

In the Matter of PACIFIC GREYHOUND LINES, INC. and BROTHERHOOD
OF LOCOMOTIVE FIREMEN AND ENGINEMEN.

Case No. C-134.—Decided December 18, 1936

Motor Bus Industry—Interference, Restraint or Coercion: attempt to bribe union leaders; attempts to induce resignation of union leaders; discrediting union; engendering fear of loss of employment for union membership and activity; espionage; expressed opposition to labor organization, threats of retaliatory action; interference with organizational activity; questioning employees regarding organizational activity; persuading and warning employees not to join union; propaganda against union—*Company-Dominated Union:* domination and interference with administration; financial and other support; sponsorship, participation in affairs; coercion to join; soliciting membership in; check-off agreement with; discrimination in favor of in—endorsing, recognizing as representative of employees; discrimination in favor of members of; qualification as collective bargaining agency; disestablished as agency for collective bargaining—*Discrimination:* discharge—*Reinstatement Ordered—Back Pay:* awarded.

Mr. David C. Shaw and *Mr. Bertram Edises* for the Board.

Mr. H. C. Lucas, of San Francisco, Cal., and *Bowen, Bost, Flanagan & Rogers*, by *Mr. Ivan Bowen*, of Minneapolis, Minn., for respondent.

Mr. S. C. Phillips and *Mr. W. E. Jones*, of San Francisco, Cal., for the Brotherhood.

Mr. Frederick P. Mett, of counsel to the Board.

DECISION

STATEMENT OF CASE

On April 7, 1936, the Brotherhood of Locomotive Firemen and Enginemen, hereinafter referred to as the Brotherhood, filed with the Regional Director for the Twentieth Region a charge that the Pacific Greyhound Lines, Inc., San Francisco, California, hereinafter referred to as the respondent, had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of the National Labor Relations Act, 49 Stat. 449, approved July 5, 1935, hereinafter referred to as the Act. Thereafter the National Labor Relations Board, hereinafter referred to as the Board, by the Regional Director for the Twentieth Region, issued a complaint and

an amended complaint against the respondent on May 29, 1936, and June 10, 1936, respectively.¹

On June 25, 1936, the Board, acting pursuant to Article II, Section 37 (c) of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered a charge which had theretofore been filed with the Regional Director for the Twenty-first Region by the Brotherhood, transferred to the Twentieth Region for the purpose of consolidation with the proceeding already instituted in that Region. On July 28, 1936, the Board, by the Regional Director for the Twentieth Region, issued a second amended and consolidated complaint, hereinafter referred to as the complaint, against the respondent, alleging that it had engaged in unfair labor practices as alleged in the two charges. With respect to the unfair labor practices, the complaint in substance alleged that:

1. The respondent discharged and refused to employ V. R. Sager and H. A. Camy for the reason that they joined and assisted the Brotherhood, a labor organization, and engaged in concerted activities with other employees of the respondent for the purpose of collective bargaining and other mutual aid and protection.

2. The respondent prior to July 5, 1935, initiated and formed Drivers' Association, Pacific Greyhound Lines, a labor organization of its operating employees, hereinafter referred to as the Drivers' Association, and has at all times since July 5, 1935, dominated, interfered with and contributed support to the Drivers' Association.

3. The respondent, by its officers and agents, has at numerous times since July 5, 1935, urged, persuaded, and warned its employees to refrain from becoming or remaining members of the Brotherhood, and has threatened its employees with discharge if they became or remained members of the Brotherhood; and has, since July 5, 1935, by sundry and divers acts of interference, intimidation and coercion, restrained its employees from joining or assisting the Brotherhood, and from engaging in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

The complaint and accompanying notice of hearing were duly served upon the respondent. In its answer, filed on July 23, 1936, under circumstances related hereafter, the respondent admitted its corporate organization; alleged that it "is a common carrier for

¹The complaint alleged that the respondent had committed unfair labor practices within the meaning of Section 8, subdivisions (1), (2), and (3) of the Act. The amended complaint differed from the complaint in only one minor respect. Whereas the complaint alleged that the respondent had engaged in unfair labor practices within the meaning of Section 8, subdivision (1) of the Act by its conduct towards "its employees at San Francisco, California, and elsewhere on said Division 4", the amended complaint alleged that the respondent had engaged in unfair labor practices within the meaning of Section 8, subdivision (1) by its conduct towards "its employees at San Francisco, California and on Divisions 4, 5, and 6 of its said lines".

hire by motor vehicle in transporting passengers, baggage, mail and express upon the public highways for the general public in the States of Oregon, California, Nevada, Utah, Arizona, New Mexico and Texas, and has certain contracts with railway and express companies in its business as a common carrier"; further alleged that it "operates in connection with the motor bus transportation system known as the Greyhound Lines, and is affiliated with several Greyhound Companies through stock ownership by the Greyhound Corporation, a Delaware corporation, of the stock of Pacific Greyhound Corporation, a Delaware corporation, which owns the stock of respondent and that the various Greyhound Companies, as connecting carriers, operate a system of motor bus transportation throughout various parts of the United States"; alleged that it discharged V. R. Sager and H. A. Camy on or about March 13, 1936, and on or about May 6, 1936, respectively, for cause. Except as to the foregoing matters specifically alleged and admitted the respondent's answer denies each and every allegation of the complaint.

The hearing, originally scheduled to be conducted on June 29, 1936, by Henry Eickhoff, Jr., duly designated by the Board as Trial Examiner, was duly postponed to July 23, 1936. Commencing on that day, Charles A. Wood, duly designated by the Board as Trial Examiner in place of Henry Eickhoff, Jr., conducted a hearing at San Francisco, California. Full opportunity to be heard, to examine and cross-examine witnesses and to produce evidence bearing upon the issues was afforded to all parties.

The respondent appeared specially at the hearing and objected to the jurisdiction of the Board on constitutional grounds. No ruling was made by the Trial Examiner on such objection. The respondent then moved to dismiss the complaint on the same grounds. This motion was denied by the Trial Examiner and the respondent took exception. Thereupon the respondent moved to dismiss the complaint for failure to state facts constituting a complaint under the Act. This motion was likewise denied, the respondent again taking exception. The respondent then filed its answer, and participated in the hearing. During the course of the hearing, counsel for the respondent moved to dismiss the complaint, "on the ground that it is not based upon the charge by an organization of which the National Labor Relations Board is cognizable of, or has jurisdiction over". The motion was denied. At the close of the Board's case the respondent made three separate motions to dismiss. The first was based on constitutional grounds; the second, on the ground that the charges should have been filed by the employees affected by the alleged unfair labor practices; the third, on the ground that the proof did not sustain the allegations of the complaint. Each of

these motions was in turn denied, the respondent taking exception to the Trial Examiner's rulings. At the close of the hearing the respondent moved "to strike from the record all testimony in evidence relating to the time prior to July 5, 1935, upon the ground that it is incompetent, irrelevant and immaterial" and to dismiss the complaint "upon the ground that the proof now shows that the respondent, Pacific Greyhound Lines, has not committed any acts contrary to the provisions of the National Labor Relations Act". Each of these motions was likewise denied. The motion by counsel for the Board, also made at the close of the hearing, "to conform the pleadings in this case to the proof", was taken under advisement by the Trial Examiner.

