

In the Matter of NORFOLK SOUTHERN BUS CORPORATION and INTERNATIONAL ASSOCIATION OF MACHINISTS, LODGE #11

Case No. 5-CA-100.—Decided April 26, 1949

DECISION

AND

ORDER

On February 4, 1949, Trial Examiner Frederic B. Parkes, 2nd, issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged and was engaging in certain unfair labor practices in violation of Section 8 (a) (5) and 8 (a) (1) of the National Labor Relations Act, as amended, and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter the Respondent filed exceptions to the Intermediate Report.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this proceeding to a three-member panel [Chairman Herzog and Members Houston and Murdock].

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner with the following addition:

In its exceptions the Respondent contends that the Union is not a labor organization because it denies membership to Negroes. The Respondent asserts that a majority of its employees in the unit found appropriate are Negroes. Although the Board is concerned with the fulfillment of the duty imposed upon a duly certified bargaining representative to represent equally all members of a unit without regard to race, color, or creed, it lacks authority to pass upon eligibility requirements for membership in a labor organization.¹ As there is no showing in the record before us that the Petitioner will not accord

¹ *Matter of Larus & Brother Company, Inc.*, 62 N. L. R. B. 1075.

83 N. L. R. B., No. 15.

adequate representation to all employees included within the unit found appropriate, we find no merit to the Respondent's contention.² Furthermore, we have previously found that the Union herein is a labor organization within the meaning of the Act.³

ORDER

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Norfolk Southern Bus Corporation, Norfolk, Virginia, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with International Association of Machinists, Lodge #11, as the exclusive representative of all garage and shop employees at the maintenance shop of the Respondent in Norfolk, Virginia, including mechanics first class, mechanics second class, mechanics' helpers, greasers, washers, gas attendants, and cleaners, but excluding bus operators, clerical employees, the working foremen, and all supervisors, as defined in the Act, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) In any manner interfering with the efforts of International Association of Machinists, Lodge #11, to bargain collectively with it on behalf of the employees in the aforesaid appropriate unit.

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

(a) Upon request bargain collectively with International Association of Machinists, Lodge #11, as the exclusive representative of all garage and shop employees at the maintenance shop of the Respondent in Norfolk, Virginia, including mechanics first class, mechanics second class, mechanics' helpers, greasers, washers, gas attendants, and cleaners, but excluding bus operators, clerical employees, the working foremen, and all supervisors, as defined in the Act, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) Post at its maintenance shop in Norfolk, Virginia, copies of the notice attached hereto, marked "Appendix A."⁴ Copies of said notice, to be furnished by the Regional Director for the Fifth Region, shall, after being duly signed by the Respondent's representative, be

² *Matter of Texas & Pacific Motor Transport Company*, 77 N. L. R. B. 87; *Matter of Vencer Products, Inc.*, 81 N. L. R. B. 492.

³ *Matter of Norfolk Southern Bus Corporation*, 76 N. L. R. B. 488.

⁴ In the event this Order is enforced by decree of a United States Court of Appeals, there shall be inserted, before the words: "A DECISION AND ORDER" the words: "A DECREE OF THE UNITED STATES COURT OF APPEALS ENFORCING."

posted by the Respondent immediately upon receipt thereof and maintained by it for a period of sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material;

(c) Notify the Regional Director for the Fifth Region in writing within 10 days from the date of this Order what steps the Respondent has taken to comply herewith.

APPENDIX A

NOTICE TO ALL EMPLOYEES

Pursuant to a Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our employees that:

WE WILL BARGAIN collectively upon request with INTERNATIONAL ASSOCIATION OF MACHINISTS, LODGE #11, as the exclusive representative of:

All garage and shop employees at our maintenance shop in Norfolk, Virginia, including mechanics first class, mechanics second class, mechanics' helpers, greasers, washers, gas attendants, and cleaners, but excluding bus operators, clerical employees, the working foremen, and all supervisors, as defined in the National Labor Relations Act.

WE WILL NOT in any manner interfere with the efforts of the above-named Union to bargain with us, or refuse to bargain with said Union as the exclusive representative of the employees in the bargaining unit set forth above.

NORFOLK SOUTHERN BUS CORPORATION,
Employer

Dated ----- By -----
(Representative) (Title)

This notice must remain posted for sixty (60) days from the date hereof, and must not be altered, defaced, or covered by any other material.

