

In the Matter of SANTA FE TRAIL TRANSPORTATION COMPANY *and*  
THE BROTHERHOOD OF RAILROAD TRAINMEN

*Case No. R-126.—Decided April 2, 1937*

*Motor Bus Industry—Investigation of Representatives:* controversy concerning representation of employees—refusal by employer to recognize and negotiate with union as exclusive representative; majority status disputed by employer; rival organizations—question affecting commerce: employees directly engaged in interstate commerce—*Unit Appropriate for Collective Bargaining:* craft; eligibility for membership in petitioning union; no controversy as to—*Representatives:* proof of choice: membership in union; application for membership in union; written designation—*Certification of Representatives:* after investigation but without election.

*Mr. David C. Shaw* for the Board.

*Mr. J. W. Blood* and *Mr. D. E. Souder*, of Wichita, Kan., for the Company.

*Mr. W. P. Nutter*, of Wichita, Kan., for the Union.

*Mr. Stanley S. Surrey*, of counsel to the Board.

## DECISION

### STATEMENT OF CASE

On December 24, 1936, the Brotherhood of Railroad Trainmen, hereinafter referred to as the Union, by W. P. Nutter, filed with the Regional Director for the Seventeenth Region (Kansas City, Missouri) a petition for an investigation and certification of representatives of employees engaged as motor bus operators by the Southern Kansas Stages Lines,<sup>1</sup> Wichita, Kansas. Thereafter, the National Labor Relations Board, hereinafter called the Board, authorized the Regional Director to conduct an investigation and to provide for an appropriate hearing upon due notice. A notice of hearing was issued and duly served, and pursuant thereto a hearing was held on March 8, 1937, at Wichita, Kansas before Charles A. Wood, the Trial Examiner duly designated by the Board. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on the issue was afforded to all parties. Nearly all of the evidence received at the hearing was stipulated to by counsel for the Board and for the Santa Fe Trail Transportation Company.

<sup>1</sup> Name later changed to the Santa Fe Trail Transportation Company. See, *infra*.

Upon the record in the case, the stenographic report of the hearing, and all the evidence, including oral testimony and documentary evidence, the Board makes the following:

## FINDINGS OF FACT

### I. THE COMPANY

The Santa Fe Trail Transportation Company, hereinafter referred to as the Company, is a Kansas corporation with its principal office at Wichita, Kansas. Prior to February 11, 1937, it was known as the Southern Kansas Stage Lines Company, but on that date its name was duly changed. The majority of the capital stock of the Company is owned and controlled by the General Improvement Company, Chicago, Illinois, which in turn is a wholly-owned subsidiary of the Atchison, Topeka, and Santa Fe Railway Company, Topeka, Kansas.

The Company operates an interstate bus transportation system extending through the States of Kansas, Missouri, Oklahoma, Colorado, and Arkansas, transporting for hire persons, express and mail. Terminal facilities of the Company are located at Wichita, Kansas; Oklahoma City and Tulsa, Oklahoma; Kansas City, Missouri; Fort Smith, Arkansas; Pueblo, Colorado, and elsewhere. In addition the Company owns the entire capital stock of three operating bus transportation companies, the Cardinal Stages Company, a Kansas corporation, The Santa Fe Trail Stages, Inc., an Arizona corporation, and The Santa Fe Trail Stages of Illinois, Inc., an Illinois corporation. The operations of the Company and these subsidiaries constitute an integrated interstate bus transportation system, known as the Santa Fe Trailways System, extending from Chicago, Illinois, to Los Angeles and San Francisco, California, and transporting for hire persons, express and mail. The companies comprising the Santa Fe Trailways System in turn are units of the National Trailways System, a transcontinental interstate system of voluntarily associated companies engaged in the transportation by motor bus for hire of persons, express and mail, and extending from the East coast to the West coast. The affiliated companies constituting the National Trailways System publish joint time tables and coordinate their transportation schedules and tariffs. The operations of the Santa Fe Trailways System are also coordinated with those of the Atchison, Topeka, and Santa Fe Railway Company, both transportation systems in general serving the same areas and localities. Certain terminal facilities are used jointly, certain tickets are interchangeable, and the tariffs and time tables of the Railway Company include information pertaining to the Santa Fe Trailways System.