On August 25, 1936, the Trial Examiner duly filed his Intermediate Report in which he found that the respondent had engaged, in unfair labor practices affecting commerce, within the meaning of Section 8, subdivisions (1), (2), and (3), and Section 2, subdivisions (6) and (7), of the Act. In this Intermediate Report, the Trial Examiner granted the motion by counsel for the Board to conform the pleadings to the proof, and a request by counsel for the Board to make two corrections in the transcript of testimony. No exceptions to the Intermediate Report were filed by the respondent.

The Board has reviewed all of the rulings made by the Trial Examiner on motions and on objections to the introduction of evidence, and finds no error in such rulings. In consequence, such rulings are hereby affirmed. The respondent's objection on special appearance was based on the same grounds as its first motion to dismiss and is hereby overruled. The Board also finds that the Trial Examiner acted properly in granting the request of counsel for the Board to make two corrections in the transcript of the testimony, and in making such request for corrections a part of the record.²

Upon the entire record in the case, the stenographic report of the hearing and all the evidence, including oral testimony and other evidence offered and received, and the Intermediate Report, the Board makes the following:

FINDINGS OF FACT

I. THE RESPONDENT AND ITS BUSINESS

The respondent, Pacific Greyhound Lines, Inc., is a corporation organized under and existing by virtue of the laws of the State

² Council for the Board had requested that the name "Dick Fagen" in line 8, page 283, be changed to Vic Sager, and that the name "Mr Fagen" in line 7, page 284 (stenographic transcript), be changed to Mr. Sager. The Intermediate Report makes the justification for granting the request clear.

of California, having its principal office in the City and County of San Francisco, in the State of California. District offices are maintained by the respondent in Los Angeles, California, and in Portland, Oregon.

The respondent is engaged in the transportation by motor carrier of passengers, baggage, United States mail and express, over the public highways of seven of the Western States, namely, Oregon, California, Nevada, Utah, Arizona, New Mexico, and Texas. It operates intrastate and interstate buses on regular schedule over 7800 miles of highway in these states. For convenience in operation and for various administrative purposes the respondent has divided its system into eight divisions. Its own lines connect Portland, Oregon, with such distant points as El Paso, Texas, and Albuquerque, New Mexico, as well as with such intermediate points as San Francisco and Los Angeles, California, and Phoenix, Arizona. One of its lines connects Santa Rosa, California, with Salt Lake City, Utah. In its extensive operations beyond these points, it utilizes the facilities of its three wholly-owned subsidiaries, Russian River Stages, Golden Eagle Western Lines, Inc., and Independent Stage Company. The respondent as well as its subsidiaries does business under the trade name or style of "Greyhound Lines".

The respondent is wholly-owned and controlled by the Pacific Greyhound Corporation, a Delaware Corporation, that corporation in turn being owned by The Greyhound Corporation, the Southern Pacific Co., The Great Northern Ry. Co., and others. The respondent is "closely affiliated with the following Greyhound Systems: Eastern Greyhound Lines, Pennsylvania Greyhound Lines, Central Greyhound Lines, Atlantic Greyhound Lines, Capitol Greyhound Lines, Dixie Greyhound Lines, Teche Greyhound Lines, Richmond Greyhound Lines, Northland Greyhound Lines, Southwestern Greyhound Lines, . . . Canadian Greyhound Lines, Ohio Greyhound Lines and Illinois Greyhound Lines. Said affiliation is effectuated through ownership, directly or indirectly, of voting capital stock by The Greyhound Corporation, a corporation of the State of Delaware, and the rights and powers arising by virtue thereof are used to promote the operation of the motor carrier companies composing said Greyhound Lines as distinct, independent enterprises coordinated with one another into an integrated system of national transportation; . . . the business, traffic, interests, and affairs of said Greyhound Lines are mutual and common in that they jointly solicit, sell and provide transportation, for the continuous carriage of passengers, mail, express and newspapers, and function and operate through joint traffic, operating and facility arrangements as a system

constituted of the lines of said motor carriers".³ In 1935 the respondent paid to The Greyhound Corporation the sum of \$7200 representing a general management fee for supervisory and other services.

During the year 1935, the respondent transported 5,357,340 passengers, and its passenger-car mileage totalled 25,962,682. On December 31, 1935, it had in its employ a total of 1239 persons, 502 of whom were passenger motor coach operators. Most of the operators have regularly assigned intrastate or interstate runs, and the remainder are "extra" or "on call" operators. The respondent's operators testified that operators on wholly intrastate runs carry between two and five interstate passengers on each trip.

II. ATTEMPTS TO ORGANIZE THE RESPONDENT'S OPERATORS, AND THE RESPONDENT'S REACTIONS THERETO

A. *Early activity of the Brotherhood*

The Brotherhood is a labor organization, organized "for the purpose of uniting Locomotive Enginemen and Hostlers, . . . for the protection of their interests and the promotion of their general welfare . . ." It is one of the "Big Four" Railroad Brotherhoods and is unaffiliated with any other labor organization. Although originally designed as an organization exclusively for railroad employees, it has in recent years allowed motor coach operators to come within its fold. These operators may join any local lodge of the Brotherhood in their territory and membership entitles them to the identical privileges accorded to the railroad employees. Membership in the Brotherhood totals approximately 70,770, only a small number of whom are motor coach operators.

During July, 1933, shortly after the Brotherhood had announced its new policy of allowing motor coach operators to join its ranks, about 100 of the respondent's operators went to the San Francisco office of C. W. Moffitt, vice-chairman of the General Grievance Committee of the Brotherhood on the Southern Pacific Lines, and told him that they desired to form a union affiliated with the Brotherhood. Permission to file applications for membership in the Brotherhood was immediately given to these men. By the latter part of September, 1933, a great many of the respondent's operators had filed such applications with Moffitt. Thereafter organization activity for the Brotherhood steadily continued. At one time during the fall of 1933, 264 of the respondent's 425 operators had signed au-

³ Board Exhibit 3 (2). This is a certified copy of the application of the respondent and its subsidiaries made under oath to the Interstate Commerce Commission, for a certificate to operate as a common carrier under the Motor Carrier Act of 1935

thorization certificates empowering the Brotherhood to represent them for the purpose of collective bargaining with the respondent.

From the very beginning, the respondent was aware of the activity of the Brotherhood among its operators. Faced with the possibility of having to deal with the Brotherhood, the respondent immediately took steps to defeat the organizing drive. It discouraged membership in the Brotherhood by warning its employees that such membership would not be for their best interests. Operators were urged, persuaded and coerced to refrain from joining the Brotherhood and threatened with discharge if they did join. In these and other ways the respondent made every effort to convey to its operators its open hostility toward the Brotherhood.