INTERMEDIATE REPORT

- Miles J. McCormick, Esq.*, for the General Counsel.
- S. Burnell Bragg, Esq.*, and *Arthur J. Winder, Esq.*, of Norfolk, Va., for the Respondent.
- O. H. Dye, Esq.*, of Norfolk, Va, for the Union.

STATEMENT OF THE CASE

Upon a charge duly filed on June 17, 1948, by International Association of Machinists, Lodge #11, herein called the Union, the General Counsel of the National Labor Relations Board,¹ by the Regional Director for the Fifth Region (Baltimore, Maryland), issued a complaint, dated August 9, 1948, against Norfolk Southern Bus Corporation, Norfolk, Virginia, herein called the Respondent, alleging that the Respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (a) (1) and (5) and Section 2 (6) and (7) of the National Labor Relations Act, as amended, by Public Law 101, 80th Congress, Chapter 120, 1st Session,² herein called the Act. Copies of the charge, complaint, and notice of hearing were duly served upon the Respondent and the Union.

With respect to the unfair labor practices, the complaint alleged, in substance, that the Respondent on or about April 14, 1948, and thereafter, refused to bargain collectively with the Union as the exclusive bargaining representative of the Respondent's employees within an appropriate bargaining unit, although a majority of the employees in such unit, in an election conducted under the supervision of the Board on March 30, 1948, had designated the Union as their representative for the purposes of collective bargaining. The complaint alleged that by the foregoing conduct the Respondent engaged in unfair labor practices within the meaning of Section 8 (a) (1) and (5) of the Act.

Thereafter, the Respondent duly filed its answer in which it admitted that it was engaged in interstate commerce, denied that it had engaged in any unfair labor practices, and set forth several affirmative defenses, hereinafter detailed.

Pursuant to notice, a hearing was held on September 21, 1948, at Norfolk, Virginia, before Frederic B. Parkes, 2nd, the undersigned Trial Examiner duly designated by the Chief Trial Examiner. The General Counsel and the Respondent were represented by counsel and the Union by an official representative. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

At the close of the General Counsel's case-in-chief, the Respondent moved to dismiss the complaint on several grounds. The undersigned denied the motion. At the end of the hearing, the motion of the General Counsel that the pleadings be conformed to the proof in respect to minor variances such as names and dates was granted. At the same time, the Respondent renewed its motion to dismiss the complaint. The undersigned reserved ruling on the motion. The motion is hereby denied for the reasons hereinafter set forth.

Upon the conclusion of the hearing, the undersigned advised the parties that they might argue orally before, and file briefs or proposed findings of fact and conclusions of law or both with, the Trial Examiner. The Respondent set forth its position in oral argument. No briefs or proposed findings were filed.

Upon the entire record in the case and from his observation of the witnesses, the undersigned makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

Norfolk Southern Bus Corporation, a Virginia corporation with its principal office and place of business in Norfolk, Virginia, is engaged, pursuant to the

¹ The General Counsel and his representative at the hearing are herein referred to as the General Counsel, and the National Labor Relations Board is referred to as the Board.

² 61 Stat. 136.

authorization of the Interstate Commerce Commission, in the transportation of general commodities and passengers between points in eastern Virginia and North Carolina.

In the course and conduct of its business, the Respondent has continuously caused a substantial amount of materials and equipment used in its operations to be purchased, delivered, and transported in interstate commerce; it has continuously caused large numbers of passengers and substantial amounts of baggage and materials to be transported for hire in interstate commerce, from and through the States of the United States, other than Virginia and North Carolina, to points in Virginia and North Carolina; and it has continuously caused large numbers of passengers and substantial amounts of baggage and materials to be transported for hire from points in Virginia and North Carolina to and through States of the United States, other than Virginia and North Carolina.³

The Respondent admits that it is engaged in commerce within the meaning of the Act.

