trains using the terminal. No evidence was introduced to show which of these trains move in interstate commerce, although it may be assumed that in a city the size of Los Angeles a substantial number of these trains do move in interstate commerce.<sup>4</sup> With respect to the Santa Fe and Greyhound Bus Terminals, there is no evidence to show what proportion of the busses using these terminals are interstate. The Pacific Electric Terminal is used by the Pacific Electric Company which is a local interurban carrier operating in the Los Angeles area. It was stipulated at the hearing that the parties had no way of determining what proportion of the trips to and from the various terminals were by passengers moving in interstate commerce and what proportion by intrastate travelers or the general public. With respect to the bus terminals, since the taxi-stands are located on the public street in busy downtown districts, it may be assumed that some portion of the passengers are merely local people who happen to be in the vicinity of the taxi-stands. It may also be noted that all of the above terminals are served by other and cheaper means of public transportation.<sup>5</sup>

In addition to its revenues from cab operations, Respondent received during the fiscal year ending July 31, 1949, \$66,000 for carrying on its cabs, advertisements of the Standard Oil Company of California. Respondent also has an arrangement with the Southern California Telegraph Company to carry its night operators to and from work. For this purpose, 12 to 15 cabs are used each night. Respondent is paid the regular meter rate for each cab by the Telegraph Company.

A review of Board decisions dealing with taxicab companies indicates that the industry is a marginal one insofar as the matter of the Board's jurisdiction is concerned. There is a surprising paucity of precedent and such precedent as does exist is inconclusive. One of the earliest cases in point is *Yellow Cab and Baggage Co.*, 17 NLRB 469, involving a company with annual revenues of \$320,359 whose operations included the transportation of passengers and baggage to, from, and between three railroad stations in the city of Omaha. Despite the fact that 24 $\frac{1}{3}$  percent of the trips made by the company's taxicabs were to or from the three railroad stations in Omaha, the Board dismissed the complaint "for lack of evidence to sustain the jurisdiction of the Board." The Board noted that the record did not disclose "the number or proportion of passengers who were

<sup>4</sup> The General Counsel conceded that at least three trains identified by Respondent's counsel operate solely in the State of California.

<sup>5</sup> Directly north of the railroad terminal is a street car and bus stop. Similar means of public transit exist at the other terminals, except the air terminal which is served by special busses and limousines operating at a substantially cheaper rate than taxicabs.

transported to or from the trains." The decision in that case also discloses that the respondent had a contract with two of the railroads for the transportation of passengers between their terminals but that less than  $\frac{1}{10}$  of 1 percent of its revenues were so derived. It also made some trips across State lines but these accounted for less than  $\frac{1}{10}$  of 1 percent of its revenues. Although the respondent transported baggage to, from, and between the railroad stations, the Board noted that there was no showing as to the amount of its revenues so derived or as to the point of origin or destination of the baggage transferred.

The Respondents here assert that, relying on the *Yellow Cab* case and the absence of other controlling Board decisions, the industry has long assumed that the Board will not take jurisdiction over taxicab companies merely on the basis of the transportation of passengers and baggage to and from railroad stations, where there is a mere incidental part of their business. The General Counsel contends that the *Yellow Cab* case should not be regarded as controlling because it was decided in the early days of the Wagner Act, before the Board's jurisdictional principles had been definitely formulated. He argues that the Board's later decision in *The Baltimore Transit Company*, 47 NLRB 106, represents its more considered judgment and is precedent for the assertion of jurisdiction in this case.

In the opinion of the undersigned the principle which persuaded the Board to assert jurisdiction in the *Baltimore Transit* case and in the later cases involving bus, trolley, and other urban and interurban transit companies is not applicable generally to taxicab companies. In that case the Board noted that among the passengers carried by the respondent were "substantial numbers of employees going to and from their work in industrial plants in and around Baltimore," which plants were receiving and producing interstate goods including "goods essential to the nation's war effort." In holding that respondent's operations "affect commerce," the Board found that "the uninterrupted and undiminished operation of these industrial plants, and the consequent flow of interstate shipments to and from these plants, are dependent upon the transportation facilities provided by the respondents." In enforcing the Board's order, the Court of Appeals for the Fourth Circuit (140 F. 2d 51) held that the Board had jurisdiction because "it would be absurd to say that its [Congress'] power does not extend to the labor relations of a street transportation company, upon whose operations the industrial life of a great city extensively engaged in interstate commerce is so largely dependent." [Emphasis supplied]