To further check the activities of the Brotherhood among its operators, the respondent fostered the organization and growth of the Drivers' Association, Pacific Greyhound Lines, under circumstances related below (*See* finding III C.). Although a great many members of the Brotherhood gave up their membership and joined the Drivers' Association as a result of the respondent's activities, the Brotherhood nevertheless continued to organize the respondent's operators. In April, 1934, confident that its members represented a majority of the respondent's operators, the Brotherhood petitioned the National Labor Board to conduct an election among the respondent's operators to determine whether it or the Drivers' Association was entitled to represent the respondent's operators for the purpose of collective bargaining. On April 19, 1934, ten days before the scheduled date of this election, the respondent, as a part of its intensive campaign to defeat the Brotherhood, called a joint meeting of its operators on Divisions 4, 5, and 6. At this meeting, held at Oakland, California, W. E. Travis, president of the respondent, delivered a speech in which he referred to certain conduct of the Brotherhood as high-handed and selfish, urged the operators to refrain from voting for the Brotherhood, and urged them to vote instead for the Drivers' Association. This speech was later mimeographed and sent to officials of the respondent in other divisions with instructions to bring it to the attention of the operators. This campaign of interference by the respondent with the rights of its operators to self-organization resulted in a defeat of the Brotherhood at the election of April 29, 1934. After this election the Brotherhood movement died down among the respondent's operators.

B. Organization of the Brotherhood of Motor Coach Operators

During its intensive campaign to check the activities of the Brotherhood, the respondent through its president, indicated that it might not be as antagonistic or hostile to some other labor organization

among its operators. Aware of this possibility, and being apparently dissatisfied with the Drivers' Association as an organization to represent them, several of the respondent's operators organized the independent Brotherhood of Motor Coach Operators in August, 1934, and elected Charles H. Perryman, president, and Milton L. Seeman, secretary. Very soon thereafter both Perryman and Seeman were discharged. Upon their complaint, and after hearing, the old National Labor Relations Board found that they had been discharged because of their union affiliation and activities and ordered their reinstatement.⁴ Perryman and Seeman were, however, never reinstated by the respondent. With the discharge of these two men the activities of the Brotherhood of Motor Coach Operators among the respondent's operators ceased.

C. The renewal of Brotherhood activity after the passage of the Act

During the latter part of July, 1935, a movement to reestablish the Brotherhood was started among the respondent's operators. The protection guaranteed by the Act prompted several of the respondent's operators at that time to openly engage in organization activities for the Brotherhood. The respondent immediately became aware of this renewed activity but did not take strong steps to curb it, apparently believing that the decisive defeat of the Brotherhood in the election of April 29, 1934, and the firm entrenchment of the Drivers' Association among its operators thereafter, had created an insurmountable obstacle to a "come-back" by the Brotherhood. However, by October, 1935, the Brotherhood had again gained a foothold among the respondent's operators. Thereafter, interest in the Brotherhood grew steadily, resulting in a huge increase in membership, and a proportionate decrease in the membership of the Drivers' Association. By February, 1936, the Brotherhood had so firmly reestablished itself as to constitute a threatening force, of concern not only to the respondent, but to the Drivers' Association as well.

III. THE UNFAIR LABOR PRACTICES

A. The respondent's continued interference with the rights of its operators after the passage of the Act

In the early stages of the Brotherhood's renewed activity the respondent informed its employees that the Brotherhood was not a proper organization to join. During this period the respondent did

⁴ *In the Matter of Pacific Greyhound Lines, Inc. and Charles H. Perryman and Milton L. Seeman*, 2 N. L. R. B. (Old) 337

not hesitate to express openly to its operators its firm belief in the Drivers' Association and its distrust of the Brotherhood.

On one occasion during the fall of 1935, L. D. Jones, the respondent's general manager, addressed a meeting of the operators. With respect to this meeting Warren Macy, one of the operators, testified as follows:

"Q. What did Mr. Jones say at that meeting?

"A. He first discussed some of the working conditions, and then he told us that he was going to speak to us two ways: He was going to speak to us officially, and unofficially.

"Q. What did he say officially?

"A. He said we could join any damn union we wanted to; . . .

* * *

"Q. What did he say unofficially?

"A. . . . first he told us that Mr. Travis had always been opposed to organized labor; had never dealt with it; and that he said he would step out of the President's chair . . . rather than to write a contract with the Brotherhood. He told us then that he didn't think that we would ever get any benefits by being a member of any labor organization."

With the growing interest of its operators in the Brotherhood, the respondent intensified its efforts to curb the activities of the Brotherhood. Operators who were members of the Brotherhood were spied upon and threatened with discharge unless they discontinued their membership in that organization. On November 12, 1935, J. W. Krug, the respondent's superintendent of operations, told Les Thompson, an operator, that it was "damnable disloyal" for him to be a member of the Brotherhood, and insisted that he resign for his own good. Krug also informed Thompson that he knew that Thompson had been listening to Vincent R. Sager, another operator, who was telling "damnable lies" about the president of the Drivers' Association, and that it was "too bad for Thompson". Thereafter, Fancher, the respondent's agent at Santa Cruz, California, who was very much opposed to the Brotherhood, admitted to Thompson that "he was out to get all the dope on the boys, the drivers that belonged to the Brotherhood".

Thompson was discharged by Krug on April 23, 1936, allegedly for cause. Several days later, Fancher informed Thompson that he was discharged not for the reasons given by Krug but because of his Brotherhood membership and activities. However, no charge was filed against the respondent as a result of this discharge.

At Christmas time, in 1935, Sager presented Jones with a gift from the Brotherhood. On January 27, 1936, Jones returned the gift to Sager and in an accompanying communication stated:

“. . . it is very apparent that some narrow-minded drivers are assuming that I am in favor of their joining the Brotherhood. Needless to say, you well know my feelings toward the Brotherhood, or any other organization, so far as our men joining it is concerned, as long as they are receiving fair treatment and good wages. This was fully discussed with you a couple of years ago, and it should be unnecessary for me to have to say that I think the boys are making a mistake by associating themselves with any organization that is going to require them to pay high dues when the benefits that they might receive would be negligible.” (Board Exhibit 29.)

By March, 1936, at the height of the Brotherhood activity, the respondent was so violently expressing its hostility toward the Brotherhood, that meetings of the Brotherhood, which had theretofore been conducted openly, were thereafter conducted secretly. Sager testified that the meetings “were not made prominent because we didn’t want to put the men on the spot”. Membership in the Brotherhood was also kept secret.

At the hearing, the respondent’s counsel expressly admitted that the respondent had urged, persuaded and warned its operators not to join the Brotherhood. The respondent, however, sought to explain and justify such conduct on the ground that the Brotherhood had at times endeavored to curb the development and extension of motor carrier transportation lines by appearing before various commissions in opposition to applications for franchise and by sponsoring and supporting legislation favorable to the railroads and their employees and inimical to the motor carriers and their employees.

It may be that the Brotherhood, in its dual capacity of representative for the enginemen and firemen employed in the railroad industry and for the motor coach operators employed in the motor carrier transportation industry, at times finds itself representing two groups of employees with conflicting interests. This, cannot, however, justify the respondent’s conduct toward its operators. In any event, the respondent went farther than merely conveying to its operators the idea that the Brotherhood represented conflicting interests. In addition the respondent urged, persuaded and warned its operators not to join the Brotherhood and threatened them with discharge if they joined or remained members. By its conduct the respondent has clearly interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

B. The discharges

1. The discharge of Vincent R. Sager

Vincent R. Sager worked for the respondent as an operator on one of its motor coaches running between San Francisco and San Luis Obispo, in the State of California. He had worked for the respondent since the time of its inception. Previously he had been in the employ of another motor coach carrier which was absorbed by the respondent when the latter came into existence. Sager's duties involved acting not only as driver, but as conductor and baggageman as well.