II. THE ORGANIZATION INVOLVED

International Association of Machinists, Lodge #11, is a labor organization admitting employees of the Respondent to membership.⁴

III. THE UNFAIR LABOR PRACTICES

A. *The representation proceeding; sequence of events*

On March 2, 1948, the Board issued a Decision and Direction of Election⁵ in Case No. 5-R-3026, directing that an election be conducted among the Respondent's employees in the following unit found to be appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

. . . all garage and shop employees at the maintenance shop of the [Respondent] in Norfolk, Virginia, including mechanics 1st class, mechanics 2nd class, mechanics' helpers, greasers, washers, gas attendants, and cleaners, but excluding bus operators, clerical employees, the working foremen and all supervisors. . . .

On March 30, 1948, pursuant to the Decision and Direction of Election, an election was conducted under the supervision of the Regional Director for the Fifth Region. Upon the conclusion of the election, a Tally of Ballots was furnished the Respondent and the Union. Neither the Respondent nor the Union filed objections to the conduct of the election. The Tally showed that of the approximately 36 eligible voters, 34 cast ballots, of which 25 were for the Union, 7 were against the Union, and 2 were challenged.

On April 14, 1948, the Board issued a Certification of Representatives, certifying the Union as the statutory representative of the Respondent's employees in the unit theretofore found by the Board to be appropriate for the purpose of collective bargaining.

Under the date of May 24, 1948, O. H. Dye, a Grand Lodge Representative of the Union, mailed to E. M. Fletcher, vice-president and general manager of the Respondent, the following letter accompanied by a proposed collective bargaining agreement:

³ Cf. *Matter of Norfolk Southern Bus Corp.*, 76 N. L. R. B. 488.

⁴ As hereinafter discussed, the undersigned finds no merit in the Respondent's contention that the Union is not a labor organization within the meaning of the Act.

⁵ *Matter of Norfolk Southern Bus Corp.*, *supra*

Enclosed herewith is a copy of our proposed working agreement covering the employees as Certified by the NLRB.

We hope than an early meeting may be arranged within the next week to negotiate a contract. It would be appreciated at that time if you could have your proposal in writing to enable us to expedite an agreement.

You may reach me at the above address. . . .⁶

Dye received no reply from Fletcher. The following letter, dated June 10, 1948, sent to Fletcher by Dye reveals the course of events:

On May 24th, 1948, you were mailed our proposed Agreement for your consideration, with the request that you set a date for a meeting at which we could further negotiate a contract.

On June 5th, 1948 I made two attempts to reach you over the phone without success, on June 8th, 1948, over the phone, we discussed our proposed meeting and at that time you stated that you had referred our proposed Agreement to your Attorneys and that they in turn had referred it to your Attorneys in Washington, D. C. and that you were not in a position to set a time for a meeting to discuss our proposed Agreement, you further stated that you would get in touch with me the following day.

Having heard nothing further from you, I am again asking that you set a time and designate a place where we can get together and negotiate for an agreement. . . .

On June 14, 1948, S. Burnell Bragg, general solicitor of the Respondent, wrote Dye as follows:

Your letter of June 10th addressed to Mr. E. M. Fletcher, Vice President and General Manager of the Norfolk Southern Bus Corp. has been handed me for reply.

No doubt you are aware of the fact that the Norfolk Southern Bus Corporation has instituted proceedings against the National Labor Relations Board and against your Union in the District Court of the United States for the District of Columbia, alleging among other things that the International Association of Machinists, Lodge #11 has not complied with the terms of the Labor-Management Relations Act of 1947 and requesting that the Court permanently enjoin said Lodge from demanding and requiring the plaintiff to enter into negotiations for the purpose of negotiating an employment contract or otherwise. Until the Court renders a decision in these proceedings, we will not be in a position to advise you further in the premises.

On June 17, 1948, the Union filed with the Board a charge alleging that the Respondent was engaging in unfair labor practices within the meaning of Section 8 (a) (1) and (5) of the Act.

B. Defenses and contentions of the Respondent

In its answer and in argument advanced at the hearing, the Respondent contended that the Board had no authority to proceed in the representation case or the instant proceeding and that the Respondent was under no duty to bargain with the Union for the following reasons:

⁶ The address given in the letter was "Atlantic Hotel, Norfolk 10, Virginia."