It seems evident that the assertion of jurisdiction in the *Baltimore Transit* case and in the later bus and trolley cases which follow it is based primarily on the indispensability of such a transit system to the industrial life of a community receiving and producing interstate goods. This was made abundantly clear by the Board's later decision in the *Chicago Motor Coach Company* case, 62 NLRB 890, where it stated that "the consideration which led us to take jurisdiction over the Baltimore Transit Company" was the fact that "important factories and shipbuilding companies engaged in the production of goods for commerce or in the prosecution of the war would have been faced with immediate curtailment of their production schedules had their employees been deprived of the transportation facilities of the traction system because of a strike of trolley and bus workers." The *ratio decidendi* of these cases is hardly applicable to a taxicab operation of the type here involved. Most areas of any size and importance in Los Angeles and its environs are served by one of the cheaper public transit systems. There is no evidence in the record that any significant number of employees in the various industrial and commercial establishments utilize taxicabs in going to and from work. Considering the rates charged for such trans-

portation, the average employee would hardly avail himself of this method of transportation. It may also be noted that there are approximately 1,000,000 passenger vehicles licensed in Los Angeles in a total population of approximately 2,800,000 persons. The number of taxicabs in proportion to the population is one of the lowest among large cities in the country.<sup>6</sup> In the opinion of the undersigned a labor dispute in the taxi industry would have no substantial effect on the industries or establishments producing or receiving interstate goods in the Los Angeles area.

If there is any basis for the assertion of jurisdiction it must rest primarily on the fact that a minor portion of Respondent's business involves the servicing of various transportation terminals in Los Angeles. Respondents argue that this is not a sufficient basis for the assertion of jurisdiction, citing, in addition to the Omaha *Yellow Cab Company* case discussed above, the Supreme Court's decision in *U. S. v. Yellow Cab Company*, 332 U. S. 218. The latter case involved the application of the Sherman Act to certain cab companies and individuals who had allegedly conspired to control the principal taxicab operating companies in Chicago and to exclude others from engaging in the transportation of interstate travelers to and from the various terminals in Chicago. In dismissing the complaint in this respect, the Supreme Court by the late Mr. Justice Murphy stated:

We hold . . . that such transportation [from homes, offices and hotels to railroad terminals and the reverse transportation] is too unrelated to interstate commerce to constitute a part thereof within the meaning of the Sherman Act. These taxicabs, in transporting passengers and their luggage to and from Chicago railroad stations, admittedly cross no state lines; by ordinance, their service is confined to transportation "between any two points within the corporate limits of the city." None of them serves only railroad passengers, all of them being required to serve "every person" within the limits of Chicago. They have no contractual or other arrangement with the interstate railroads. Nor are their fares paid or collected as part of the railroad fares. In short, their relationship to interstate transit is only casual and incidental.

In a sense, of course, a traveler starts an interstate journey when he boards a conveyance near his home, office, or hotel to travel to the railroad station, from which the journey is continued by train; and such journey ends when he alights from a conveyance near the home, office, or hotel which constitutes his ultimate destination. Indeed, the terminal points of an interstate journey may be traced even further to the moment when the traveler leaves or enters his room or office and descends or ascends the building by elevator.

But interstate commerce is an intensely practical concept drawn from the normal and accepted sense of business . . . And interstate journeys are to be measured by "the commonly accepted sense of the transportation concept." . . .

Here we believe that the common understanding is that a traveler intending to make an interstate rail journey begins his interstate movement when he boards the train at the station and his journey ends when he

<sup>6</sup>The ratios of taxicabs to population in various large cities are as follows:

Washington, D. C.-----	1 to each 225 persons.
New York City-----	1 to each 600 persons.
Philadelphia-----	1 to each 1,000 persons.
San Francisco-----	1 to each 1,000 persons.
Los Angeles-----	1 to each 3,000 persons.

disembarks at the station in the city of destination *What happens prior or subsequent to that rail journey, at least in the absence of some special arrangement, is not a constituent part of the interstate movement.* The traveler has complete freedom to arrive at or leave the station by taxicab, trolley, bus, subway, elevated train, private automobile, his own two legs, or various other means of conveyance. Taxicab service is thus but one of many that may be used. It is contracted for independently of the railroad journey and may be utilized whenever the traveler so desires. From the standpoints of time and continuity, the taxicab trip may be quite distinct and separate from the interstate journey. To the taxi driver, it is just another local fare. [Emphasis supplied.]