Sager was one of the men who went to Moffitt in July, 1933, for the purpose of organizing, among the respondent's operators, a union affiliated with the Brotherhood. He became a member of the Brotherhood in the early part of September of the same year. From the beginning the respondent was advised of Sager's activities in the Brotherhood. During September, 1933, Jones, the respondent's general manager, told Sager that he and the rest of the boys were foolish in entertaining the idea of affiliating with the Brotherhood.

On September 28, 1933, shortly after the organization of the Drivers' Association, Travis, having been informed that Sager on the previous day had signed up 27 of the operators for membership in the Brotherhood, called Sager to his office and asked him why he was so antagonistic toward the respondent. Sager related his grievances to Travis, informed him that nothing had been done with respect to such grievances, and that the Brotherhood was being organized as an effective instrument to deal with the respondent. Travis then stated that he would rather deal with any other labor organization than with the Brotherhood. On this occasion Sager turned down Travis' offer to "talk to the boys with reference to the company union" in return for certain favors. Travis then sent Sager away with the following words: ". . . It is very plain to me if I had solicited you to assist in the formation of this company union before the Brotherhood secured your services, it is very evident that we wouldn't have the trouble that we are having now."

On October 3, 1933, after having been prevailed upon to sign an application for membership in the Drivers' Association,⁵ as well as a blank authorizing the respondent to deduct membership dues, Sager was called to Travis' office. There, in Sager's presence, two representatives of the Drivers' Association informed Travis that

⁵ This application, although directed to the Employees' Association Pacific Greyhound Lines, the predecessor of the Drivers' Association, was actually an application for membership in the Drivers' Association.

Sager "had signed a company union blank". At that time Travis stated that it was necessary that "all get behind the company union and put it over before the Brotherhood got in". While in Travis' office, Sager was prevailed upon to sign his name to a telegram addressed to Warren Macy, the key-man in the Brotherhood at Los Angeles. This telegram contained obvious untruths with respect to the membership in the Drivers' Association and urged Macy to get his division in line for that organization. Shortly thereafter Sager was called from Travis' office to answer a phone call from his wife. When he returned he told Travis that his wife "had threatened to put his clothes out in the hall" if he joined the Drivers' Association and asked Travis to withdraw his application for membership in that organization. The next day, Travis called Sager's wife to his office and told her that anyone who did not work in harmony with his plans for a company union would have to be eliminated.¹

During the following months Sager openly engaged in organization work for the Brotherhood, laying off from work at times to do so. Although lay-offs for any reason had theretofore been freely allowed, the respondent issued a notice on November 27, 1933, criticizing its operators on assigned runs for indiscriminate lay-offs. Thereafter, although indiscriminate lay-offs were still allowed in the cases of other operators, Sager's requests for lay-offs were refused. About this time Sager was also constantly reminded by Krug that unless he "kept his nose clean" he would be let out. Sager was superior in all respects to the average operator employed by the respondent; the admonition could not have referred to the performance of his duties as an operator. F. B. Lyons, an operator employed by the respondent and an intimate friend of Sager, testified that in December, 1933, Krug, the respondent's superintendent of operations, said to him that Sager "has got a desk in the Brotherhood office, it won't make any difference whether he loses his job or not".

After the election of April 29, 1934, Sager's Brotherhood activities ceased. However, in late July, 1935, Sager again became active and began soliciting for the Brotherhood among the operators on Divisions 4, 5 and 6. Most of his work for the Brotherhood was carried on by him on his regularly assigned relief days. On several occasions, however, he took leave from his work in order to carry on his organizing activities. The respondent never complained to Sager that his work for the Brotherhood was interfering with his work as an operator.

On August 29, 1935, Jones called Sager to his office and told him that he had heard that "this Brotherhood activity was under way again" and that Sager was taking an active part in it. Sager admitted that the Brotherhood was active again and that he was in the

midst of that activity. Jones then stated that Sager and the rest of the operators "were foolish for entertaining the Brotherhood idea".

On September 3, 1935, Krug called Sager with respect to the loss of a piece of freight. Sager disclaimed fault stating that he did not remember hauling the item. However, because the claim amounted to only \$4.40, Sager paid the amount to Krug in full settlement. On this occasion Krug accused Sager of taking an active interest in the Brotherhood and reminded him of a promise which Krug claimed he had made after the election of April 29, 1934, to consider the Brotherhood "a closed book". Sager denied that he was very active in the Brotherhood and further denied having made any promise to forget about the Brotherhood. When Sager left Krug's office, he was warned that he would be held to his promise to consider the Brotherhood "a closed book".

Shortly after this conversation with Krug, M. W. Woods, the respondent's head agent at San Jose, told Sager that he was "on the spot". Sager testified that Woods discussed his organizing activities with him, and that "Mr. Woods told me that I was walking on thin ice and I would have to walk a pretty straight line because he had been instructed to turn me in for any violation of the rules or regulations of any kind".

On October 7, 1935, Sager applied to the respondent's dispatcher to be relieved on the two following days. The dispatcher informed Sager that there were plenty of "extra" men available and that he could see no reason why he could not be relieved, but that Sager would have to take up the matter with Krug. When, later the same day, Sager saw Krug, he was told that under no circumstances would he be allowed to have the time off.

In January, 1936, Sager was elected chairman of the drivers' division of Lodge 91 of the Brotherhood. Thereafter he took an even greater interest in the organization of the Brotherhood.

At 5:30 P. M. on March 7, 1936, the respondent's dispatcher at San Francisco called upon Sager to make an extra run to the Tanforan race track. Sager informed the dispatcher that he had had no sleep since his last scheduled run which had ended late in the morning of the same day, and that he was tired. Sager testified that after the dispatcher insisted that he make the run, he agreed, because he was fearful that his refusal might be looked upon as an act of insubordination. Sager proceeded to Tanforan where he picked up a load of passengers and started back to San Francisco. On the way back to San Francisco, his coach collided with the rear end of an automobile driven by one Lew Harnish, resulting in a property damage claim of \$55.00 against the respondent.

Immediately upon his arrival at San Francisco Sager submitted a form report of the collision along with a statement of the facts and circumstances surrounding the collision, to Krug's secretary. The latter thereupon phoned Krug to find out whether Sager was to "to go or not". Krug told his secretary that Sager was to be taken out of service, and the secretary so advised Sager.

That night Krug and Earl Hensley, the respondent's claim and safety manager, went to the scene of the collision with a flashlight to investigate. There they found skid marks which they claimed were made by the motor coach driven by Sager. On the following day Krug went to the scene of the collision to survey the ground and to take pictures. Later on the same day he read the form report and the accompanying statement submitted by Sager. Krug thereafter made up his mind that Sager was responsible for the collision. At the hearing Krug testified that his belief that Sager was guilty of negligence and totally responsible for the collision was based upon the facts stated in the report to the effect that at the time Sager's attention was first called to danger of accident he was 75 feet away from the point of the accident, was then traveling at a speed of 40 miles an hour, and applied his brakes when approximately 75 feet from the point of accident. The report, however, further disclosed that the motor coach driven by Sager was proceeding in the third lane of a six-lane high-way; that Harnish's car was proceeding in the same direction in the outside line; that just before the collision Harnish's car "cut at an angle of forty-five degrees across the second lane into the third lane" and there stopped abruptly in the direct path of the motor coach driven by Sager.