1. Non-existence of the Union

In its answer and at the hearing, the Respondent contended that the Union was not a labor organization within the meaning of the Act and, in fact, was wholly fictitious, because, according to the Respondent's information and belief, the Union had no constitution, bylaws, or officers. This contention is wholly without merit. In the representation proceeding, the Board found the Union to be a labor organization within the meaning of the Act. No evidence to the contrary was adduced by the Respondent in the instant proceeding. In fact, copies of the Union's constitution and bylaws were produced for the Respondent's inspection at the hearing and witnesses named the roster of officers of the Union.

Secondly, the Respondent asserts that the organization certified by the Board was Lodge #11 of the International Association of Machinists and not the parent organization and that no valid request to bargain has ever been made by Lodge #11. In other words, the Respondent takes the position that the collective bargaining requests of Grand Lodge Representative Dye were acts of the parent organization and that the requests for collective bargaining conferences should have emanated from officers of Lodge #11. The undersigned finds no merit in this argument, for it is a well-settled principle of the Board that it is not within the province of an employer to dictate the employees' choice of representatives to act for them in collective bargaining negotiations.⁷

Dye's letters on their face indicate that he was acting in behalf of Lodge #11, for both letters in the salutatory paragraphs state, "Re: Proposed Agreement Lodge No. 11, I. A. of M." Moreover, the record reveals that it was Dye's official duty to assist local lodges, whose members were also members of the parent organization, in the negotiation of collective bargaining contracts and in the settlement of grievances with employers and, also, that Lodge #11 had requested Dye to assist it in negotiating a contract with the Respondent and to make the initial request for recognition.

In support of its contention that the Union is a fictitious organization, the Respondent points to the address of the Union given in its charge filed with the Board on June 17, 1948, as 114 Moran Avenue, Norfolk, Virginia, which is a non-existent address. At the hearing, it was established that this address was a typographical error and should have been 1114 Moran Avenue, which was the home address of the recording secretary of the Union. The undersigned finds no merit in the Respondent's contention. The error was clearly a typographical mistake and at the time the charge was served upon the Respondent, it had already received two letters from Dye, whom the Respondent could have consulted to resolve any question as to the correct address of the Union.

2. Union's compliance with Section 9 (f), (g), and (h) of the Act

The Respondent contended that the representation and instant proceedings were illegal because in neither proceeding was there an affirmative showing by way of proof that the Union had complied with the requirements of Section 9 (f), (g), and (h) of the Act. The Respondent accordingly asserts that it is under no duty to bargain with the Union.

⁷ *Matter of Hoppes Manufacturing Company*, 74 N. L. R. B. 853; *Matter of The Hancock Brick & Tile Company*, 44 N. L. R. B. 920; *Matter of The Kansas Utilities Company*, 35 N. L. R. B. 936; *Matter of Dixie Motor Coach Corporation*, 25 N. L. R. B. 869; *Matter of Lindeman Power and Equipment Company*, 11 N. L. R. B. 868; *Matter of Louisville Refining Company*, 4 N. L. R. B. 844.

In the representation case, the Board expressly found no merit in the same contention advanced by the Respondent as to compliance issue. Therein the Board stated, "As to the contention that the [Union] has not complied with the filing requirements of the amended Act, we are administratively informed to the contrary." The Board in other representation cases has had occasion to consider the issue posed by the Respondent herein and has held that the determination of compliance by a labor organization with Section 9 (f), (g), and (h) is an administrative one, not subject to litigation or collateral attack.⁸ The undersigned accordingly finds no merit in the Respondent's contention in respect to the Union's compliance with Section 9 (f), (g), and (h) in the representation proceeding. As for the instant proceeding, the undersigned finds that the Respondent's contentions as to proof of the Union's compliance with the filing requirements of Section 9 (f), (g), and (h) are likewise without merit, for in unfair labor practice proceedings determination of compliance by a labor organization with these sections is an administrative one to be made by the General Counsel and is not a litigable issue.⁹

C. Conclusions

The undersigned finds that all garage and shop employees at the maintenance shop of the Respondent in Norfolk, Virginia, including mechanics 1st class, mechanics 2nd class, mechanics' helpers, greasers, washers, gas attendants, and cleaners, but excluding bus operators, clerical employees, the working foremen, and all supervisors as defined in the Act, constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9 (b) of the Act. The undersigned further finds that on and after April 14, 1948, the Union was the duly designated bargaining representative of a majority of the employees in the aforesaid appropriate unit, and that pursuant to the provisions of Section 9 (a) of the Act, the Union was on April 14, 1948, and at all times thereafter has been, and now is, the exclusive representative of all employees in the aforesaid unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

⁸ *Matter of The Baldwin Locomotive Works*, 76 N. L. R. B. 922; *Matter of Lion Oil Company*, 76 N. L. R. B. 565.