The General Counsel urges that the concept of commerce under the National Labor Relations Act is broader than that found in the Sherman Act and that the Supreme Court's decision in the *Yellow Cab* case has no application to this case. While admittedly the purposes of both Acts are different, they may, to some extent, be considered in *pari materia* since they both have been construed as permitting Federal intervention in areas of local activity because of the effect on interstate commerce. As stated by the Supreme Court in *U S. v. Darby*, 312 U S 100, where the appellee argued that cases arising under the Sherman Act were inapplicable to a proceeding under the Wage-Hour Law.

The Sherman Act and the National Labor Relations Act are familiar examples of the exertion of the commerce power to prohibit or control activities wholly intrastate because of their effect on interstate commerce. . . .

In addition to his reliance on the *Baltimore Transit* case and other bus and trolley cases, the General Counsel has cited three decisions of the Board specifically involving taxicab operations which he contends support his position. The first of these, *Texarkana Bus Co., Inc.*, 26 NLRB 582, is wholly distinguishable from the facts in the instant case since it involved a company operating on a State line whose cabs regularly traveled between Texarkana, Texas, and Texarkana, Arkansas. The respondent conceded, and the Board found, that it was engaged in commerce within the meaning of the Act. The next case, *Bussard Taxi and Bus Service*, 81 NLRB 1181, a decertification proceeding, is likewise distinguishable since it involved a company whose primary business was the operation of busses and which incidentally operated 14 taxicabs. From the case cited by the Board in finding that the employer's operations constituted engagement in or affected commerce (*Gate City Transit Lines, Inc.*, 81 NLRB 79, and the cases therein cited), it is clear that the Board was following the rationale of the bus cases which, as above indicated, the undersigned considers inapplicable to a pure taxicab operation.<sup>7</sup> The other case cited by the General Counsel, *Taxicabs of Cincinnati, Inc.*, 82 NLRB 664, a representation proceeding, is likewise distinguishable on its facts. The employer conceded its engagement in

<sup>7</sup> In the *Gate City* case, the busses furnished transportation to "a number of large textile manufacturing plants" The cases cited therein, *Amarillo Bus Co.*, 78 NLRB 1103; *El Paso-Ysleta Bus Co., Inc.*, 79 NLRB 1068; and *City Transportation Co.*, 80 NLRB 270, all involved public bus and transit companies furnishing transportation to substantial numbers of employees working in interstate producing plants. While the *Amarillo* and *City Transportation* cases also involved transportation to railroad and bus terminals, it seems evident that these facts were only incidental to the Board's assertion of jurisdiction. In the *Amarillo* case the Board stated: "On these facts, and particularly the dependence of this city's principal industries upon the Employer's services, we find . . . that the Employer is engaged in activities affecting commerce" [Emphasis supplied.] It may be noted that Board Members Houston and Murdock dissented from the assertion of jurisdiction in the *Bussard* case.

commerce, and the Board in its decision did not discuss the basis for its assertion of jurisdiction. However, the record in that case discloses that 5 percent of the employer's passengers were actually transported across State lines, in addition to the transportation of another 10 percent to and from railroad and bus terminals in Cincinnati. The extrastate hauling of passengers was alone sufficient to sustain the jurisdiction of the Board and, in the opinion of the undersigned, this is the primary reason why jurisdiction was asserted.\*