On March 9, 1936, Krug called Sager to his office for the purpose of examining the form report and statement concerning the collision that he had submitted on March 7, 1936. After examining the report and statement made by him, Sager was told to lay off and wait until the respondent's insurance department submitted its report on the collision, at which time he would be told whether or not he was to remain in the respondent's employ. On the afternoon of the same day, before having completed its investigation, the respondent, through Hensley, settled with Harnish the claim arising out of the collision. At the time of this settlement Hensley had before him the conflicting statements of Harnish and Sager as to the cause of the collision.⁶

Although Krug had full authority to hire and discharge, he discussed Sager's case with Travis on March 11, 1936. The latter agreed

⁶ In his report of the collision, Harnish stated that he had given proper notice of his intention to make a turn to the left across the second and third lanes, and that he had not come to an abrupt stop while crossing lane three.

with Krug's conclusion that Sager was responsible. Krug testified that he discussed Sager's case with Travis because he knew that Sager had had numerous conferences with Travis concerning the Brotherhood. On the same day, Travis called Hensley and asked him for his opinion as to Sager's responsibility and was told that "it appeared" as though the respondent was legally liable; the inference was that Sager was negligent. When Hensley told Travis that the claim arising out of the collision had already been settled but that not all of the witnesses had been interviewed, Travis ordered Hensley to get statements from all of the witnesses. The statements which were later secured were conflicting as to the cause of the collision.

On March 13, 1936, after Hensley had made the same report to Krug that he had made to Travis, Krug called Sager to his office and discharged him because of "full responsibility for the accident and speeding." Krug told Sager that he had nothing to do with the discharge, orders having come from the head office. When asked to sign a notice of termination of employment, required under the California law, setting forth as the cause for the discharge the reasons given by Krug, Sager refused, because he felt he was being discharged for his activities in the Brotherhood and not for the reasons stated in the notice.

Hensley testified that rear-end collisions were looked upon by the respondent as "of very grave importance", but that such accidents do not in and of themselves constitute an offense warranting discharge. He further testified that whether or not a man is to be discharged as an immediate consequence of a rear-end collision depends upon his past record.

At the time of the collision Sager had driven between 450,000 and 500,000 miles for the respondent. His accident record, including the collision of March 7, 1936, was one chargeable accident for every 150,000 miles of driving. The respondent considers one chargeable accident for every 100,000 miles of driving a good record. On many occasions the respondent has awarded Sager with tokens of merit for his splendid record as a driver. As late as November, 1935, Sager was awarded a plaque for having completed one year of driving without an accident. In December, 1935, Sager received a bonus based upon his good driving record.

Immediately after his discharge, Sager made several unsuccessful attempts to talk to Travis. On March 18, 1936, Travis finally agreed to see Sager. On that day Sager went to Travis' office and there outlined in detail the facts surrounding the collision of March 7, 1936, only to be told by Travis that he was not discharged because of that collision but because of the multiplicity of accidents in gen-

eral during the course of his employment. Before this time no one had ever told Sager that he was having too many accidents.

On April 2, 1936, Sager was given a certificate of service by the respondent which stated that he had been "discharged for responsibility of accident." A certificate of service is given to every employee who leaves the respondent's employ. Since the date of his discharge, Sager has tried to secure other employment but without success. At the time of his discharge he worked approximately 26 days a month and earned an average daily wage of \$7.97.

2. The discharge of Henry A. Camy

Henry A. Camy worked for the respondent as an operator on one of its motor coaches running between Los Angeles and Fresno, in the State of California. Like Sager, Camy had worked for the respondent since its inception and before that time had worked for a motor coach carrier absorbed by the respondent when the latter came into existence. As an operator Camy's duties were the same as those of Sager.

Camy joined the Brotherhood in the fall of 1933. On October 13, 1933, J. H. Hodge, the respondent's assistant general manager, asked Camy whether he was a member of the Brotherhood, and Camy answered that he was. Several days later Hodge called Camy to the respondent's depot at Fresno and there had him execute an instrument addressed to the Brotherhood, whereby he revoked the power of attorney to represent him in all matters pertaining to employment, wages and working conditions, previously given by him to the Brotherhood. With respect to the pressure put upon him to execute the instrument, Camy testified: "Well, I figured that if I want to hold my job I had better sign it."

When the Brotherhood renewed its activities among the respondent's operators after the passage of the Act, Camy rejoined the organization. Thereafter he took a very active interest in its affairs, talked to the respondent's operators "trying to get them to join", and openly distributed applications for membership. He was Macy's "right hand man" in organizing the respondent's operators in the south.

On March 7, 1936, on his run between Plaza Junction and Fresno, Camy lost a piece of freight. On this run Camy was instructing a student driver as well as performing his regular duties. In the confusion of loading and unloading, the piece of freight involved was left on the running board of the motor coach and was lost en route between Plaza Junction and Fresno. Although the respondent made Camy pay for the loss of this item, it did not follow its general practice in such cases of giving him demerits and thus reducing his bonus.

During the first days of May, 1936, Camy was particularly active in soliciting memberships in the Brotherhood among the respondent's operators in the south. On May 4, 1936, upon completing his run from Los Angeles to Fresno, Camy was accused by Hodge of having lost a valuable letter on the same run on May 2, 1936. Hodge at that time told Camy that the letter had been found by another driver at Greenfield Corners en route between Los Angeles and Fresno. Hodge also called Camy's attention to the fact that this was his second loss within a relatively short period of time and stated, "I guess I will lay you off for a couple of days; come back and see me in a couple of days."

On May 6, 1936, Camy reported back to Hodge. At that time Hodge discharged Camy, assigning as the reason the fact he had lost the piece of freight and the valuable letter "too close together". Hodge then told Camy that the company would not stand for so many losses and that his discharge was not the result of personal grievances. Hodge added: "If you want a recommendation, I will give it to you. If you want to go to work anywhere else, I will give you a recommendation any time." Before leaving Hodge's office Camy signed a notice of termination of employment prepared by Hodge's secretary which set forth "failure to properly perform driving duties" as the cause of his discharge.

Previous to the loss of the piece of freight on March 7, 1936, Camy's services had apparently been satisfactory. Nothing to the contrary was shown by the respondent. As late as March 25, 1936, the respondent wrote Camy commending him upon his accident record. On May 12, 1936, Camy was given his certificate of service by the respondent, which stated that he had been discharged for "failure to properly perform driving duties", and stated further that his services had been "generally satisfactory".

At the hearing Hodge testified that he had discharged Camy "mostly on account of insubordination" and that the reason he did not so state in Camy's certificate of service was that he did not want "to put something in there that may hurt him". According to Hodge, Camy's insubordination consisted of a remark made at the time he told Camy he would have to lay him off for losing the valuable letter. This remark was, "You're the boss, go ahead and fire me." Hodge stated that but for this insolent remark, Camy would not have been discharged. Hodge admitted that Camy's remark had not been made as a challenge, and that during his 11 years of service he had been "a very peaceful chap" and had never been insolent or insubordinate before.

Since his discharge Camy has made no effort to be reinstated. He testified that he had not done so for two reasons: (1) one of the

respondent's operators had told him that Hodge had stated that it would be useless for him to try to get his job back, and (2) he knew that Sager had been unable to get his job back, and felt that it would also be useless for him to try.