⁹ The charge of unfair labor practice filed by the Union with the Board contained the following paragraph:

3. . . . The labor organization filing this charge, hereinafter called the union, has complied with Section 9 (f) (A), 9 (f) (B) (1), and 9 (g) of said Act as amended, as evidenced by letter of compliance issued by the Department of Labor and bearing code number _____. The financial data filed with the Secretary of Labor is for the fiscal year ending _____. A certificate has been filed with the National Labor Relations Board in accordance with Section 9 (f) (B) (2) stating the method employed by the union in furnishing to all its members copies of the financial data required to be filed with the Secretary of Labor.

Section 203.12 of the Board's Rules and Regulations, Series 5, in effect at the time the charge was filed, provided that a labor organization submitting a charge of unfair labor practice should give the information required in the blank forms of the paragraph above quoted. The charge filed by the Union in the instant proceeding left the blank spaces of this paragraph unanswered. However, the charge bears a statement "9 (f), (g), (h) cleared 7/1/48." The General Counsel did not avail himself of an opportunity afforded to amend the charge by giving the information required by Paragraph 3. In view of the fact that the Board had previously determined in the representation case that the Union was in compliance with Section 9 (f), (g), and (h), that the charge itself states that compliance with this section had been "cleared," and that the matter of compliance is an administrative one, the undersigned finds that the absence of the information called for in paragraph 3 of the charge is not a fatal procedural defect to the instant proceeding, does not negate the conclusions reached as to the Respondent's arguments discussed in the text above, and is in no wise prejudicial to the Respondent.

The undersigned further finds that on June 14, 1948, and at all times thereafter, the Respondent has refused to bargain collectively with the Union as the exclusive representative of its employees in the appropriate unit, and thereby has interfered with, restrained, and coerced, and is interfering with, restraining, and coercing, its employees in the exercise of the rights guaranteed in Section 7 of the Act.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent set forth in Section III, above, occurring in connection with the operations of the Respondent described in Section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Since it has been found that the Respondent has engaged in unfair labor practices, it will be recommended that the Respondent cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act. Having found that the Respondent has refused to bargain collectively with the Union as the exclusive representative of its employees in an appropriate unit, the undersigned will recommend that the Respondent, upon request, bargain collectively with the Union.

Because of the basis of the Respondent's refusal to bargain, as indicated in the facts found, and because of the absence of any evidence that danger of other unfair labor practices is to be anticipated from the Respondent's conduct in the past, the undersigned will not recommend that the Respondent cease and desist from the commission of any other unfair labor practice. Nevertheless, in order to effectuate the policies of the Act, the undersigned will recommend that the Respondent cease and desist from the unfair labor practices found and from in any manner interfering with the efforts of the Union to bargain collectively with it.¹⁰

Upon the basis of the above findings of fact and upon the entire record in the case, the undersigned makes the following:

CONCLUSIONS OF LAW

1. International Association of Machinists, Lodge #11, is a labor organization, within the meaning of the Act.

2. All garage and shop employees at the maintenance shop of the Respondent in Norfolk, Virginia, including mechanics 1st class, mechanics 2nd class, mechanics' helpers, greasers, washers, gas attendants, and cleaners, but excluding bus operators, clerical employees, the working foremen, and all supervisors, as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

3. International Association of Machinists, Lodge #11, was on April 14, 1948, and at all times thereafter has been, the exclusive representative of all employees in the aforesaid unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the Act.

4. By refusing on June 14, 1948, and at all times thereafter, to bargain collectively with International Association of Machinists, Lodge #11, as the exclusive representative of all its employees in the appropriate unit, the Respondent

¹⁰ See *N. L. R. B. v. Express Publishing Company*, 312 U. S. 426.

has engaged and is engaging in unfair labor practices, within the meaning of Section 8 (a) (5) of the Act.

5. By the aforesaid refusal to bargain, the Respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, and has thereby engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (a) (1) of the Act.

