

In the Matter of YELLOW BUS LINES, INC., EMPLOYER *and* AIRLINE  
DRIVERS' ASSOCIATION, PETITIONER

*Case No. 15-B-1983.—Decided June 10, 1947*

*Mr. C. P. J. Mooney*, of Memphis, Tenn., for the Employer.  
*Mr. Robert Tillman*, of Memphis, Tenn., for the Petitioner.  
*Mr. L. W. Harrison*, of Memphis, Tenn., for the Intervenor.  
*Mr. Abraham Frank*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Memphis, Tennessee, on March 27, 1947, before Gerald A. Brown, hearing officer.<sup>1</sup> The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Yellow Bus Lines, Inc., a Tennessee corporation, is engaged in operating 21 busses in a suburban bus service between 2 railroad stations in Memphis, Tennessee, and 8 limousines in transporting airport passengers between downtown hotels and the Municipal Airport. Its main office and principal place of business is located in Memphis, Tennessee. During the period from April 1946, through September 1946, the Employer transported 66,681 passengers by limousine from hotels and other points in Memphis, Tennessee, to the Municipal Airport, and from the airport to Memphis hotels. The Employer has a certificate of public necessity and convenience from the Tennessee Railroad and Public Utilities Commission, and is the only company

<sup>1</sup> At the hearing the Intervenor moved to dismiss the petition on the ground that an unfair labor practice charge was pending. The hearing officer reserved ruling on the motion for the Board. Inasmuch as the charge has since been withdrawn, the motion is hereby denied.

having such a certificate for the transportation of airport passengers in Memphis, Tennessee. Operations of the Employer from September 1946 to March 1947 were substantially similar to those for the period described above.

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

## II. THE ORGANIZATIONS INVOLVED

The Petitioner is a labor organization, claiming to represent employees of the Employer.

Memphis Yellow Cab Drivers' Association, herein called the Intervenor, is a labor organization, claiming to represent employees of the Employer.

## III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

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

## IV. THE APPROPRIATE UNIT

Petitioner seeks a unit comprising all limousine drivers, including limousine dispatchers and excluding supervisory employees. The Intervenor contends that such a unit is inappropriate on the ground that the limousine drivers should be included within an existing unit of cab drivers employed by the Yellow Cab Company, a Tennessee corporation, closely connected with the Employer through common ownership and management.

The Employer and the Yellow Cab Company, although controlled by the same individuals, are separate corporate entities and driving operations are carried on separately with no interchange of employees. The limousine drivers are engaged exclusively in transporting airport passengers in vehicles designed especially for this purpose. Moreover, the history of collective bargaining shows that the Intervenor, although it had represented both groups under a single contract prior to 1945, in 1945 and 1946 negotiated separate contracts for the limousine drivers. We are of the opinion, in view of the foregoing, that the limousine drivers may appropriately form a separate unit.

We find that all limousine drivers, including limousine dispatchers, but excluding all supervisory employees with authority to hire, pro-

mote, 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.

### DIRECTION OF ELECTION <sup>2</sup>

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Yellow Bus Lines, Inc., of Memphis, Tennessee, 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 Fifteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Sections 203.55 and 203.56, of National Labor Relations Board Rules and Regulations—Series 4, 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 Airline Drivers' Association or by Memphis Yellow Cab Drivers' Association, for the purposes of collective bargaining, or by neither.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Election.

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<sup>2</sup> Any participant in the election herein, may, upon its prompt request to and approval thereof by the Regional Director, have its name removed from the ballot.