At the time of his discharge Camy earned an average daily wage of \$7.65 and worked approximately six days every week. Since his discharge he has earned about \$75.00 per month operating a stand in a hotel.

Immediately after Camy's discharge, Brotherhood activity among the respondent's operators ceased. The operators felt that such activity would result in their discharge as it had in the cases of Thompson, Sager, and Camy.

3. Conclusions with respect to the discharges

On the basis of the facts found above, it must be concluded that Sager and Camy were discharged because of their membership in and their activities for the Brotherhood. Their activities for the Brotherhood were not a secret as far as the respondent was concerned. Sager and Camy both openly professed their membership and vigorously carried on their organizing activities under the eyes of the respondent's officers. They were both key-men in the Brotherhood, Sager in the north and Camy in the south. The respondent admits its bitter hostility toward the Brotherhood, and the facts found above show that this hostility expressed itself in many ways and on different occasions extending over a long period of time.

As far back as 1933, the respondent was looking for an opportunity to discharge Sager. No opportunity to do this presented itself prior to the election of April 29, 1934. Thereafter, until July, 1935, there was no need to discharge him, the Brotherhood threat having been removed. With the renewal of the Brotherhood activity after the passage of the Act, the respondent was again seeking to rid itself of Sager, because of his renewed activities in the Brotherhood. This fact is evidenced by Krug's statement to Sager that he would hold him to his promise to forego all activities in the Brotherhood. As we have seen, Sager denied having made this promise and continued such activities. Thereafter, Sager submitted to certain hardships in order not to give the respondent any cause for discharging him. Then came the collision of March 7, 1936, followed by Sager's discharge several days later. The avidity with which Krug investigated this collision, the unusual procedure employed by him in determining whether Sager was negligent, and the unusual haste with which he made up his mind that "Sager must go", along

with all of the aforementioned facts, go far to support our conclusion with respect to Sager's discharge.

The assignment of three successively different reasons for Sager's discharge tends to show that the respondent had no fixed reason at all for such discharge other than his Brotherhood activity. In view of the conflicting testimony of witnesses concerning the cause of the collision of March 7, 1936, the respondent could not have had tenable grounds for discharging Sager for "full responsibility of accident and speeding". Although the respondent has in some cases, in the past, discharged operators for rear-end collisions, discharge is not the general rule in such cases unless the operator's general record is bad.

Neither Krug nor Travis assigned a bad general record as the cause for discharge. Furthermore, Sager's employment history, as evidenced by Board Exhibit 46 containing a full picture of his record, could not have entered into the respondent's determination to discharge him. This history was not prepared by the respondent until several weeks after Sager's discharge. Thus Travis' later assignment of "multiplicity of accidents" as the reason for Sager's discharge was not based on facts known to him at the time of discharge since he then had no complete record of Sager's accidents. In any event, Sager's employment history reveals that he had had only three chargeable accidents during the entire term of his employment, and only a few chargeable infractions of the respondent's rules, a far better record than that which the respondent expects its operators to maintain. Furthermore, Hensley testified that Sager could not be regarded as being "accident prone".

The third reason given for the discharge of Sager, namely "full responsibility of accident", drops speeding entirely as a partial cause of discharge. Nothing need be said regarding the matter of speeding, the respondent having effectively removed speeding as a cause by its own statement of the cause of Sager's discharge.

In Camy's case, also, the respondent has assigned three successively different reasons for his discharge. The first reason assigned was that Camy lost the piece of freight and the valuable letter "too close together". Camy admitted having lost the piece of freight. From his testimony it might be concluded, however, that this item was lost not as a result of his carelessness but rather as a result of the confusion incident to being overburdened with extra duties on the run on which the loss occurred. However, even assuming that he was negligent in losing the item, he paid for the loss, no demerits were assessed against him by the respondent, and the matter was apparently closed. According to the respondent, the alleged loss of the valuable letter occurred about two months later. Camy knew

nothing of the loss of this letter other than what Hodge told him on May 4, two days after the alleged loss. Since Hodge claimed that it had been found on his Los Angeles to Fresno run, Camy apparently believed that the letter was lost by him.

At the hearing, the respondent introduced the letter, which was destined to go to San Francisco, but did not produce the person who found the letter, nor did it show that Camy was the only operator who drove on the Los Angeles to Fresno run on May 2 and who could have lost it. Moreover, although the respondent keeps a record of all items of mail, freight, and express carried by its operators, no such record was introduced by the respondent to show that Camy had ever received the letter in question. The respondent's practice of having the connecting operators examine the waybills and check such waybills with the actual mail and express in the motor coach, would in our opinion have disclosed any loss when Camy turned over his motor coach to the connecting operator who took it on to San Francisco. Camy testified that the connecting operator had "signed for everything" at Fresno after checking his load; this indicates that Camy had turned over everything to that operator after completing his run. The respondent introduced no record to contradict Camy's statement that the connecting operator at Fresno "signed for everything". These considerations would seem to indicate that Camy did not lose the valuable letter.

The assignment of "failure to properly perform driving duties" entirely disregards Camy's good record as a driver. What was meant by this phrase was not made clear to Camy at the time of his discharge. Its vagueness indicates the respondent's desire to include every conceivable fault within its scope. At the hearing, the respondent brought forth no circumstances other than the loss of the item of freight and the alleged loss of the letter to prove that Camy had failed to properly perform driving duties. Under the circumstances, we must conclude that the respondent's assignment of "failure to perform driving duties" as the reason for Camy's discharge is not grounded in fact.

The reason given for Camy's discharge by Hodge at the hearing, namely, "insolence and insubordination", must be looked upon as a mere afterthought. The words in themselves, which Hodge claimed constituted the insolence, indicate that they were not intended to challenge the authority of Hodge. The long friendship between Hodge and Camy, and the long years of peaceful relations between them, indicate that Hodge could not have regarded Camy's remarks as insolent. We cannot believe that insolence and insubordination were factors in Camy's discharge; firstly, because discharge did not follow until several days after the alleged insolence and insubordina-

tion, and secondly, because no mention of insolence and insubordination as a reason for Camy's discharge was made to him at the time he was discharged.

The above considerations throw great doubt upon the sincerity and validity of the reasons advanced by the respondent for the discharges. This doubt, in addition to the following considerations—namely, that the respondent was avowedly hostile to the Brotherhood and all of its members, that the discharges took place at the height of the Brotherhood activity, that the respondent values its operators very highly since each operator represents an investment of \$1500.00 in training and experience, that good operators are hard to find, that it is the respondent's policy to hesitate before discharging an operator, and that in all cases the respondent's officers are instructed to resolve all doubts in favor of the employee—firmly support our conclusion that Sager and Camy were discharged not for any reason associated with the performance of their duties, but rather because of their membership in and activities for the Brotherhood. By the discharge of Sager and Camy, the respondent has discriminated against its operators in regard to hire and tenure of employment, thereby discouraging membership in the Brotherhood, and has interfered with, restrained, and coerced its operators in the exercise of the rights guaranteed in Section 7 of the Act.