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

RECOMMENDATIONS

Upon the basis of the above findings of fact, and conclusions of law, and upon the entire record in the case, the undersigned recommends that the Respondent, Norfolk Southern Bus Corporation, Norfolk, Virginia, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with International Association of Machinists, Lodge #11, as the exclusive representative of all garage and shop employees at the maintenance shop of the Respondent in Norfolk, Virginia, including mechanics 1st class, mechanics 2nd class, mechanics' helpers, greasers, washers, gas attendants, and cleaners, but excluding bus operators, clerical employees, the working foremen, and all supervisors, as defined in the Act, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) In any manner interfering with the efforts of International Association of Machinists, Lodge #11, to bargain collectively with it on behalf of the employees in the aforesaid appropriate unit.

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

(a) Upon request bargain collectively with International Association of Machinists, Lodge #11, as the exclusive representative of all garage and shop employees at the maintenance shop of the Respondent in Norfolk, Virginia, including mechanics 1st class, mechanics 2nd class, mechanics' helpers, greasers, washers, gas attendants, and cleaners, but excluding bus operators, clerical employees, the working foremen, and all supervisors as defined in the Act, in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(b) Post at its maintenance shop in Norfolk, Virginia, copies of the notice attached hereto, marked "Appendix A." Copies of said notice, to be furnished by the Regional Director for the Fifth Region, shall, after being duly signed by the Respondent or its representative, be posted by the Respondent immediately upon receipt thereof and maintained by it for a period of sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material;

(c) Notify the Regional Director for the Fifth Region, in writing, within twenty (20) days from the date of the receipt of the Intermediate Report, what steps the Respondent has taken to comply herewith.

It is further recommended that, unless the Respondent shall, within twenty (20) days from the date of the receipt of this Intermediate Report, notify said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the Respondent to take such action.

As provided in Section 203.46 of the Rules and Regulations of the National Labor Relations Board—Series 5, effective August 22, 1948, as amended August 18, 1948, any party may, within twenty (20) days from the date of service of the order transferring the case to the Board, pursuant to Section 203.45 of said Rules and Regulations, file with the Board, Rochambeau Building, Washington 25, D. C., an original and six copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and six copies of a brief in support thereof; and any party may, within the same period, file an original and six copies of a brief in support of the Intermediate Report. Immediately upon the filing of such statement of exceptions and/or briefs, the party filing the same shall serve a copy thereof upon each of the other parties. Statements of exceptions and briefs shall designate by precise citation the portions of the record relied upon and shall be legibly printed or mimeographed, and if mimeographed shall be double spaced. Proof of service on the other parties of all papers filed with the Board shall be promptly made as required by Section 203.85. As further provided in said Section 203.46 should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within ten (10) days from the date of service of the order transferring the case to the Board.

In the event no Statement of Exceptions is filed as provided by the aforesaid Rules and Regulations, the findings, conclusions, recommendations, and recommended order herein contained shall, as provided in Section 203.48 of said Rules and Regulations, be adopted by the Board and become its findings, conclusions, and order, and all objections thereto shall be deemed waived for all purposes.

Dated at Washington, D. C., this 4th day of February 1949.

FREDERIC B. PARKES, 2ND,
Trial Examiner.

APPENDIX A

NOTICE TO ALL EMPLOYEES

Pursuant to the recommendations of a Trial Examiner of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, as amended, we hereby notify our employees that:

WE WILL BARGAIN collectively upon request with INTERNATIONAL ASSOCIATION OF MACHINISTS, LODGE #11, as the exclusive representative of:

All garage and shop employees at our maintenance shop in Norfolk, Virginia, including mechanics 1st class, mechanics 2nd class, mechanics' helpers, greasers, washers, gas attendants, and cleaners, but excluding bus operators, clerical employees, the working foremen, and all supervisors as defined in the National Labor Relations Act.

WE WILL NOT in any manner interfere with the efforts of the above-named Union to bargain with us, or refuse to bargain with said Union as the exclusive representative of the employees in the bargaining unit set forth above.

NORFOLK SOUTHERN BUS CORPORATION,
Employer.

Dated ----- By -----
(Representative) (Title)

This notice must remain posted for sixty (60) days from the date of posting, and must not be altered, defaced, or covered by any other material.