We find that the Company is engaged in transportation and commerce among the several States.

## II. THE UNION

The Brotherhood of Railroad Trainmen is a labor organization. While membership in the Brotherhood was originally confined to certain classes of railroad employees, as a result of changes in its Constitution and negotiations with other labor organizations it now admits bus operators to membership. The Brotherhood of Railroad Trainmen, Santa Fe Lodge No. 529, was chartered by this organization on February 1, 1937.

## III. THE APPROPRIATE UNIT

The Company employs between 450 and 500 employees. Of this number about 124, and not more than 128, are motor bus operators. The Union admits only that class of bus transportation employees to membership and states that the bus operators constitute an appropriate unit for the purposes of collective bargaining. Two subsidiaries of the Company, Cardinal Stages Company and Santa Fe Trail Stages, Inc., have recently concluded agreements with the Union extending only to the bus operators employed by them. The Company has in addition stipulated that the motor bus operators employed by it constitute such an appropriate unit. We therefore find on these facts that the motor bus operators employed by the Company constitute a unit appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment. The employees in this unit are directly engaged in transportation and commerce among the several States.

## IV. EXISTENCE OF A QUESTION OF REPRESENTATION AFFECTING COMMERCE

On December 26, 1936, the Union requested the Company to bargain collectively with it for the purpose of arriving at an agreement covering the rates and working conditions of the motor bus operators employed by it. The Company refused to meet with the Union, claiming that it had not been authorized by a majority of the operators as their representative for collective bargaining. Moreover, an organization known as the Motor Transportation Workers Union claimed to represent a majority of the operators. That organization, however, did not appear at the hearing, although it had been duly served. The doubt thus cast on the Union's claims and the refusal of the Company to bargain collectively with the Union have given rise to a question concerning representation. This question.

according to a representative of the Union, if not settled, may lead to a strike of the Company's employees. We find that a question concerning representation exists which tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. DESIGNATION OF THE UNION BY A MAJORITY OF THE EMPLOYEES IN THE APPROPRIATE UNIT

There are about 124 bus operators in the appropriate unit, the upper limit being 128 bus operators. The record shows that 80 of these bus operators have affirmatively in writing designated the Union as their representative for collective bargaining with the Company. Of these 80 operators, at the time of the hearing 59 were members of the Union and 16 were applicants for membership, of which latter group five had paid their dues in full and the others had promised payment by March 10, 1937. It was stipulated at the hearing, and we so find from these facts, that a majority of the bus operators have designated the Union as their representative for the purposes of collective bargaining with the Company in respect to rates of pay, wages, hours of employment and other conditions of employment. The Company announced at the hearing that if the Board certified the Union as the exclusive representative of the motor bus operators, it would bargain collectively with it on that basis. Inasmuch as the proof of designation by a majority is clear and an election therefore unnecessary, we will make such a certification.

CONCLUSIONS OF LAW

Upon the basis of the above findings of fact, the Board makes the following conclusions of law:

1. A question affecting commerce has arisen concerning the representation of the motor bus operators employed by the Santa Fe Trail Transportation Company, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

2. The motor bus operators employed by the Santa Fe Trail Transportation Company constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. The Brotherhood of Railroad Trainmen, having been designated by a majority of the motor bus operators employed by the Santa Fe Trail Transportation Company as their representative for the purposes of collective bargaining, is, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative

of all such motor bus operators for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

### CERTIFICATION OF REPRESENTATIVES

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that the Brotherhood of Railroad Trainmen has been designated by a majority of the motor bus operators employed by the Santa Fe Trail Transportation Company, Wichita, Kansas, as their representative for the purposes of collective bargaining with the Santa Fe Trail Transportation Company, and that, pursuant to the provisions of Section 9 (a) of the National Labor Relations Act, the Brotherhood of Railroad Trainmen is the exclusive representative of all such motor bus operators for the purposes of collective bargaining with the Santa Fe Trail Transportation Company in respect to rates of pay, wages, hours of employment and other conditions of employment.

MR. DONALD WAKEFIELD SMITH took no part in the consideration of the above Decision and Certification of Representatives.