C. The respondent's domination of and interference with the formation and administration of Drivers' Association, Pacific Greyhound Lines, and its contribution of financial and other support thereto

On August 30, 1933, the respondent conducted an election among its employees on all of its divisions for the purpose of choosing representatives to deal with it. Thereafter the representatives chosen by its operators were invited to meet with the respondent's officers at San Francisco, California. Transportation was provided for these representatives and they met with the respondent without loss of pay. At this meeting Travis addressed them as follows: "Boys, you can do as you please. It is your privilege to form any organization that you wish, or join any organization that you wish; but I believe, for your benefit, that if you have an organization of your own that you can do better, and that it will help you out more than going in some outside organization that don't know anything about the bus business." Responding to this coercion these representatives agreed to form their own labor organization if they could get some help in drawing up its constitution and by-laws. Travis then informed them that any of the respondent's officers were at their service. Under the guidance of and with the aid of the respondent's officers these representatives

immediately drew up a constitution and by-laws governing the new labor organization, Drivers' Association, Pacific Greyhound Lines, and a working agreement between that organization and the respondent. In accordance with the provisions of the constitution and by-laws these representatives automatically assumed control of the Drivers' Association.

Having thus dominated and interfered with the formation of the Drivers' Association the respondent thereafter dominated and interfered with its administration and fostered its existence by many devices. The record is replete with testimony showing that Travis was as active in promoting membership in the Drivers' Association as were the representatives of the organization. In its efforts to establish the Drivers' Association the respondent left no stone unturned; operators on the various divisions of its lines were urged, persuaded, threatened, and coerced into joining.

The Drivers' Association, still in existence at the time of the hearing, and functioning under the original constitution and by-laws drawn up in 1933, claims a membership of more than 400. Article I of its constitution and by-laws reads as follows: "This Association is organized by the Drivers of Pacific Greyhound Lines, Inc. for the purpose of providing adequate representation for them in all matters pertaining to their welfare, and for the purpose of fostering a spirit of cooperation between the Drivers and the Company." The managing body of the Drivers' Association, the Board of Governors, is composed of eight representatives, one from each of the respondent's divisions. According to Article IV, Section 1, of the constitution and by-laws, only "members in good standing . . . who have to their credit one or more years of active service as a driver for Pacific Greyhound Lines, Inc., and who are American citizens, 21 years of age or over", are eligible to become representatives. Article III, Section 3, provides for the signing of a deduction order by members, authorizing the respondent to deduct membership dues from their salaries. In accordance with this provision of the constitution and by-laws the respondent collects dues for the Drivers' Association and deposits the amounts collected to that organization's account.

The working agreement in effect at the time of the hearing between the Drivers' Association and the respondent consists of the original agreement drawn up in 1933, various amendments thereto also drawn up under the guidance of and with the aid of the respondent's officers, and certain rules and regulations issued by the respondent, interpreting and modifying the provisions of the original agreement and the amendments. Under the terms of this so-called agreement any operator "who considers that an injustice has been done him in any mat-

ter" may appeal first to his supervisory officer and then to the president of the respondent, but in "all cases the decision of the president shall be final". Such appeals may only be made personally or through a representative of the Drivers' Association. Arbitration is provided for by the working agreement only in cases where the parties disagree as to the proper meaning or application of any provision of the agreement. The provision for arbitration has, however, never been called into use.

Meetings of the members of the Drivers' Association with their divisional representatives are not regularly called. On some divisions no meetings have been held for over a year; on others, none for a period of months. When meetings are held the individual members of the Drivers' Association have no voice in the determination of any policies. The respondent's officers frequently attend and address these meetings and exert their influence upon the members and representatives attending. Characteristic of these meetings is the meeting called by the Drivers' Association during August or September, 1935. At this meeting, called for the purpose of discussing working conditions, Hodge presented a plan proposed by the respondent, the particulars of which it is not necessary to discuss here, but the net effect of which was to favor the respondent's "Guarantee Men" to the detriment of the operators on its "On Call Board". Warren Macy testified at the hearing that there was no need for such a plan at the time it was proposed. The members of the Drivers' Association at the meeting unanimously voiced their disapproval of this plan. When it was suggested that a vote be taken, Hodge arose and informed the members present that "if Mr. Travis wanted it to go that way it would go that way, regardless of all the voting the drivers did at the meeting there". No vote was ever taken on the proposal, but the plan was nevertheless put into effect by the respondent, and was still in effect at the time of the hearing.

The respondent's minor officials attend the meetings of the Drivers' Association and take notes of the proceedings. The respondent supplies the Drivers' Association with secretarial help not only for the purpose of recording the minutes of meetings but for other purposes as well, and permits the Drivers' Association to use its stationery and bulletin boards. Suitable meeting quarters are provided by the respondent for the Drivers' Association in its terminals on its various divisions. Members of the Drivers' Association suffer no loss of pay for time spent at these meetings. Representatives of the Drivers' Association receive their regular pay when attending to the affairs of that organization. The respondent in addition furnishes transportation to the representatives when the affairs of the Drivers' Association make travel necessary. Members of the Drivers' Association,

with the knowledge and approval of the respondent, engage in organizing activities during working hours without loss of pay.

The respondent takes an interest in the elections conducted by the Drivers' Association and advises its employees as to who are the best candidates. Just before the Drivers' Association election of December, 1935, Fancher, the respondent's agent at Santa Cruz, advised Les Thompson to vote for one Martin rather than for Wallich, the latter being a Brotherhood man.

It is clear that the respondent, prior to July 5, 1935, created the Drivers' Association, fostered its existence and dominated its administration. A review of the findings of fact set forth above leads us to the inescapable conclusion that the respondent has, since July 5, 1935, done everything within its power to keep that organization alive and to interfere with and dominate its administration.

The fundamental structures upon which the Drivers' Association depends for its existence, the constitution and by-laws and the so-called working agreement with the respondent, are the creation of the respondent. By these instruments the respondent continues to force its operators to accept the type of representation which it has dictated. Such representation is obviously inadequate. "Outsiders" are not recognized by the respondent. As a result the respondent's operators are compelled to deal with the respondent through representatives admittedly inexperienced in matters of collective bargaining. An example of how this system of representation works in practice is furnished by the experience of the Los Angeles operators, who, despite all their efforts, have been unable to effect adjustments of long-standing grievances. Although the members and representatives of the Drivers' Association have frequently appealed to the respondent, only minor concessions have been obtained. One of the respondent's officials testified that when the respondent and the men cannot agree on a certain matter, the *status quo* remains, and the Drivers' Association neither does nor can do anything about it.

The so-called working agreement between the Drivers' Association and the respondent is in effect not an agreement at all. Although it provides that it shall remain in effect for a certain period of time and that it may be changed only by mutual consent of the parties, its terms apparently do not bind the respondent. Witness to this effect are the rules and regulations issued by the respondent from time to time interpreting and modifying various provisions of that instrument; also the plan proposed by the respondent in August or September, 1935, which, although objected to by the members of the Drivers' Association, was put into effect by the respondent over their objections. Furthermore, the provision of the working agreement making

the decision of the president of the respondent final in any appeal, concentrates all the power over the destiny of its employees in the respondent's hands.