Since the close of the hearing the Board has issued two other decisions involving taxicab operations. The first case, *B. Royce, etc., d/b/a Yellow Cab Company*, 88 NLRB 282, is a representation proceeding involving a taxicab company in Portland, Oregon, 3 percent of whose gross revenues were derived from the transportation of passengers across State lines and 12½ percent from the transportation of passengers to and from railroad, bus, and air terminals. The Board took note of the fact that the employer was licensed by the Interstate Commerce Commission. It also appears that the employer had the sole taxi-stand concession at the railroad depot and the sole concession every third day at the bus station. In support of its finding that the employer was "engaged in commerce" the Board cited its decision in *Taxicabs of Cincinnati, supra*. In view of its finding that the employer was "engaged in commerce" (rather than that his operations merely "affect commerce") and its citation of the *Taxicabs of Cincinnati* case, it is the opinion of the undersigned that the assertion of jurisdiction was based primarily on the extrastate trips of the employer which, as indicated above, were conducted pursuant to ICC license. Finally, there is the case of *Louis Dix, d/b/a Hickey Cab Co.*, 88 NLRB 327, where the Board asserted jurisdiction in a decertification proceeding over a taxicab company which conceded its engagement in interstate commerce. The Board's decision discloses that the employer conducted all of its operations from the railroad terminal in Bridgeport, Connecticut, and that 72 percent of its trips were to or from this terminal. It also appears that 2.7 percent of the employer's revenues were derived from out-of-State trips.

In the instant case, if there is any basis for asserting jurisdiction, it must rest primarily on the relatively small number of trips made to and from the various terminals. Excluding the trips to and from the Pacific Electric Terminal (which the record does not disclose to be used by any interstate carriers), the evidence discloses that approximately 9 percent of Respondent's trips are to or from terminals used to some undisclosed extent by interstate carriers. In the instance of two of these terminals, the Santa Fe and Greyhound bus terminals, its taxi-stands are stationed on the public streets and it may therefore be assumed that some portion of the trips originating at these points are by local passengers who have not utilized the terminal facilities. In the case of the Union Terminal, accounting for 5.5 percent of the trips, and the Airport Terminal, accounting for 0.7 percent of the trips, it may reasonably be assumed that the bulk of the passengers traveling to and from these terminals are about to use or have used carriers departing from or arriving at these terminals. It does not appear, however, what portion of these have a state destination or origin. It is thus apparent that the use of Respondent's taxicabs by interstate passengers accounts for somewhat less than 9 percent of the trips made by these cabs. There is no showing as to what proportion of Respondent's revenues or passengers this represents. In any event, it is substantially less than the terminal trips in the *Omaha Yellow Cab* case (24½ percent) where the

\* It may be noted that outside of the *Texarkana* case, *supra*, the *Taxicabs of Cincinnati* case decided in 1949 is the first case which the undersigned has been able to find where the Board asserted jurisdiction over a primarily taxicab operation, after its dismissal of the *Omaha Yellow Cab* case in 1939.

Board declined to assert jurisdiction. Unlike the *Taxicabs of Cincinnati*, the *Yellow Cab* (Portland) and *Hickey Cab* cases, there are no interstate trips involved here. In the last-mentioned case, it may also be noted, the terminal business was the employer's principal operation.

It is true that the Respondent here has an exclusive contractual arrangement with the Union Terminal but, in the opinion of the undersigned, this does not take these trips out of the category of purely local transportation. This is not the type of "special arrangement" with the railroads suggested by the Supreme Court in the *Yellow Cab* case, as possibly changing the local character of a taxicab service. It seems evident that the Court there was referring to an arrangement such as that with Parmelee Transportation Company of Chicago where passengers are carried from one terminal to another pursuant to a contract with the railroads, or where there is some similar arrangement giving the passengers transportation rights as part of their fare.<sup>9</sup> The contract in this case is a space rental arrangement primarily for the benefit of the taxicab company which pays a consideration therefor, and the benefit received by the railroad and the passengers is only incidental, unlike the Parmelee type of arrangement where the railroad pays the taxi company for rendering it a service in order to enable it to fulfill its interstate contract with the passenger.

Respondent's operations here are essentially local in character. This is not a case where the business and industrial life of the community is dependent upon the transportation facilities afforded by Respondent's taxicabs. Its connection, if any, with interstate commerce is the small percentage of trips to and from railroad and other terminals. The passengers using these terminals all have other and cheaper means of public transportation available. A labor dispute in this Company would cause only the slightest inconvenience to interstate passengers. Were the Board to assert jurisdiction over taxicab companies merely because they incidentally serve terminal facilities, almost every taxicab company in the United States would be subject to the Board's jurisdiction since to some extent they carry passengers to and from bus, railroad, or air terminals, and undoubtedly in many instances they pay the terminal a fee for the privilege of maintaining some stands on terminal property. The industry is essentially a local service industry and has been recognized as such by State tribunals.<sup>10</sup> The fact that a minor portion of Respondent's normal purchases originate outside the State does not, under all the circumstances, warrant the assertion of jurisdiction here.<sup>11</sup> Nor does the fact that Respondent

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<sup>9</sup> In the Supreme Court's decision in the *Yellow Cab* case, it declined to dismiss that portion of the complaint relating to the operations of the Parmelee Company which had contracts with the railroads to transport passengers and their baggage between railroad stations. The Court stated that the transportation of passengers and their baggage between stations in Chicago under such an arrangement "is clearly a part of the stream of interstate commerce."

<sup>10</sup> See *Ajax Transportation Co.*, N. Y. State L. R. Bd. 25 LRRM 1069; *Penna. L. R. Bd. v. Yellow Cab & Bus Co.*, Pa. Ct. Com. Pls., 16 LRRM 539.

<sup>11</sup> In the *Yellow Cab* (Omaha) case most of the products purchased by the Company originated from out-of-State sources. As stated by the Board in the *Chicago Motor Coach Co.* case, *supra*, where the Board declined to take jurisdiction although 50 percent of the purchases were extrastate:

While the flow of such materials across State lines is a salient factor with respect to manufacturing and distributing industries which are engaged in a business of conveying or handling materials in the flow of interstate commerce, this aspect of the case is only incidental to a business devoted entirely to transportation of passengers. Should such a factor be given controlling weight, it would be difficult to conceive of even the smallest bus line or *taxi company* which would be outside the scope of the Act unless it appeared to be located in one of the petroleum producing States. [Emphasis supplied.]

is affiliated with Yellow Cab Company of San Francisco, the Yellow Cab Company of Alameda, and the Airport Transit Corporation, warrant a different conclusion in view of the fact that all of these companies operate as separate enterprises and there is no showing of any integration of their labor relations.<sup>12</sup> Moreover, outside of the last-named Company, there is no showing that the operations of these other companies affect commerce any more than do those of the Respondent. In the opinion of the undersigned, Respondent is not engaged in interstate commerce in any substantial sense and, while certain aspects of its business may not be wholly unrelated to commerce, it is believed that the effect of any labor dispute in this Company on interstate commerce would be too remote to justify taking jurisdiction in this case.

After due deliberation, and for the reasons above stated, the undersigned being of the opinion, without otherwise considering the merits of the case, that the complaint should be dismissed; now, therefore,

IT IS HEREBY ORDERED that the Respondent's motions to dismiss the complaint upon jurisdictional grounds be, and the same hereby are, granted; and

IT IS HEREBY FURTHER ORDERED that the complaint against Respondent Yellow Cab Company of California, and Respondent Local 640, Chauffeurs Union, Affiliated With the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. of L., be, and the same hereby is, dismissed.

Any party may obtain a review of the foregoing order, pursuant to Section 203.27 of the Rules and Regulations of the National Labor Relations Board, by filing a request therefor with the Board stating the grounds for review, and immediately on such filing serving a copy thereof on the Regional Director and the other parties. Unless such request for review is filed within ten (10) days from the date of this order of dismissal, the case shall be closed.

JOHN LEWIS,  
*Trial Examiner.*

Dated: April 11, 1950.

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<sup>12</sup> *Whitfield d/b/a Whitfield Bus Lines*, 88 NLRB 261; *Acme Corrugated Box Co.*, 88 NLRB 96. It may be noted that a labor stoppage in the San Francisco and Alameda operations in the preceding year had no effect whatsoever on the Los Angeles operation.

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CORNING GLASS WORKS *and* FEDERATION OF GLASS, CERAMIC AND SILICA SAND WORKERS OF AMERICA, CIO, PETITIONER. *Case No. 7-RC-1151. March 12, 1951*

### Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Harold L. Hudson, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>1</sup> The Em-

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<sup>1</sup> The Employer moved to dismiss the petition on the ground that the Petitioner failed to submit evidence of representation to complete its 30 percent showing within the 48-hour period specified in the Board's Statements of Procedure, Section 202.16. This motion is denied. As we have repeatedly stated, the adequacy of a showing of interest is a question for administrative determination, not subject to direct or collateral attack. *Stokely Foods, Inc.*, 78 NLRB 842, and cases there-cited.