The presence of the respondent's officers at the meetings of the Drivers' Association, "taking notes of the proceedings" and joining in the discussion of working conditions and proposals for changes in the so-called working agreement, exerts a powerful pressure upon the members and representatives to do as the respondent bids. The respondent's zealous interest in the affairs and the expansion of the Drivers' Association has made it apparent to the operators that this is the organization which the respondent favors and which it would be wise to join. By gratuitously supplying the Drivers' Association with secretarial help, stationery, and meeting places, by supporting its members and their representatives while engaged in its affairs by payment to them of their regular wages, and by collecting the dues of the Drivers' Association, the respondent has clearly identified itself with that organization in the eyes of its operators and has impaired the bargaining power of the Drivers' Association by placing it in the position of a debtor. Under such circumstances the respondent's operators are not free to exercise the rights guaranteed by the Act.

On the basis of the aforementioned facts we conclude that the respondent has interfered with and dominated the formation and administration of the Drivers' Association, has contributed financial and other support thereto, and has thereby interfered with, restrained, and coerced its operators in the exercise of the rights guaranteed in Section 7 of the Act. There can be but one way of remedying the unlawful conduct in this case and that is by ordering a complete withdrawal of all recognition by the respondent of the Drivers' Association as the representative of its operators, in addition to ordering the cessation of such interference, domination, and support. What we said *In the Matter of Wheeling Steel Corporation and The Amalgamated Association of Iron, Steel and Tin Workers of North America et al.*, Case No. C-3, decided May 12, 1936 (1 N. L. R. B. 699, 710), is particularly applicable here :

"Simply to order the respondent to cease supporting and interfering with the Councils would not set free the employee's impulse to seek the organization which would most effectively represent him. We cannot completely eliminate the force which the respondent's power exerts upon the employee. But the Councils will, if permitted to continue as representatives, provide the respondent with a device by which its power may now be made effective unobtrusively, almost without further action

on its part. Even though he would not have freely chosen the Council as an initial proposition, the employee, once having chosen, may by force of a timorous habit, be held firmly to his choice. The employee must be released from these compulsions. Consequently the respondent must affirmatively withdraw recognition from the Departmental and General Councils, as organizations, for the purpose of collective bargaining upon behalf of its employees."

IV. EFFECT OF THE UNFAIR LABOR PRACTICES ON COMMERCE

The respondent is engaged in the operation of an extensive interstate motor carrier transportation system, which operates as an integral part of a nation-wide system. Its operators employed on wholly intrastate runs as well as its operators on interstate runs are engaged in the operation of instrumentalities of interstate commerce.

As we said *In the Matter of Pennsylvania Greyhound Lines, Inc.*, Case No. C-1, decided December 7, 1935 (1 N. L. R. B. 1, 42):

"Interference with the activities of employees in forming or joining labor organizations results in strikes and other forms of industrial unrest which in the field of transportation have the effect of impairing the safety and efficiency of the instrumentalities of such transportation. About 50% of the strikes and lock-outs that occurred in the motor transportation industry from January, 1935 to July, 1935, inclusive, involving 32,732 employees and 162,721 man-days of idleness, arose over the issue of employee organization. It is common knowledge that in the industrial scene numerous and prolonged strikes have resulted from denial by employers of the rights now guaranteed by Section 7 and from their interference with employees attempting to exercise such rights ((1934) 39 Monthly Labor Review No. 1, p. 75, Table 9). The Board cannot be blind to such knowledge or fail to realize the disruption of commerce that results from such strikes and unrest. The motor transportation industry has achieved an important place in the transportation systems of this country and it is the desire of Congress to prevent the interference with transportation and the impairment of the safe and efficient operations of its instrumentalities that results from such strikes and unrest. It is significant that, unlike the parallel legislation in the railway field, there are no provisions for collective bargaining and employee freedom of organization and representation in the recent Motor Carrier Act of 1935, imposing federal regulation of interstate

motor transportation. The omission was succinctly explained on the floor of the Senate by Senator Wheeler, Chairman of the Committee on Interstate Commerce, on the ground that the Wagner Act then before Congress would cover the field of motor transportation and that therefore such provisions need not be incorporated in the Motor Carrier Act (Cong. Record, 74th Congress, 1st Session, Vol. 79, p. 5887)."

On the basis of all of the aforementioned findings of fact we conclude that: (a) the respondent's operations occur in the course and current of commerce among the several states; and (b) on the basis of experience in the motor carrier transportation and other industries, the respondent's conduct, and each item of such conduct, burdens and obstructs commerce and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce, by impairing the efficiency, safety and operation of instrumentalities of commerce.

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact the Board makes the following conclusions of law.

1. The Brotherhood of Locomotive Firemen and Enginemen is a labor organization, within the meaning of Section 2, subdivision (5) of the Act.

2. The Drivers' Association, Pacific Greyhound Lines, is a labor organization, within the meaning of Section 2, subdivision (5) of the Act.

3. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the Act.

4. By discriminating in regard to hire and tenure of employment of its operators, thereby discouraging membership in the Brotherhood of Locomotive Enginemen and Firemen, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the Act.

5. By dominating and interfering with the formation and administration of Drivers' Association, Pacific Greyhound Lines, and by contributing financial and other support thereto, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8, subdivision (2) of the Act.

6. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2, subdivisions (6) and (7) of the Act.

ORDER

On the basis of the findings of fact and conclusions of law, and pursuant to Section 10, subdivision (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Pacific Greyhound Lines, Inc., its officers and agents, shall:

1. Cease and desist:

(a) From discouraging membership in the Brotherhood of Locomotive Enginemen and Firemen, or any other labor organization of its operators, or encouraging membership in the Drivers' Association, Pacific Greyhound Lines, or any other labor organization of its operators, by discriminating against its operators in regard to hire or tenure of employment or any term or condition of employment;

(b) From dominating or interfering with the administration of the Drivers' Association, Pacific Greyhound Lines, or with the formation or administration of any other labor organization of its operators, and from contributing financial or other support to the Drivers' Association, Pacific Greyhound Lines, or any other labor organization of its operators, except that nothing in this paragraph shall prohibit the respondent from permitting its operators to confer with it during working hours without loss of time or pay;

(c) From in any other manner interfering with, restraining, or coercing its operators in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Offer to Vincent R. Sager and Henry A. Camy immediate and full reinstatement to their former positions, without prejudice to any rights and privileges previously enjoyed by them:

(b) Make whole Vincent R. Sager and Henry A. Camy, and each of them, for any losses of pay they have suffered by reason of their discharge, by payment to each of them, respectively, of a sum of money equal to that which each of them would normally have earned as wages from the date of his discharge to the date of the respondent's offer of reinstatement, computed at the average weekly earnings of each for six months immediately preceding such discharge, less the amount earned by each since the date of his discharge;

(c) Withdraw all recognition from the Drivers' Association, Pacific Greyhound Lines, as the representative of its operators for the

purposes of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work; and completely disestablish the Drivers' Association, Pacific Greyhound Lines as such representative;

(d) Immediately notify each and every one of its officers and agents in each of its divisions as well as each and every one of the representatives of the Drivers' Association, Pacific Greyhound Lines, that the Drivers' Association, Pacific Greyhound Lines, is so disestablished and that it will refrain from any recognition thereof;

(e) Post notices to its operators in conspicuous places in all of its terminals on each of its divisions stating: (1) that the Drivers' Association, Pacific Greyhound Lines, is disestablished as the representative of its operators for the purpose of dealing with it with respect to grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and that it will refrain from any recognition thereof; (2) that it will cease and desist in the manner aforesaid; and (3) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting.