

In the Matter of PENNSYLVANIA GREYHOUND LINES *et al.* and THE
BROTHERHOOD OF RAILROAD TRAINMEN

Case No. R-151.—Decided September 14, 1937

Motor Bus Industry—Investigation of Representatives: controversy concerning representation of employees—(a) in case of rival organizations: refusal by employer to recognize any organization until certified by Board; substantial doubt as to majority status—(b) in case of uncontested organization: refusal by employer to recognize until certified by Board—survival of existing contract between employer and labor organization subject to result of election and certification of representatives by Board; regular procedure required of labor organizations seeking election; unnecessary under Section 9 (c) of Act to show organization to be a "labor organization"; evidence of company domination of labor organization inadmissible unless charge filed and complaint issued under Section 8, subdivision (2) of Act—*Unit Appropriate for Collective Bargaining:* where other considerations determinative of appropriate unit are evenly balanced, decisive factor is the desire and choice of employees involved; determination of dependent upon election or other proof of choice; employer unit—*Elections Ordered—Representatives:* proof of choice: signature of authorizations designating union as collective bargaining agency; agreements to apply for membership in incorporated union—*Certification of Representatives:* upon proof of choice other than election.

Mr. Malcolm F. Halliday and *Mr. A. Norman Somers* for the Board.

Mr. Ivan Bowen, of Minneapolis, Minn., for the Companies.

Mr. A. Lane Cricher, of Washington, D. C., and *Mr. Samuel Harvey*, of Cleveland, Ohio, for the Brotherhood.

Mr. D. C. Ellis, of Denver, Colo., for the G. E. U.

Mr. Lewis E. Bush and *Mr. Richard Lewis*, of New York City, for the I. M. C. E. A., Inc.

Mr. Charles Ritchie, *Mr. M. E. Boiarsky*, of Charleston, W. Va., and *Mr. E. B. Crossland*, of Charlotte, N. C., for the I. M. T. E. U., Inc.

Mr. David Kaplan and *Mr. Paul E. Hutchings*, of Washington, D. C., for the I. A. M.

Mr. Harry Sacher, of New York City, for the T. W. U. of A.

Mr. Charlton Ogburn, of New York City, for the Amalgamated.

Mr. William L. Wallace, of Lexington, Ky., for the Lexington Association, the Nashville Association, and the Birmingham Association.

Mr. Allan R. Rosenberg, of counsel to the Board.

DECISION
DIRECTION OF ELECTIONS
AND
CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On May 13, 1937, the Brotherhood of Railroad Trainmen, herein called the Brotherhood, filed with the Regional Director for the Eighth Region (Cleveland, Ohio) separate petitions alleging that questions affecting commerce had arisen concerning the representation of the bus drivers employed by Pennsylvania Greyhound Lines, and Central Greyhound Lines, Inc., both of Cleveland, Ohio, and requesting the National Labor Relations Board, herein called the Board, to conduct investigations and certify representatives, pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 22 and May 24, 1937, the Brotherhood filed similar petitions with the Regional Directors for the Ninth Region (Cincinnati, Ohio), the Thirteenth Region (Chicago, Illinois), and the Sixteenth Region (Fort Worth, Texas) concerning the representation of the bus drivers employed by Atlantic Greyhound Lines, Inc., Charleston, West Virginia; Southeastern Greyhound Lines, Inc., Lexington, Kentucky; Richmond Greyhound Lines, Inc., Chicago, Illinois; and Southwestern Greyhound Lines, Inc., Fort Worth, Texas. On May 26, 1937, the Greyhound Employees Union, herein called the G. E. U., also filed a similar petition with the Regional Director for the Sixteenth Region, alleging that a question affecting commerce had arisen concerning the representation of the bus drivers, mechanics, and depot employees of Southwestern Greyhound Lines.

On May 22 and May 28, 1937, the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the above named Regional Directors to conduct investigations and provide for appropriate hearings upon the petitions filed by the Brotherhood concerning the representation of the bus drivers employed by the several companies. On May 28, 1937, the Board further ordered, pursuant to Article III, Section 10 (c) (1) and Section 10 (c) (2) of the Rules and Regulations—Series 1, as amended, that the foregoing cases be transferred to the Board and consolidated for all purposes.

On June 7 and June 10, 1937, pursuant to orders of the Board permitting the filing of petitions directly with the Board in Washington, the Brotherhood filed petitions for investigation and certification of representatives of bus drivers employed by Ohio Greyhound Lines,

Inc., Chicago, Illinois, and Capitol Greyhound Lines, Inc., Charleston, West Virginia. On June 16, 1937, pursuant to a similar order of the Board, the Interstate Motor Transportation Employees' Union, Inc., herein called the I. M. T. E. U., Inc., filed with the Board a petition for investigation and certification of representatives of all the employees of Atlantic Greyhound Lines, Inc. On June 18, the Board, by appropriate order, directed that the case in which the G. E. U. had filed its petition for investigation and certification be consolidated with the foregoing cases for all purposes.

On June 23 and June 26, 1937, the Board issued a notice and amended notice of hearing to be held in Washington on July 1, 1937, copies of which were duly served upon the eight companies, the three petitioning unions, and the Amalgamated Association of Street, Electric Railway, and Motor Coach Employees of America, herein called the Amalgamated. On July 6, 1937, the Board issued a notice of the adjournment of the hearing to July 12 in Washington, which was duly served upon the International Union, United Automobile Workers of America, and the Transport Workers Union of America. On July 19, 1937, the Board issued a further notice of hearing to be held on July 26, 1937, in Washington, which was duly served on the Southeastern Greyhound Lines, Inc., the Brotherhood, and the Consolidated Coach Operators Association of Lexington, Kentucky, the Nashville Greyhound Coach Operators and Maintenance Employees Association, and the Birmingham Coach Operators and Maintenance Association, herein called, respectively, the Lexington Association, the Nashville Association, and the Birmingham Association. Pursuant to the above named notices, a hearing was held in Washington on July 1, 2, 3, 12, 13, 14, 15, 16, 17, and again on July 26, 1937, before Robert M. Gates, the Trial Examiner duly designated by the Board.

At the hearing, the Amalgamated moved and was granted leave to intervene in all cases involving the employees of the eight companies. The Interstate Motor Coach Employees Association, Inc., herein called the I. M. C. E. A., Inc., which moved to intervene in the cases involving the employees of Central Greyhound Lines, Inc., Pennsylvania Greyhound Lines, Inc., and Southeastern Greyhound Lines, Inc., was in the first case permitted and in the latter two cases denied leave to intervene. The International Association of Machinists, herein called the I. A. M., moved and was granted leave to intervene in cases involving the employees of Southwestern Greyhound Lines, Inc., Atlantic Greyhound Lines, Inc., and Central Greyhound Lines, Inc. The Transport Workers Union of America, herein called the T. W. U. of A., after appearing by counsel at the hearing, moved, but was denied leave to intervene in all foregoing eight cases. The Lexington Association, the Nashville Association, and the Birming-

ham Association filed an Intervening Petition and Answer in the case involving the bus drivers of Southeastern Greyhound Lines, Inc., and were granted leave to intervene.

During the hearing, the Brotherhood amended its petition in the case of Central Greyhound Lines, Inc., by moving to exclude therefrom the bus drivers employed by each of the following companies: Eastern Greyhound Lines, a division of Greyhound Corporation, Chicago, Illinois; Canadian Greyhound Lines, Ltd., Windsor, Ontario, Canada; and Illinois Greyhound Lines, Inc., Chicago, Illinois. On July 2, 1937, the Brotherhood filed separate petitions for investigation and certification of representatives of the bus drivers employed by each of these three companies. On the same day the Brotherhood, pursuant to leave granted by the Board, also filed petition for investigation and certification of representatives of bus drivers employed by Union Bus Company, Inc., Jacksonville, Florida, which the Board, by appropriate order, on July 6, 1937, consolidated with the foregoing cases. During the hearing, the Brotherhood also moved and was granted leave to have its petition with respect to Union Bus Company be taken to include the bus drivers employed by Southeastern Management Company, Jacksonville, Florida.

On August 5, 1937, after the hearing, the Drivers' Club filed a petition¹ for investigation and certification of representatives of bus drivers employed by Southeastern Management Company.² This petition will be denied, as explained below.

On September 1, 1937, the I. A. M. filed a petition for investigation and certification of garagemen and mechanics employed by Southwestern Greyhound Lines, Inc. This petition also will be denied, as explained below.

On August 31, 1937, after the hearing, A. H. Keeler, an organizer for the Brotherhood of Motor Transport Workers, claiming to represent Greyhound employees, filed a letter, in which he asked leave to intervene for the purpose of opposing generally the right of the Brotherhood of Railroad Trainmen to organize bus drivers. On September 9, 1937, the T. W. U. of A. filed a motion to intervene in the case involving the employees of Pennsylvania Greyhound Lines for the purpose of requesting an election among all the employees. Both motions will be denied, as explained below.

¹ The petition was in the form of a letter dated August 4, 1937, asking to be "appointed" by the Board as the bargaining agency for the drivers or, if an election should be ordered, to be given a place upon the ballot. The letter was accompanied by signed petitions and a number of ballots. Copies of this letter were duly served upon the Brotherhood and the Southeastern Management Company.

² The relationship of this company to Union Bus Company, Inc. and the Southeastern Greyhound Lines, Inc., is described at p 647, *infra*

At the hearing, the Board, the Greyhound Companies,³ the Brotherhood, the Amalgamated, the I. M. T. E. U., Inc., and the T. W. U. of A. were represented by counsel. The G. E. U., the I. M. C. E. A., Inc., and the I. A. M. were represented by one or more of their officers; counsel for the Lexington, Nashville, and Birmingham Associations sent a witness to testify at the hearing and filed exhibits by mail. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. Objections to the introduction of evidence were made during the course of the hearing by counsel for the parties, and after the hearing, briefs were submitted on behalf of the Amalgamated and the I. M. T. E. U., Inc. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

ATLANTIC GREYHOUND LINES

I. THE COMPANY AND ITS BUSINESS

Atlantic Greyhound Lines, Inc., is a Delaware corporation, with Virginia and Ohio subsidiaries, having its principal place of business in Charleston, West Virginia.⁴ For the purposes of this proceeding, the companies, taken together, constitute one employer, doing business as Atlantic Greyhound Lines, herein called Atlantic.⁵ Atlantic is engaged in the business of transporting for hire passengers, baggage, mail, express, and newspapers, under regularly published tariffs, through the States of Maryland, Virginia, West Virginia, Pennsylvania, Ohio, North Carolina, South Carolina, Kentucky, Tennessee, Georgia, and Florida and the District of Columbia. Its consolidated gross revenue for the year ending December 31, 1936, was \$4,600,160.55, and on that date its total consolidated assets were \$5,210,358.87.⁶ On May 31, 1937, it operated 186 buses, for the safe and regular operation of which it maintains garages and repair shops in various cities along its routes. On that date it employed a total of 755 employees, of whom 295 were bus drivers and 169 mechanics.⁷

³ Except Southeastern Greyhound Lines

⁴ For details of corporate control, see the application of Atlantic Greyhound Lines *et al* filed with the Interstate Commerce Commission, under the Motor Carrier Act of 1935, Board Exhibit No. 27.

⁵ The interrelationships of these companies are similar to those of the Companies constituting Central Greyhound Lines, which we also treat as a single employer unit, for reasons explained at pp 656-659, *infra*.

⁶ Board Exhibit No. 15.

⁷ Board Exhibit No. 18

As corporations whose voting capital stock is owned directly or indirectly by The Greyhound Corporation of Delaware, the companies in the Atlantic group are closely affiliated with other Greyhound Systems in the Greyhound Lines; and by means of joint operating, traffic, and facility arrangements with these Systems, and interchange arrangements with independent bus lines, they operate as a closely coordinated part of an integrated system of national transportation.⁸

II. THE ORGANIZATIONS INVOLVED

A. *The petitioning unions*

1. The Brotherhood of Railroad Trainmen

The Brotherhood, which is involved in all of the cases herein, is a nationwide labor organization, founded in 1883, to represent railroad trainmen in the train and yard service. Since November 1933, it has admitted motor bus drivers to membership.

2. The Interstate Motor Transportation Employees Union, Inc.

The I. M. T. E. U., Inc., a West Virginia corporation, with its principal place of business in Charleston, West Virginia, was formed shortly after the Supreme Court decisions on April 12, 1937, upholding the constitutionality of the Act. The incorporators and other persons active in its formation were committeemen and active members of the company union, which they understood was outlawed by the Act, but which they wished to continue as the bargaining agency for all the employees of Atlantic without, as they testified, any further influence by the employer, of the kind that had existed in the past. It admits to membership all employees who are actively engaged as bus operators, maintenance, traffic, and clerical employees of Atlantic, who are not in supervisory positions.⁹ One of the purposes of the organization, as described in its charter, is

5. To act as a bargaining agency for the employees of the Atlantic Greyhound Corporation (*sic*), or its successors and assigns, when selected by such employees for such purpose, to deal with their employer, concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.¹⁰

As thus organized, the I. M. T. E. U., Inc., is a labor organization.¹¹

⁸ For a description of the Greyhound Systems, see *Matter of Pennsylvania Greyhound Lines, Inc., Greyhound Management Company*, 1 N. L. R. B. 1.

⁹ Atlantic Petitioner's I. M. T. E. U. Inc. Exhibit No. 32.

¹⁰ Atlantic Petitioner's I. M. T. E. U. Inc. Exhibit No. 18.

¹¹ The Brotherhood sought to show that the I. M. T. E. U., Inc., was company-sponsored. This phase of the proceeding is discussed at p 642, *infra*.

B. The intervenors

1. The International Association of Machinists

The I. A. M. is a labor organization, affiliated with the American Federation of Labor, which admits to membership machinists of various classifications, including the mechanics and repairmen employed by Atlantic in its various garages and repair shops. The I. A. M. intervened in the cases involving the employees of Atlantic, Central Greyhound Lines, Inc., and Southwestern Greyhound Lines, Inc.

2. The Amalgamated Association of Street, Electric Railway and Motor Coach Employees of America

The Amalgamated is a labor organization, affiliated with the American Federation of Labor, which admits to membership motor bus and coach operators, garagemen, and certain other employees of Atlantic. Counsel for the Amalgamated filed a brief at the conclusion of the hearing, but called no witnesses and introduced no evidence in any of the cases herein.

III. THE QUESTION CONCERNING REPRESENTATION

Shortly after the decisions of the Supreme Court on April 12, 1937, the Brotherhood began an organizing campaign among the bus drivers employed by the Greyhound Lines throughout the country. On May 20, 1937, representatives of the Brotherhood conferred with officials of Atlantic in an attempt to secure recognition as the exclusive representative of its bus drivers. Although the Brotherhood presented authorizations¹² signed by 202 of the 277 bus drivers said to be on the pay roll, officials of Atlantic, upon the advice of counsel, declined to review the signed authorizations or to recognize the Brotherhood as the exclusive bargaining agency for the bus drivers until this Board had certified the Brotherhood as such representative.

Shortly after the Brotherhood had sought recognition from Atlantic, counsel for the I. M. T. E. U., Inc., also called upon the officials of Atlantic, advised them that the I. M. T. E. U., Inc., represented a majority of the employees, and requested recognition of the I. M. T. E. U., Inc., as the exclusive bargaining agency for all the employees. The officials of Atlantic stated that they had already received a similar request from the Brotherhood, and that they would refuse to recognize any organization until it had been certified by this Board.

¹² For a description of these authorizations, see p. 629, *infra*

IV. THE QUESTION OF A MAJORITY

At the hearing, the Brotherhood, through S. R. Harvey, its assistant president, in charge of the Greyhound organization campaign, introduced in evidence 211 "Personal Authorizations for Representation" signed by bus drivers said to be employed by Atlantic.¹³ These authorizations, most of which bear the signature of an official of the Brotherhood as a witness to the signature of the bus driver, read as follows:

I (name and address of employee) hereby authorize THE BROTHERHOOD OF RAILROAD TRAINMEN through its officers, general grievance committees, and other legal and authorized tribunals, to be my representative for the purposes of bargaining collectively with my employer in respect to rates of pay, wages, hours of employment, or other conditions of employment, for a period of one (1) year from date.

Dated_____

(Signature of Employee)

Witness_____

At the hearing, several special organizers for the Brotherhood testified that they had personally witnessed many of the signatures. We have compared these authorizations with Atlantic's pay rolls for the periods ending May 31, and June 30, 1937, respectively, and find that of the 211 bus drivers who signed these authorizations, 189 are listed on the May pay roll of 295 bus drivers, and 190 on the June pay roll of 309 bus drivers.

The I. M. T. E. U., Inc., introduced in evidence a number of signed but undated agreements to apply for membership in the I. M. T. E. U., Inc.,¹⁴ and a petition, with 39 signatures, dated April 16, 1937, reading, "We the undersigned employees of the Atlantic Greyhound Lines at a meeting called by ourselves at the Charleston garage today, Friday, April 16, 1937, decided by a unanimous vote in favor of an employees association composed only of members of Atlantic Greyhound Corporation (*sic*) rather than join an outside union or organization."¹⁵ At the hearing several of the organizers of the I. M. T. E. U., Inc., testified that they had participated in obtaining the signatures to the agreements to apply for membership and to the petition.

We have compared the agreements to apply for membership submitted by the I. M. T. E. U., Inc., with Atlantic's pay rolls for the

¹³ Petitioner's Exhibit No 16

¹⁴ These agreements were to become applications for membership upon the issuance of a charter by the State of West Virginia, but were to be void if less than 300 employees of the Atlantic Greyhound Lines signed such agreements Atlantic Petitioner's I. M. T. E. U. Exhibit Nos. 1-10, 12-17, 31

¹⁵ Atlantic Petitioner's I. M. T. E. U. Exhibit No. 11.

periods ended May 31 and June 30, 1937, and find that of the 145 names which the I. M. T. E. U., Inc., submitted,¹⁶ 141 appear on the May pay roll of 295 bus drivers, and the same number on the June pay roll of 309 bus drivers.¹⁷ The I. M. T. E. U., Inc. however, claimed that the Brotherhood had employed misrepresentation in obtaining the signatures to its authorizations, and, in support of its position, introduced in evidence petitions¹⁸ signed by 27 bus drivers, said to be employed by Atlantic, revoking their authorizations previously given to the Brotherhood and designating in its stead the I. M. T. E. U., Inc., as their representative for the purpose of collective bargaining. Of these 27 bus drivers, 24 appear on the May pay roll, 13 had already signed the previous applications for membership, 11 were new applicants, and two of the 24 had never signed authorizations for the Brotherhood. If we give the I. M. T. E. U., Inc., credit for each of the 11 new authorizations and deduct 22 from the sum of those introduced by the Brotherhood, the Brotherhood has a total of 168 as against a total of 152 for the I. M. T. E. U., Inc. The Brotherhood, however, introduced in evidence petitions,¹⁹ containing 24 signatures, revoking previous authorizations given to the I. M. T. E. U., Inc., because of alleged misrepresentation and coercion by the I. M. T. E. U., Inc., in securing its authorizations. Of these 24 revocations of authority from the I. M. T. E. U., Inc., five bus drivers whose signatures appear thereon had never signed authorizations for the I. M. T. E. U., Inc. The result of these revocations and counter revocations is to leave the Brotherhood 168 authorizations as against 133 authorizations for the I. M. T. E. U., Inc. Apart from these contested authorizations, however, 51 bus drivers appear to have signed cards or petitions authorizing both the Brotherhood and the I. M. T. E. U., Inc., to represent them for the purposes of collective bargaining. It is, therefore, manifestly impossible to find which of the contending organizations is favored by a majority of the bus drivers.

The I. A. M., which intervened in this case, did not present any proof of its claim to represent a majority of the maintenance employees. The I. M. T. E. U., Inc., introduced in evidence agreements to apply for membership, including the above-described petition,²⁰ signed by 89 traffic and clerical employees and 104 maintenance employees said to be employed by Atlantic. On its pay roll for the period ending May 31, 1937, Atlantic listed 169 mechanics and

¹⁶ Atlantic Petitioner's I. M. T. E. U. Exhibit No. 31.

¹⁷ Board Exhibit No. 18.

¹⁸ Atlantic Petitioner's I. M. T. E. U., Inc. Exhibit Nos. 21, 25-9

¹⁹ Petitioner's Exhibit (Brotherhood) No. 38

²⁰ Atlantic Petitioner's I. M. T. E. U. Exhibit No. 11.

291 "other employees".²¹ Thirty-three of the 104 signatures submitted by the I. M. T. E. U., Inc., as proof of its claim to represent a majority of the 169 mechanics employed by Atlantic appear on the above-described petition and are listed by Atlantic as mechanical employees. Since the petition does not name the I. M. T. E. U., Inc., or authorize it to represent the signers, we disregard it. The I. M. T. E. U., Inc., thus can claim a total of 71 of the 169 mechanical employees. Since neither this figure nor its claim to represent 89 of the traffic and clerical employees represents a majority in either group, it is obvious that the I. M. T. E. U., Inc., has not been designated by a majority of the maintenance or the traffic and clerical employees as their representative for the purposes of collective bargaining.

V. THE APPROPRIATE UNIT

Employees of each of the companies involved herein are divided for present purposes into three main departments: bus drivers, maintenance employees, and all other employees, including traffic and clerical employees, porters, stewards, and janitors. Employees working as temporary dispatchers who hold seniority rights as drivers are classified generally throughout the Greyhound Lines as bus drivers.

All the organizations involved in this proceeding participated in the discussion of the question of the appropriate unit, and the following paragraphs summarize the contentions of the parties with regard to each of the cases.

The I. A. M. contends that maintenance employees constitute a separate and appropriate unit for the purposes of collective bargaining. In support of its position the I. A. M. claimed that maintenance employees have a peculiar community of interest which tends to separate them from bus drivers and clerical employees: they usually work in garages, which are entirely separate from the offices where the clerical employees work and from the buses which the drivers operate; they are paid on an hourly basis, whereas clerical employees are paid on a salary basis, and bus drivers on a mileage basis; they are paid for overtime work, which is not true of bus drivers or clerical employees; they are required to have an entirely different type of skill from that required of other types of employees; their peaks of work occur at entirely different times from those of other employees; they usually come from jobs in garages and repair shops, and if they leave the employ of a bus company, they seek similar employment elsewhere, rather than employment as bus drivers or office workers; and in the garages which are jointly maintained by several Greyhound companies, they frequently work on buses belonging to the

²¹ Board Exhibit No. 18.

different companies, although employed by the one which operates the garage. The I. A. M., therefore, contended that because of the nature of their work, their grievances are different from those of other employees, and that a unit larger than the craft would be inappropriate to handle their peculiar problems. In addition, the I. A. M. cited a long list of contracts which it had negotiated in the motor bus and other industries covering maintenance employees alone.

The Brotherhood contends that bus drivers form a distinct and separate craft and are an appropriate unit for the purposes of collective bargaining. In support of this contention, witnesses for the Brotherhood testified to a number of considerations which differentiate bus drivers from other employees: bus drivers are paid by the mile rather than by the hour; their working day is generally less than the eight-hour day which is standard for other employees; their working conditions, wages, and expenses are different from those of other employees, because their duties require them periodically to be away from their homes; they receive specialized training as to tariffs and municipal, State, and Federal regulations; they must meet higher educational standards than other employees and are generally required to have at least a high school education; their work calls for the exercise of extraordinary skill and judgment; they are required under the Motor Carrier Act of 1935 to undergo annual physical examinations which are not required of other employees; they have been made subject in many cases to municipal, State, and Federal regulations, have been licensed by many municipalities and States, and are shortly to be licensed by the Interstate Commerce Commission. In addition, the bus drivers regard themselves as a separate unit and associate with one another at the terminals rather than with other employees; and in many instances, they are segregated by the employer as a separate unit, particularly in the issuance of bulletins, covering the operation of the employer's business, and in the holding of safety meetings which only bus drivers are required to attend. As tending to show by the history of collective bargaining in the motor bus industry that bus drivers are a separate craft, and the appropriate unit for the purposes of collective bargaining, the Brotherhood introduced in evidence and its witnesses testified to a number of contracts and agreements executed since 1933 between various bus companies and unions representing bus drivers as a separate unit.²²

²² Regulations for the government of Bus Operators, Southwestern Greyhound Lines, Inc. (Agreement between the Employees Association and the Management) Petitioner's Exhibits Nos. 4 and 5; Agreement between The Santa Fe Trail Stages Inc. of Arizona, and the Brotherhood of Railroad Trainmen, Covering Rates, Rules and Regulations for Motor Coach Operators, Petitioner's Exhibit No 7; Agreement between Cardinal Stage Lines Company and the Brotherhood of Railroad Trainmen, covering Rates, Rules and Regulations for Motor Coach Operators, Petitioner's Exhibit No 8

The Brotherhood also cited the decision of this Board,²³ certifying the Brotherhood as the exclusive representative of the bus drivers of the Santa Fe Trail Transportation Company.

On the other hand, the I. M. T. E. U., Inc., the I. M. C. E. A., Inc., and the G. E. U. contend that all the employees in the three departments constitute the appropriate unit for the purposes of collective bargaining. Counsel for the I. M. T. E. U., Inc., in a brief filed with the Board, and witnesses for the I. M. T. E. U., Inc., the G. E. U., and the I. M. C. E. A., Inc., at the hearing sought to show that the services of bus drivers are part of an integrated activity, set up by the management for its entire organization, the safety and efficiency of which depend on the coordinated efficiency of all the employees, and that as between the bus drivers and each of the other groups of employees there exist such interdependence and functional coherence as to require that all the employees be grouped as the appropriate unit. In support of this contention, the I. M. T. E. U., Inc., and the aforesaid unions relied on testimony that bus drivers act not only as bus drivers, but also as ticket agents, baggage men, mechanics and clerks, and that in these various capacities, they must depend upon and cooperate with all other employees. They must be versed in fares and schedules to inform passengers seeking information necessary in travel and must handle baggage en route; they seek advancement to the position of dispatcher in the traffic department, and some bus drivers act as temporary dispatchers while holding seniority rights as drivers; they depend on the maintenance employees not only for the safe repair of their buses, but also for information to enable them to make their own repairs during breakdowns en route; in making reports and keeping records of their trips, they cooperate with the clerical employees. Witnesses testified that bus drivers frequently ask maintenance and clerical employees to attend the safety meetings held by the employer primarily for the benefit of the bus drivers, and that in the event of a strike by the maintenance employees, the bus drivers would be unwilling to drive buses which had been repaired by mechanics unfamiliar with that type of vehicle. It was also contended that a unit composed of all the employees would be of greater economic strength than a unit composed of a single craft.

The I. M. T. E. U., Inc., asserts that in the past, Atlantic has bargained collectively, not with the bus drivers alone, but with all the employees as a unit.²⁴ Other evidence in the record²⁵ indicates that

²³ *Matter of Santa Fe Trail Transportation Company*, Case No. R-126, decided March 18, 1937, 2 N. L. R. B. 767.

²⁴ Board Exhibit No. 37. By-Laws of Employees Association of Atlantic Greyhound Lines, Article I, Section I, "All employees who are actively engaged as Bus Operators, Maintenance, Traffic and Clerical employees of the Atlantic Greyhound Lines, who are not in supervisory positions, are entitled to membership in this Association."

²⁵ Board Exhibits Nos. 19 and 22.

the Employees Associations of both the Pennsylvania and Central Greyhound Lines represented the employees of all three departments for purposes of collective bargaining.²⁶

Witnesses also testified that the same representatives who negotiated the agreement for the bus drivers employed by the Southwestern Greyhound Lines, Inc.,^{26a} negotiated agreements at the same time for the depot employees and machinists. The record indicates that the Employees Association of the Southwestern Greyhound Lines, Inc., which that company has since disestablished, represented all the employees in the three departments for the purpose of collective bargaining.²⁷

In view of the facts described above, it appears that the bus drivers can be considered either as a separate unit, as claimed by the Brotherhood, or as part of a larger unit composed of bus drivers, maintenance, traffic, and clerical employees, as claimed by the I. M. T. E. U., Inc. The differentiation in skill and duty of the bus drivers from other employees and the history of collective bargaining in the industry cited by the Brotherhood are proof of the feasibility of the former approach. The interdependence of the bus drivers with the other employees and the history of collective bargaining in the industry cited by the I. M. T. E. U., Inc., are proof of the feasibility of the latter approach. Our decision in *Matter of Santa Fe Trails Transportation Company (supra)*, that bus drivers are the appropriate unit, clearly cannot control the determination of this question, since there the decision was based on an express stipulation by the Santa Fe Company that bus drivers should constitute such a unit. For similar reasons the maintenance employees may be considered either as a separate unit, as claimed by the I. A. M., or a part of the larger unit, as claimed by the I. M. T. E. U., Inc. It thus appears that any one of the three departments can be considered either as a separate unit or as part of a larger unit including the one department with either or both of the others. Where the considerations which determine these questions are so evenly balanced, the decisive

²⁶ In *Matter of Pennsylvania Greyhound Lines Inc, Greyhound Management Company, supra*, we ordered the company to withdraw all recognition from and disestablish the Employees Association, as a company-dominated labor organization within the meaning of Section 8, subdivision (2) of the Act. Cf. *National Labor Relations Board, Petitioner, v. Pennsylvania Greyhound Lines, Inc., and Greyhound Management Company, Respondents*, (C. C. A. 3rd) No. 6007, March Term 1937. The Employees Association of the Central Greyhound Lines has been disestablished.

^{26a} See note 22, p. 632, *supra*.

²⁷ For a comprehensive description of the bus drivers' job, embodying the facts advanced by the Brotherhood, the I. A. M., and the unions which contend that bus drivers should be grouped in a larger unit, see *Hours, Wages, and Working Conditions in the Inter City Motor Transport Industries, Part I, Motor Bus Transportation*, Section of Research, Section of Labor Relations, Federal Coordinator of Transportation (1936), p. 18, *et seq.*, admitted in evidence during the hearings, and incorporated by reference, without an exhibit number.

factor is the desire of the men themselves.²⁸ On this point, the record affords no help. Of the 11 unions involved in this proceeding, five which sought to intervene or claimed to represent a majority of employees admit to membership employees of all three departments,²⁹ and five which claimed to represent a majority of the bus drivers admit to membership bus drivers only.³⁰ Among the bus drivers of Atlantic there has been a swing toward the Brotherhood and then away from it toward the I. M. T. E. U., Inc., and, as noted in Section IV above, it is impossible to ascertain at the present time which organization is favored by a majority of the bus drivers; the only documentary proof is completely contradictory. As for the maintenance employees, the evidence is insufficient to prove that a majority have chosen either of the contending unions. We shall, therefore, direct that an election be held (1) among the bus drivers employed by Atlantic to determine whether they wish to be represented by the Brotherhood or the I. M. T. E. U., Inc., or neither; (2) among the maintenance employees to determine whether they wish to be represented by the I. M. T. E. U., Inc., or the I. A. M. or neither; and (3) among the remaining employees to determine whether they do or do not wish to be represented by the I. M. T. E. U., Inc. Upon the results of this election will depend the determination of the unit appropriate for the purposes of collective bargaining. Such of the groups as do not choose the I. M. T. E. U., Inc., will constitute separate and distinct appropriate units, and such as do choose the I. M. T. E. U., Inc., will together constitute a single appropriate unit.

V. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

We find that the questions concerning representation which have thus arisen, occurring in connection with the operations of Atlantic described in Section I above, tend to lead to labor disputes burdening commerce and the free flow of commerce.

CONCLUSION OF LAW

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

Questions affecting commerce have arisen concerning the representation of the employees of Atlantic Greyhound Lines, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

²⁸ See *Matter of Globe Machine and Stamping Company*, Cases Nos. R-178, R-179, R-180, decided August 11, 1937, *supra*, p. 294.

²⁹ The Amalgamated, the T. W. U. of A., the I. M. T. E. U., Inc., the I. M. C. E. A., Inc., and the G. E. U.

³⁰ The Brotherhood, the Drivers' Club, the Lexington Association, the Nashville Association, and the Birmingham Association.

SOUTHWESTERN GREYHOUND LINES, INC.

I. THE COMPANY AND ITS BUSINESS

Southwestern Greyhound Lines, Inc., is a Delaware corporation, with a Delaware subsidiary,³¹ having its principal place of business in Fort Worth, Texas. For the purposes of this proceeding the companies, taken together, constitute one employer, doing business as Greyhound Lines, herein called Southwestern.³² Southwestern is engaged in the business of transporting for hire, passengers, mail, express, and newspapers, under regularly published tariffs, through the States of Missouri, Kansas, Oklahoma, Arkansas, Tennessee, Louisiana, Colorado, New Mexico, and Texas.³³ Its consolidated gross revenue for the year ended December 31, 1936, was \$4,630,367.84, and for the first five months of 1937, \$1,768,308.99. Its total consolidated assets on December 31, 1936, were \$4,344,038.34.³⁴

It maintains garages and repair shops in the various cities along its routes, which are essential for the safe and regular operation of its interstate buses.³⁵ On June 30, 1937, it employed a total of 939 employees, of whom 290 were bus drivers and 220 were mechanics and repairmen.

As corporations whose voting capital stock is owned directly or indirectly by The Greyhound Corporation of Delaware, the companies in the Southwestern group are closely affiliated with other Greyhound Systems in the Greyhound Lines, and by means of joint operating, traffic, and facility arrangements with these Systems and interchange arrangements with independent bus lines they operate as a closely coordinated part of an integrated system of national transportation.

II. THE ORGANIZATIONS INVOLVED

The G. E. U. was formed shortly after the decisions of the Supreme Court on April 12, 1937, upholding the constitutionality of the Act. Originally, the organization was to have been known as Greyhound Employees Incorporated, and its constitution, by-laws, and application blanks for membership so provide.³⁶ As a result, however, of objections from potential members to joining an incorporated union, its promoters, all of whom had been committeemen in the former Em-

³¹ Southwestern is also the assignee of certain rights to the issuance of a certificate to act as a common carrier, owned by Sedalia-Marshall-Boonville Stage Lines, Inc., a Missouri corporation.

³² The interrelationships of these companies are similar to those of the companies constituting Central Greyhound Lines, which we also treat as a single employer unit for reasons explained at pp 656-659, *infra*.

³³ Board Exhibit No. 27.

³⁴ Board Exhibit Nos. 15, 20.

³⁵ The record does not disclose the number of buses the company operates.

³⁶ Petitioner (Greyhound Employees Union) Exhibits Nos. 4, and 16-R-22.

ployees Association of Southwestern,³⁷ abandoned the corporation, and named the organization the G. E. U. By the terms of its constitution, "all employees employed by the Company, except colored employees, who have been in service 90 days or more, who are not in supervisory positions who have executed the application for membership in the proper form are eligible for membership." One of the purposes of the organization, as described in its constitution, is to bargain collectively on behalf of its members. As thus organized, the G. E. U. is a labor organization.³⁸

The Brotherhood and the I. A. M., the only other organizations involved herein, have already been described, under Atlantic Greyhound Lines, Section II.

The petition of the I. A. M. for investigation and certification of representatives was filed too late for consideration here because filed after the date of the hearing.³⁹ All questions raised by the petition, however, are in any case rendered moot by the fact that the I. A. M. will be treated as a party to this proceeding and, as a result of its intervention at the hearing, will be given a place on the ballot to be used:

III. THE QUESTION CONCERNING REPRESENTATION

During the month of May 1937, after securing authorizations from a majority of the bus drivers employed by Southwestern, officials of the Brotherhood conferred with P. W. Tibbets, president and general manager of Southwestern Greyhound Lines, Inc., and with Ivan Bowen, its counsel, in an attempt to secure an agreement for a schedule of rates of pay and working conditions. Tibbets and Bowen declined to review the Brotherhood's authorizations and stated that they would refuse to bargain collectively with the Brotherhood until this Board had decided bus drivers to be an appropriate unit and had certified the Brotherhood as the exclusive representative of the bus drivers in that unit. Thereafter the Brotherhood filed a charge with the Regional Director for the Sixteenth Region, alleging that Southwestern had interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act by dominating and interfering with the formation and administration of Greyhound Employees, Incorporated, a labor organization, and contributing financial and other support thereto, and by refusing to bargain collectively with the Brotherhood as the representative in an appropriate unit of a majority of its bus drivers. Later, in order to facilitate action upon its petition for investigation and certification, with which

³⁷ It was testified that the Employees Association was disbanded by a letter from the president of Southwestern Greyhound Lines, Inc., to these representatives shortly after April 12, 1937.

³⁸ At the hearing the Brotherhood sought to show that the G. E. U. was company sponsored. This phase of the proceeding is discussed at p 642, *infra*.

³⁹ See pp 648, 649, *infra*

the charges of unfair labor practices had been consolidated, the Brotherhood withdrew its charges against Southwestern.⁴⁰

On May 24, 1937, D. C. Ellis for the G. E. U. wrote to Tibbets, stating that the G. E. U. represented 51 per cent of the employees of Southwestern and asking to be recognized as the bargaining agency for the bus drivers, maintenance and depot employees. On May 26, 1937, Tibbets replied that until this Board had determined whether the three departments represented by the G. E. U. constituted an appropriate unit, he would refuse to bargain collectively with the G. E. U., but that if the Board determined the three departments to be such a unit, upon the presentation of satisfactory evidence that the G. E. U. represented a majority of the employees in such a unit, he would enter into negotiations as provided in the Act.⁴¹

IV. THE QUESTION OF A MAJORITY

The Brotherhood, through S. R. Harvey, introduced in evidence authorizations, similar in all respects to those introduced in the case of Atlantic, which it claimed were signed by 165 bus drivers employed by Southwestern.⁴² We have compared these authorizations with the list of bus drivers, as of May 31, 1937, and June 30, 1937, furnished by Southwestern, and find that of the 165 bus drivers who signed these authorizations, 163 appear on the list of 285 for May and 163 on the list of 290 for June 1937.⁴³

The G. E. U. also introduced in evidence two sets of applications, one for membership in Greyhound Employees Incorporated, the other for membership in the G. E. U. We have compared these applications with the list of bus drivers for May and June 1937 and find that of the 180 applications submitted, 138 bus drivers who had signed applications for membership in Greyhound Employees Incorporated and 40 who had signed applications for membership in the G. E. U. appear on the list of 285 drivers in May and 290 drivers in June 1937. Taking the applications for membership in the G. E. U. and Greyhound Employees Incorporated as applications for membership in the G. E. U., we find that the G. E. U. has a total of 178 out of 285 bus drivers in May, and 178 out of 290 bus drivers in June 1937.

It appears, however, that 65 bus drivers employed by Southwestern in May and June 1937 who signed applications for the G. E. U. or Greyhound Employees Incorporated also signed authorizations for the Brotherhood. It is therefore impossible to tell which organization is favored by a majority of the bus drivers.

⁴⁰ Southwestern Greyhound Lines, Case No. XVI-C-81.

⁴¹ Petitioner's (G. E. U.) Exhibits Nos. 3 A, B.

⁴² Petitioner's Exhibit No. 9.

⁴³ Board Exhibit No. 20.

The G. E. U. also submitted applications which it claims were signed by 87 out of 150 of the depot employees,⁴⁴ and 110 out of 189 of the mechanics and repairmen said to be employed by Southwestern.⁴⁵ Southwestern, however, lists 220 mechanics and repairmen as in its employ on June 30, 1937, and 429 "other employees",⁴⁶ of whom 189 are clerical employees. From these figures it is clear that the G. E. U. does not represent a majority in either or both groups of employees. The I. A. M., which was granted leave to intervene in this case, presented no proof of its claim to represent a majority of the maintenance employees.

V. THE APPROPRIATE UNIT

The foregoing statement indicates that this case raises precisely the same questions as these involved in the case of Atlantic Greyhound Lines. We shall render a similar decision. The determination of the unit will again depend upon the results of an election to be held among the three departments voting separately. Such of the departments as show a majority for the G. E. U. shall together constitute one unit. Those which show a majority opposed to the G. E. U. shall constitute separate units.

VI. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

We find that the questions concerning representation which have arisen, occurring in connection with the operations of Southwestern described in Section I above, tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

VII. CONDUCT OF ELECTION

Both the Brotherhood and the G. E. U. agree that eligibility to vote should be determined as of May 25, 1937, and that the eligibility list should consist of all employees in service or available for service as of that date who held seniority rights as bus drivers, including dispatchers on temporary duty who held seniority rights as bus drivers, but not including any men employed since that date or holding rights of that date but not yet marked on the working list.

CONCLUSION OF LAW

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

Questions affecting commerce have arisen concerning the representation of the employees of Southwestern Greyhound Lines, Inc.,

⁴⁴ Including ticket agents and baggage men, except colored employees

⁴⁵ Petitioner's (G. E. U.) Exhibits Nos. 1, 2.

⁴⁶ Board Exhibit No. 20, Board Supplementary Exhibit No 2

and its subsidiary, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

SOUTHEASTERN GREYHOUND LINES

I. THE COMPANY AND ITS BUSINESS

Southeastern Greyhound Lines is a Kentucky corporation, with Delaware, Alabama, Tennessee, and Indiana subsidiaries, having its principal place of business in Lexington, Kentucky.⁴⁷ The Kentucky, Alabama, and Tennessee corporations are operating companies; ^{47a} the Delaware and Indiana corporations have no employees. Each operating company carries its own insurance, registers separately under the Workmen's Compensation Act, hires its own employees, has its own pay roll, and operates its own property. The Kentucky company, however, manages the entire system, including the subsidiary corporations, by means of common officers, directors, and agents. In view of the fact that G. A. Huguelet, president of Southeastern Greyhound Lines and its subsidiaries, testified that for bargaining purposes the three operating companies, taken together, constituted one employer unit, and in view of other considerations which we discuss below,⁴⁸ we find that for the purposes of this proceeding, Southeastern Greyhound Lines and its subsidiaries⁴⁹ constitute a single employer, doing business as Southeastern Greyhound Lines, which group is herein collectively called Southeastern. It is engaged in the business of transporting for hire passengers, express, mail, and newspapers, under regularly published tariffs, through the States of Kentucky, Tennessee, Alabama, Georgia, Florida, West Virginia, Ohio, and Indiana. The gross revenue of the Delaware corporation alone is estimated by its president to be between \$300,000 and \$400,000 a year. It maintains at least ten garages and repair shops in the various cities along its routes which are essential for the safe and regular operation of its interstate buses.⁵⁰ As of June 1, 1937, it employed a total of 557 employees, of whom 213 were bus drivers.

Although Southeastern is not connected, financially or otherwise, with the other Greyhound companies involved in this proceeding, it nevertheless operates, by means of joint interchange arrangements within the Southeastern area, and with the Southeastern Management Company and other independent bus lines, as a closely coordinated part of an integrated system of interstate transportation.

⁴⁷ Board Exhibit No. 23

^{47a} Herein called, respectively, the Kentucky company, the Alabama company, and the Tennessee company.

⁴⁸ See pp 645, 646, *infra*

⁴⁹ Except Southeastern Management Company See p 647, *infra*

⁵⁰ The record does not disclose the number of buses Southeastern owns and operates.

II. THE ORGANIZATIONS INVOLVED

A. *The Consolidated Coach Operators Association*

The Lexington Association was formed on March 12, 1934, for the purpose of bargaining collectively on behalf of the bus drivers employed by the Consolidated Coach Corporation of Lexington, Kentucky.⁵¹ On March 13, this company recognized the Association by an agreement which automatically renews itself from year to year, unless cancelled by the Lexington Association within 30 days of expiration.⁵²

B. *The Nashville Greyhound Coach Operators and Maintenance Employees Association*

The Nashville Association was formed on March 15, 1934, for the purpose of bargaining collectively on behalf of the bus drivers employed by the Union Transfer division of Southeastern Greyhound Lines.⁵³ On March 15, 1934, this company recognized the Association by an agreement identical in terms with that of the Lexington Association. Originally, the Nashville Association admitted to membership bus drivers only and was known as Nashville Greyhound Coach Operators Association. Later, its by-laws were amended to make maintenance employees eligible for membership, and its name was accordingly changed. Since June 1937, it apparently claims to represent bus drivers only.⁵⁴

C. *The Birmingham Greyhound Coach Operators and Maintenance Association*

The Birmingham Association was formed on April 4, 1934, for the purpose of bargaining collectively on behalf of the employees of the Southeastern Greyhound Lines, Alabama Bus Company Division of Birmingham.⁵⁵ On April 5, 1934, the company recognized the Association by an agreement identical in terms with those entered into

⁵¹ Now renamed Southeastern Grayhound Lines of Kentucky.

⁵² The agreement is discussed in Section VI, *infra*

⁵³ Now renamed Southeastern Greyhound Lines of Tennessee.

⁵⁴ Counsel for the associations, in an intervening petition and answer, contends that all three associations admit maintenance employees to membership as well as bus drivers. (Intervenor's Exhibit No. 1) The constitutions of all three associations, however, state that "all Coach operators . . . are eligible to membership." (Intervenor's Exhibit No. 1) The constitution of the Nashville Association alone contains an amendment making maintenance employees eligible for membership (Board Exhibit No. 23.) In affidavits filed with the petitions, on which the associations rely for their claim to represent a majority of bus drivers (see pp 644, 645, *infra*), it is uniformly stated of each association that its membership is composed of coach operators. (Board Supplementary Exhibit No. 4) In particular, the Lexington Association, in whose behalf all the petitions were filed, admittedly limits its membership to bus drivers. The petitions read, "We the undersigned coach operators of Southeastern Greyhound Lines . . ."

⁵⁵ Now renamed Southeastern Greyhound Lines of Alabama.

with the Lexington and Nashville associations. Originally, the Association appears to have admitted both bus drivers and maintenance employees to membership; at present it apparently claims to represent bus drivers only.⁵⁴

The Brotherhood, which is the only other labor organization involved herein, contends that each of these three organizations was company-dominated and company-supported, and that none is any longer in existence. At the hearing, Ray S. Gaines testified as a witness for the Brotherhood that he had been elected president of the Lexington Association in March 1936 and reelected in March 1937, that the Kentucky company paid all the expenses of the Association, including his, that the Association acted only at the bidding of the company, that on or about May 15, 1937, the Association and the company agreed that "after 51% of the Coach Operators do in good faith affiliate with a labor organization, the Consolidated Coach Operators Association will cease to exist",⁵⁵ and that thereafter, more than 51 per cent of the coach operators joined the Brotherhood and by a majority vote of its membership, the Association was disbanded. Similar testimony was given for the Brotherhood by Clay Hardy, who had been elected vice chairman of the Lexington local committee in March 1937.

Claude H. Duncan testified for the Brotherhood that, after a majority vote of its members, on or about May 20, 1937, the Nashville Association had been disbanded and the benefit fund distributed among the former members.

J. D. Edwards testified for the Brotherhood that the Birmingham Association had been similarly disbanded, and its benefit fund distributed to former members, but that subsequently a new benefit fund had been begun, to include bus drivers, mechanics, and ticket agents.

On the other hand, Henry Morgan, a committeeman of the Lexington Association, testified that although the Association has held no meetings, elected no officers, and collected no dues since the meeting in May 1937 when it was apparently disbanded, a majority of the bus drivers have signed petitions to continue the old Association, change its name to Southeastern Greyhound Coach Operators Association and include the entire Southeastern Greyhound System. He also testified that "we haven't any new union . . . only a proposal to form one or carry out our old one."

Section 9 of the Act speaks not of "labor organizations" but of "representatives for the purposes of collective bargaining." In this proceeding, therefore, we are not concerned with whether the Lexington, Nashville, and Birmingham Associations do or do not exist as labor organizations, nor whether, in the absence of a charge filed

⁵⁵ Petitioner's (B. of R. T.) Exhibit No. 53.

and complaint issued under Section 8, subdivision (2) of the Act, the operating companies in the Southeastern group did or did not dominate or contribute financial support to the respective associations.

III. THE QUESTION CONCERNING REPRESENTATION

On and after May 24, 1937, Stanley Lobred, field supervisor for the Brotherhood, after securing authorizations from a majority of the bus drivers employed by Southeastern, conferred with G. A. Huguelet, president of Southeastern Greyhound Lines and subsidiaries, in an attempt to obtain a signed recognition agreement. At first Huguelet stated that it was not necessary to sign an agreement, that he conceded the Brotherhood's majority and was willing to negotiate. On June 7, 1937, Huguelet wrote to Phillip G. Phillips, Regional Director for the Ninth Region: "Our coach operators are now affiliating with the BRT. We are cooperating. No other organization is involved. . . . We have advised the representatives of the BRT and also these employees that we are ready at any time, as provided in the National Labor Relations Act, to bargain collectively with representatives of their choosing."⁵⁷ On June 15, 1937, petitions were circulated among the bus drivers employed by the company, calling for the continuation with certain changes of the Lexington Association.⁵⁸ On June 28, 1937, Huguelet wrote Phillips: "We find that when we wrote you in our letter of June 7, that 'no other organization is involved' we were in error. Therefore, we would like for your Board to hold a hearing on our situation and reach a determination."⁵⁹ Thereafter, Huguelet notified Lobred that he would refuse to recognize the Brotherhood as the exclusive agency for the purposes of collective bargaining until certified by this Board.

IV. THE QUESTION OF A MAJORITY

The Brotherhood, through S. R. Harvey, introduced in evidence 175 authorizations, similar in all respects to those introduced in the case of Atlantic, signed by bus drivers said to be employed by each of the three companies.⁶⁰ Several special organizers for the Brotherhood testified that they had personally witnessed many of the signatures. We have compared these authorizations with each company's list of employees as of June 1, 1937, and find that 79 of the bus drivers who signed these authorizations appear on the Kentucky company's list of 125 bus drivers, 39 on the Tennessee company's list of 45 bus drivers, and 43 on the Alabama company's list of 43 bus drivers—a

⁵⁷ Board Exhibit No. 23.

⁵⁸ See Section IV, *infra*.

⁵⁹ Board Exhibit No. 23.

⁶⁰ Petitioner's Exhibit No. 12.

total of 161 authorizations for the Brotherhood of the 213 bus drivers employed by the three companies taken together.⁶¹

At the hearing there were introduced in behalf of the three associations typewritten lists of names of bus drivers, offered for the purpose of showing employees who were dues paying members of the associations during the months of March and July, 1937.⁶² No signatures appear on these lists; they were neither notarized nor verified at the hearing. Furthermore, it was testified that the lists show only the names of employees from whose salaries were deducted dues to separately administered benefit funds. We are therefore justified in refusing to consider these lists as adequate evidence that the employees whose names appear therein had authorized the associations to represent them for the purpose of collective bargaining.

At the hearing, there was also introduced an undated petition signed by 29 bus drivers employed by the Kentucky company, in which the signers agreed to continue the Consolidated Coach Operators Association, with the following changes: (1) Change the name to Southeastern Greyhound Coach Operators Association and include the entire system; (2) take over the sick and accident fund and continue it as a part of the Association; (3) charge monthly dues; (4) negotiate a written contract with the company using the same form as labor unions; (5) employ a lawyer, and (6) if the majority desire, apply for a charter in the American Federation of Labor.⁶³

On August 1, 1937, after the hearing, counsel for the associations filed with the Board petitions identical in effect with that described above, signed by 47 additional bus drivers, making a total of 76, whose names appear on the Kentucky company's list of 125 bus drivers for June 1937; 24 bus drivers whose names appear on the Tennessee company's list of 45 bus drivers; and 28 bus drivers whose names appear on the Alabama company's list of 43 bus drivers. Each petition is accompanied by an affidavit of an officer of one of the associations who swears that he personally witnessed the signatures on these and the earlier petition bearing 29 signatures, that the signatures thereon are genuine and obtained without coercion, and that they have been collected since June 15, 1937.⁶⁴

Each petition is alike in that the signer, no matter by which of the three companies he is employed, or to which association he belongs, agrees to continue the Lexington Association. In the later petitions⁶⁵ the signer agrees to change the name of the Lexington Association to Southeastern Greyhound Coach Operators *Union*, instead of *Association*, as in the earlier petition; in all other respects,

⁶¹ Board Exhibit No 41.

⁶² Southeastern Intervenor's Exhibit No 1.

⁶³ Intervenor's Exhibit No 2.

⁶⁴ Board Supplementary Exhibit No 4

⁶⁵ Board Supplementary Exhibit No. 4

the later petitions are identical in terms with the earlier. The effect of these petitions, therefore, is to authorize either the Lexington Association, or a new association, to be called the Southeastern Greyhound Employees Association or Union, to represent the bus drivers employed by all three companies for the purpose of collective bargaining.

The total number of bus drivers who thus appear to have authorized the Lexington Association (or the new association) to represent them for the purpose of collective bargaining is 121 out of 213 bus drivers employed by the three companies.

It appears, however, that 47 bus drivers employed by the Kentucky company, 19 bus drivers employed by the Tennessee company, and 28 bus drivers employed by the Alabama Company—a total of 94—who signed petitions for the Lexington Association (or the new association) have also signed authorizations for the Brotherhood. The Brotherhood introduced in evidence statements signed, and in some cases notarized, by several bus drivers who claimed that they signed the petition for the Lexington Association only because of threats and coercion and because they were afraid that otherwise they would lose their jobs.⁶⁶ As in the two preceding cases, the only documentary proof is completely contradictory, and it is impossible to tell which organization is favored by a majority of the bus drivers. We conclude that questions concerning representation of the bus drivers have arisen, which can best be settled by a secret ballot. No question is raised in this case in respect to the representation of any employees other than the bus drivers. No petition for certification as a representative of such other employees has been filed.⁶⁷ No evidence has been introduced to show that a claim to represent such other employees has been made by any organization or has been denied by any of the companies in the Southeastern group.

V. THE APPROPRIATE UNIT

As set forth above, Huguelet, president of Southeastern, testified at the hearing that the three operating companies, taken together, constitute one employer unit. Furthermore, the effect of the petitions introduced in evidence on behalf of the three associations, which had apparently been disbanded, is to authorize either the Lexington Association (or the new association) to represent the bus drivers employed by all three companies for the purpose of collec-

⁶⁶ Petitioner's (B. of R. T.) Exhibits Nos. 54, 57C

⁶⁷ The absence of such a petition is of practical importance, since the petition is the original source of information as to the existence of rival organizations in the same unit, which should be notified of the proceedings and given an opportunity to participate therein.

tive bargaining. On the basis of these facts, we conclude that the employer unit in which both the Brotherhood and the Lexington Association (or the new association) claim to represent a majority of the bus drivers is the three Southeastern operating companies, taken together. As also set forth above,⁶⁸ we find that where, as here, the considerations which determine the question of the proper unit among the employees of these companies are evenly balanced, the decisive factor is the desire of the men themselves. As contrasted with the previous cases, the record here clearly indicates that the bus drivers have expressed their desire for a unit composed of bus drivers alone, by choosing either the Lexington Association or the Brotherhood, both of which admit only bus drivers to membership. In order to insure to the employees the full benefit of their right to self organization and collective bargaining and otherwise to effectuate the policies of the Act, we therefore find that all the bus drivers employed by Southeastern constitute a unit appropriate for the purposes of collective bargaining.

VI. THE EXISTING CONTRACTS

Counsel for the three associations contends that the contracts entered into between the associations and the various companies above described⁶⁹ constitute valid, binding, and enforceable contracts, and prays that the associations be designated "as appropriate units or unions" under Section 9 of the Act. All three contracts state in identical terms that the company "hereby covenants and agrees with the membership of said Association to recognize its duly elected and appointed officers and committees as the representatives of the members of said Association in negotiations with the Company."⁷⁰

Regardless of the status of these contracts prior to an election and certification by this Board, it is clear that their survival is subject to the outcome of such election and certification. Section 9 (a) of the Act provides that "representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining . . ."; and it is well settled that "contracts, however express, cannot fetter the constitutional authority of the Congress."⁷¹ Nothing in the terms of these contracts, therefore, can relieve Southeastern of its duty to negotiate with the representatives

⁶⁸ See p. 634, *supra*

⁶⁹ Section II, *infra*

⁷⁰ Board Exhibit No. 23; Intervenor's Exhibit No. 1.

⁷¹ *Norman v. Baltimore & Ohio*, 294 U. S. 240, 307, 308. "Parties cannot remove their transactions from the reach of dominant constitutional power by making contracts about them."

of a majority of the bus drivers, duly certified by the Board, as the exclusive representative of all the bus drivers employed by Southeastern.

VII. EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

We find that the questions concerning representation which have thus arisen, occurring in connection with the operations of Southeastern described in Section I above, tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

VIII. CONDUCT OF ELECTION

Since the record does not disclose whether the name of the Lexington Association has been changed in accordance with the petitions which were circulated, we will direct that its name, rather than the name of the new association, be placed on the ballot.

CONCLUSIONS OF LAW

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

1. All bus drivers employed by Southeastern Greyhound Lines, including Southeastern Greyhound Lines of Kentucky, Southeastern Greyhound Lines of Alabama, and Southeastern Greyhound Lines of Tennessee, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the bus drivers in the aforesaid unit, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

SOUTHEASTERN MANAGEMENT COMPANY

I. THE COMPANY AND ITS BUSINESS

Southeastern Management Company, herein called the Company, is a non-profit corporation, whose stock is owned 50 per cent by Southeastern Greyhound Lines, Inc., of Delaware and 50 per cent by Union Bus Company, a Florida corporation having its principal place of business in Jacksonville, Florida.⁷² Neither Southeastern Greyhound Lines, Inc., of Delaware nor Union Bus Company is an operating company. Each, however, owns buses, office equipment, cars, station equipment, leases for garages and terminals, and certificates of public convenience and necessity in several states. Each has filed applications, under the Motor Carrier Act of 1935, with the

⁷² Board Exhibit No. 33.

Interstate Commerce Commission. Neither company owns any stock in the other, although officers of each are officers in the Management Company, which operates the equipment of both companies over the routes for which they have certificates of public convenience and necessity, collects monies, pays bills, and gives each company its mileage share of the returns. The employees engaged in the operation of buses belonging to Southeastern Greyhound Lines, Inc., of Delaware and Union Bus Company are employees of Southeastern Management Company.

The Company is engaged in the business of transporting for hire passengers, express, mail and newspapers, under regularly published tariffs, through the States of Florida, Georgia, Tennessee, and Alabama.⁷³ It has for its use 47 buses in conducting operations over the routes of Union Bus Company and Southeastern Greyhound Lines, Inc., of Delaware. On June 30, 1937, it employed a total of 214 employees, of whom 76 were bus drivers, 39 mechanics, and 59 clerical employees.

Although not connected financially or otherwise with the Greyhound corporations involved in this proceeding whose voting capital stock is owned directly or indirectly by The Greyhound Corporation of Delaware, the Company nevertheless operates, by means of joint interchange, traffic, and facility arrangements with Southeastern Greyhound Lines and independent bus lines, as a closely coordinated part of an integrated system of interstate transportation.

II. THE ORGANIZATIONS INVOLVED

On August 5, 1937, after the hearing, the Drivers' Club of the Southeastern Management Company, formed in October 1933 for the purposes of collective bargaining, filed with the Board a petition in the form of a letter⁷⁴ stating that all bus drivers have automatic membership in the organization and are assessed no dues, that the majority of bus drivers do not want the Brotherhood to represent them, and requesting that the Drivers' Club be "appointed" by this Board as the bargaining agency for the bus drivers, or that an election be held among the bus drivers to determine whether they wish to be represented by the Drivers' Club or the Brotherhood.

We believe there is no merit in the contention of this petitioner. As we said in *Matter of American France Lines et al*, "Labor organizations which desire to compete with others in an election should

⁷³ Board Supplementary Exhibit No. 1.

⁷⁴ Board Supplementary Exhibit No. 3. The letter was accompanied by signed petitions, undated, stating that the signers did not wish the Brotherhood to represent the employees of Union Bus Company and Southeastern Management Company for the purpose of collective bargaining, and a number of confidential ballots, addressed to C. G. Schultz, vice president of the Southeastern Management Company, dated July 27, 1937, in which employees named their choices for officers of the Drivers' Club.

be required to follow a regular procedure.”⁷⁵ Here, the Drivers’ Club filed its petition ten days after the hearing in this entire case had been concluded, and no regular opportunity was provided for the cross-examination of its witnesses. The evidence filed in support of its petition is clearly not sufficient to warrant a certification. It seeks at most a place on the ballot in an election. Where, as here, the facts regularly presented at a hearing do not warrant the direction of an election, we will not direct an election on the basis of such a petition or evidence so introduced. We, therefore, deny the petition of the Drivers’ Club:

The consequences of any other decision are illustrated by the circumstances of this very case. After serving the petition of the Drivers’ Club on the parties in accordance with the Rules and Regulations—Series 1, as amended, the Board received another letter dated August 30, 1937, signed by A. H. Keeler for the Brotherhood of Motor Transport Workers, claiming to represent employees of one or more of the Greyhound companies and seeking to intervene to oppose generally the right of the Brotherhood to organize motor coach operators. On September 1, 1937, the I. A. M. filed its petition for investigation and certification of representatives of maintenance employees of Southwestern. On September 9, 1937, the Board received a telegram from the T. W. U. of A., which had been denied leave to intervene at the hearing, asking leave to intervene in the case involving the employees of Pennsylvania Greyhound Lines for the purpose of opposing the petition of the Brotherhood and requesting an election to be held among all the employees of Pennsylvania, including bus drivers, clerical and maintenance employees, porters, stewards and janitors. These petitions are hereby denied. Had they been granted, it is impossible to tell how many more petitions to intervene would have been filed, or how long it would have taken to reach a final determination of the issues in the cases which had been regularly presented.⁷⁶

III. THE QUESTION CONCERNING REPRESENTATION

On June 2, 1937, officials of the Brotherhood, after securing authorizations from a majority of the bus drivers employed by the Company, conferred with C. G. Schultz, its vice president, in an attempt to obtain recognition of the Brotherhood as the exclusive bargaining agency for the bus drivers. At that time, Schultz stated that after the bus drivers had organized their lodge, secured a charter from the Brotherhood, and elected their committee, he would

⁷⁵ Amendment to Decision and Supplemental Decision, Case No R-157, decided August 16, 1937, *supra*. p 64

⁷⁶ Further reasons for dismissing the petition of the I A M. are stated at p 637, *supra*.

recognize the Brotherhood, provided it had a majority, without a certification by this Board. Later, on June 24, 1937, after the Brotherhood had granted a charter to the lodge, officials of the Brotherhood again conferred with Schultz, stated that they represented a majority of the bus drivers employed by the Company, and again requested recognition. Schultz, however, declined to enter into any agreement until the Brotherhood had been certified by this Board as the exclusive representative of the bus drivers employed by the Company.

As in the case of Southeastern Greyhound Lines, no question concerning the representation of any employees other than the bus drivers has arisen.

IV. THE QUESTION OF A MAJORITY

The Brotherhood, through S. R. Harvey, introduced in evidence 55 authorizations, similar in all respects to those introduced in the case of Atlantic, signed by bus drivers employed by the Company.⁷⁷ Several special organizers for the Brotherhood testified that they had personally witnessed many of the signatures. We have compared these authorizations with the Company's pay rolls for the periods ending May 31 and June 30, 1937, and find that, with three duplications, 52 of the bus drivers who signed these applications are listed on the May pay roll of 75 bus drivers, and 52 on the June pay roll of 76 bus drivers.⁷⁸

V. THE APPROPRIATE UNIT

As set forth above,⁷⁹ we find that where the considerations which determine the question of the appropriate unit are evenly balanced, the decisive factor is the desire of the men themselves. Here the record clearly indicates that a majority of the bus drivers employed by the Company have expressed their desire for a unit composed of bus drivers alone by choosing the Brotherhood as their representative for the purposes of collective bargaining. In order to insure to the employees the full benefit of their rights to self-organization and collective bargaining, and otherwise to effectuate the policies of the Act, we find that all the bus drivers employed by the Company constitute a unit appropriate for the purposes of collective bargaining. We will, therefore, certify the Brotherhood as the exclusive

⁷⁷ Petitioner's Exhibit No. 17.

⁷⁸ These pay rolls include three men holding driver's seniority and classified as drivers who were doing special work other than actual driving. Board Supplementary Exhibit No. 1.

⁷⁹ See p 634, *supra*.

representative of the bus drivers employed by the Company in that unit.⁸⁰

VI. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

We find that the questions concerning representation which have thus arisen, occurring in connection with the operations of the Company described in Section I above; tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

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

1. All bus drivers employed by Southeastern Management Company constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the bus drivers in the aforesaid unit within the meaning of Section 9 (c) of the National Labor Relations Act.

3. The Brotherhood of Railroad Trainmen, having been selected for the purposes of collective bargaining by the majority of the bus drivers in the aforesaid unit, is, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative of all the bus drivers in such unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

CENTRAL GREYHOUND LINES

I. THE COMPANY AND ITS BUSINESS

Central Greyhound Lines, Inc., herein called Central, is a Delaware corporation, with New York and Indiana subsidiaries,⁸¹ having its principal place of business in Cleveland, Ohio. For the purposes of this proceeding, the companies, taken together, constitute one employer, doing business as Central Greyhound Lines, herein called Central and Subsidiaries.⁸² It is engaged in the business of transporting for hire passengers, mail, express, and newspapers, under

⁸⁰ In Board Supplementary Exhibit No. 1, Schultz states that "the Company has agreements with the Drivers' Club which do not expire until the end of 1937." The Drivers' Club, however, does not set up these agreements in its petition or otherwise. Since the agreements are not before us, we do not find it necessary to decide what the effect of these agreements is upon this certification.

⁸¹ Central Greyhound Lines, Inc. of New York is herein called Central of New York. Central Greyhound Lines, Inc. of Indiana is herein called Central of Indiana.

⁸² This phase of the proceeding is discussed at pp 656-659, *infra*.

regularly published tariffs; through the States of Massachusetts, New York, Pennsylvania, Ohio, Indiana, Michigan, and Illinois. The consolidated gross revenue of Central and Subsidiaries⁸³ for the year ended May 31, 1937, was \$5,022,641.10, and its total consolidated assets on December 31, 1936, were \$7,325,546.87.⁸⁴ On May 31, 1937, it owned 266 buses, and on June 30, 265 buses, for the safe and regular operation of which it maintains garages and repair shops in the various cities along its routes. On May 15, 1937, it employed a total of 1113 employees, of whom it claimed 484 were bus drivers and 302 were mechanics, and on June 15, 1937, a total of 1195 employees, of whom it claimed 479 were bus drivers and 288 were mechanics.⁸⁵

As corporations whose voting capital stock is owned directly or indirectly by The Greyhound Corporation of Delaware, the companies in the Central group are closely affiliated with other Greyhound Systems in the Greyhound Lines, and by means of joint operating, traffic and facility arrangements with these Systems and interchange arrangements with independent bus lines they operate as a closely coordinated part of an integrated system of national transportation.

II. THE ORGANIZATIONS INVOLVED

The I. M. C. E. A., Inc., a New Jersey corporation, with its principal place of business in Jersey City, New Jersey, was formed shortly after the decisions of the Supreme Court on April 12, 1937, upholding the constitutionality of the Act. At that time, officials of Central called in the representatives of the Employees' Association and stated to them that the old organization was no longer in effect. Representatives of the bus drivers and the mechanics, employed by Central of New York, then decided to form a new organization, the I. M. C. E. A., Inc., and directed their efforts, for the most part, to securing membership among employees of Central of New York. Under its by-laws, however, the I. M. C. E. A., Inc., admits to full membership any person,⁸⁶ including operating, maintenance, and clerical employees, engaged in the operation of an interstate or intrastate motor coach line.⁸⁷ One of the purposes of the organization, as stated in its charter, is "to act for the members in negotiating and conferring with the respective employers of the members in order to

⁸³ Excluding Canadian Greyhound Lines, Limited. At the hearing, Ivan Bowen, counsel for the Greyhound companies, testified that the Canadian company was not a subsidiary of Central. R. W. Budd, president of the several Central Greyhound Companies, stated that it was a subsidiary. Board Exhibit No. 22.

⁸⁴ Board Exhibit No. 15.

⁸⁵ These figures appear in a summary furnished by Central and Subsidiaries. By actual count the number of drivers on the alphabetical list of drivers for May and June 1937, also furnished by Central and Subsidiaries, differs slightly from the number given above. Board Exhibit No. 22, Board Supplementary Exhibit No. 2.

⁸⁶ Supervisory employees are eligible for membership, but may not vote or hold office.

⁸⁷ Petitioner's Exhibit I. M. C. E. A. No. 6.

secure improved working, employment, and wage conditions for the members".⁸⁸ As thus organized, the I. M. C. E. A., Inc., is a labor organization. On June 25, 1937, the Brotherhood filed a charge with the Regional Director for the Second Region (New York) alleging that Central of New York had engaged in unfair labor practices within the meaning of Section 8, subdivisions (1) and (2) of the Act, in that it had "encouraged and promoted the organization of the I. M. C. E. A., Inc., and has permitted such association to meet on company property. It has relieved certain employees from duty on their regular jobs to engage in organization work for the I. M. C. E. A." ⁸⁹ This charge has since been withdrawn.⁹⁰

III. THE QUESTION CONCERNING REPRESENTATION

On May 11, 1937, after securing authorizations from a majority of bus drivers employed by Central and Central of New York, officials of the Brotherhood conferred with R. W. Budd, president of the several Central Greyhound companies, and Ivan Bowen, their counsel, in an attempt to negotiate a schedule of rates of pay and working conditions, covering the bus drivers employed by Central and Subsidiaries. Budd and Bowen declined to review the authorizations and stated that they would refuse to bargain collectively with the Brotherhood until this Board had decided bus drivers to be an appropriate unit and had certified the Brotherhood as the exclusive representative of the bus drivers in that unit.

Thereafter, representatives of the I. M. C. E. A., Inc., presented to the officials of Central of New York applications for membership in the I. M. C. E. A., Inc.,⁹¹ signed by a majority of all the employees of Central of New York, with the request that that company sign a contract, which they also presented, with the I. M. C. E. A., Inc., as the representative of the majority of its employees. The officials of the company refused to sign the contract, on the ground that the I. M. C. E. A., Inc., had not been certified by this Board, but retained the applications for review. Later, Budd sent the following telegram to the secretary of the I. M. C. E. A., Inc., a copy of which that organization then issued to all its members:

From the evidence submitted by your organization it appears that you represent a majority of the qualified employees for collective bargaining with Central Greyhound Lines, Inc., of New York. Stop. Your evidence will be returned to you upon call.⁹²

⁸⁸ Petitioner's Exhibit I. M. C. E. A. No 5

⁸⁹ *Central Greyhound Lines, Inc. of New York*, Case No. II-C-459.

⁹⁰ At the hearing, the Brotherhood sought to show that the I. M. C. E. A., Inc. was company sponsored. This phase of the proceeding is discussed at p 642, *supra*.

⁹¹ See p 654, *infra*.

⁹² Petitioner's Exhibit Brotherhood of Railroad Trainmen No. 39.

At the time of the hearing neither Central nor Central of New York had recognized the I. M. C. E. A., Inc., or the Brotherhood for the purposes of collective bargaining.

IV. THE QUESTION OF A MAJORITY

The Brotherhood, through S. R. Harvey, introduced in evidence authorizations, similar in all respects to those introduced in the case of Atlantic, signed by 356 bus drivers said to be employed by both Central and Central of New York.⁹³ Several special organizers for the Brotherhood testified that they personally witnessed the signatures of many of the bus drivers.

We have compared these authorizations with the alphabetical list of bus drivers of both companies for May 15 and June 15, 1937,⁹⁴ and find that of the 356 bus drivers who signed these authorizations, 156 appear on Central's alphabetical list of 202 drivers for May 15, 1937, and 159 on its list of 226 for June 15, 1937; that 144 appear on Central of New York's alphabetical list of 279 drivers for May 15, 1937, and 145 on its list of 297 drivers for June 15, 1937; and that 300 appear on both lists of 481 drivers for May 15, 1937, and 304 on both lists of 523 bus drivers for June 15, 1937.⁹⁵

The I. M. C. E. A., Inc., introduced in evidence two sets of applications signed by bus drivers, one for membership in the I. M. C. E. A., Inc., the other for membership in the Association of Interstate Motor Coach Employees, herein called A. I. M. C. E.⁹⁶ It was testified that these organizations were one and the same, and that the difference in name was the result of a mistake in printing. We have compared these applications for membership with the May and June alphabetical lists of bus drivers for both Central and Central of New York, and find that of the 156⁹⁷ bus drivers who signed these applications, 111 appear on the May alphabetical list of 279 bus drivers for Central of New York, and 123 on its alphabetical list of 297 bus drivers for June. Of the 111 who appear on the May list, 89 signed applications for A. I. M. C. E. and 22 for the I. M. C. E. A., Inc.; and, of the 123 who appear on the June list, 96 signed applications for A. I. M. C. E. and 27 for the I. M. C. E. A., Inc. In addition, four bus drivers who signed applications for membership in A. I. M. C. E. appear on the May and June lists of 202 and 226 bus drivers for Central.⁹⁸

⁹³ Petitioner's Exhibit No. 14.

⁹⁴ Board Exhibit No. 22.

⁹⁵ No separate figures are given for Central of Indiana. They are apparently included in the figures for Central.

⁹⁶ Petitioner's Exhibit I. M. C. E. A. No. 3.

⁹⁷ Board Exhibit No. 22.

⁹⁸ Board Exhibit No. 22.

Taking the applications for membership in A. I. M. C. E. and the I. M. C. E. A., Inc., as applications for membership in the I. M. C. E. A., Inc., we find that the I. M. C. E. A., Inc., has a total of 115 applications of the 481 bus drivers employed by both Central and Central of New York in May 1937, and 127 applications of the 523 bus drivers employed by both companies in June 1937.

It appears, however, that 26 bus drivers who signed applications for membership in A. I. M. C. E. or the I. M. C. E. A., Inc., and whose names are on the May or June alphabetical list of Central of New York, also signed authorizations for the Brotherhood, and that the four bus drivers who signed applications for A. I. M. C. E. and whose names appear on the alphabetical lists of Central for May and June also signed authorizations for the Brotherhood.

A summary of these conflicting claims appears in the following table:

		No of Drivers	Authorizations for—				Both the I. M. C. E. A., Inc. and the Brotherhood
			Broth-erhood	I. M. C. E. A., Inc.	A. I. M. C. E.	I. M. C. E. A., Inc. (Total)	
Central ⁹⁹	May 15	202	156	(4)	=	4	4
	June 15	226	159	(4)	=	4	
Central of New York.....	May 15	279	144	(22 89)	=	111	26
	June 15	297	145	(27 96)	=	123	
Central and Subsidiaries....	May 15	481	300	(22 93)	=	115	30
	June 15	523	304	(27 100)	=	127	

⁹⁹ These figures apparently include figures for Central of Indiana.

From these figures, it is clear that the Brotherhood has been selected by a majority of the bus drivers employed by Central and Subsidiaries.

The I. A. M., which intervened in this case, presented no proof of its claim to represent a majority of the maintenance employees of Central and Subsidiaries. The I. M. C. E. A., Inc., introduced in evidence applications for membership signed by 137 clerical and 131 maintenance employees said to be employed by Central of New York. The alphabetical lists and summaries submitted by Budd for Central Greyhound Lines, show that on June 30, 1937, Central of New York listed 122 mechanics and 120 clerks as employed on that date. On May 15, 1937, Central and Subsidiaries employed a total of 302 mechanics and approximately 327 clerical employees (including superintendents), and on June 15, 1937, a total of 288 mechanics and approximately 328 clerical employees (including superintendents).¹⁰⁰

¹⁰⁰ Board Exhibit No. 22.

It is unnecessary, however, to consider these applications. No question of the representation of any employees other than bus drivers has been properly raised in this instance since no petition has been filed for certification of representatives of such other employees.¹⁰¹

V. THE APPROPRIATE UNIT

The Brotherhood contends that Central and Subsidiaries, consisting of Central, Central of Indiana, and Central of New York, constitute a single employer. The I. M. C. E. A., Inc., contends that Central of New York is a separate company and an employer unit separate from the other Central Greyhound companies. At the hearing, the Trial Examiner reserved the question for determination by the Board on the basis of all the evidence submitted.

In support of its position, S. R. Harvey for the Brotherhood testified that at the above described conference with Budd and Bowen on May 11, 1937, he asked for the jurisdiction of Budd as president of several Greyhound companies and was told that Budd represented not only Central, Central of Indiana, and Central of New York, but also the Canadian,¹⁰² Illinois,¹⁰³ and New England companies,¹⁰⁴ and that if it should prove later that the Brotherhood was to negotiate working conditions, he desired that the entire line be covered, including all the above mentioned companies, as one unit. With that understanding, the Brotherhood filed a petition for investigation and certification of representatives of the bus drivers employed by Central, including therein the bus drivers employed by all the foregoing companies. At the hearing, Bowen testified that although from an operating point of view, the Canadian, Illinois, and New England companies were operated by "the Central Greyhound operating organization", from the employer point of view, each of these three companies was a separate employer unit. The Brotherhood then filed separate amended petitions in each of the three cases.¹⁰⁵ Bowen also testified that because Central and Subsidiaries was one operating unit for management purposes, bus drivers were transferred from one Central Greyhound company to another, and that bus drivers whose names were carried on one division of Central and Subsidiaries, often worked on another.

The I. M. C. E. A., Inc., on the other hand, claims that Central of New York has always been considered a separate company, and in the past has had separate agreements. No such agreements were introduced in evidence. On the contrary, it appears from the ex-

¹⁰¹ See Southeastern Greyhound Lines, Section IV, *supra*.

¹⁰² See p. 660, *infra*.

¹⁰³ See p. 660, *infra*.

¹⁰⁴ See p. 660, *infra*.

¹⁰⁵ See p. 661, *infra*.

hibits submitted by Budd for Central Greyhound Lines that under the former Employees' Association all the employees of all the Central Greyhound companies, as well as the employees of the Canadian, Illinois, and New England companies, voted as one unit, at the same time, in the eight regions which were joint headquarters for the various Greyhound companies, and that officers were elected for each region in accordance with the highest number of votes cast by all the employees participating in that region, regardless of which company employed them.^{105a} It appears, further, that although the I. M. C. E. A., Inc., concentrated its efforts particularly on the employees of Central of New York, it sought membership also among the employees of Central and the New England company. As pointed out above, the by-laws of the I. M. C. E. A., Inc., do not limit membership to employees of Central of New York, but include any person engaged in the motor bus industry. Most of the applications presented as proof that I. M. C. E. A., Inc., represented a majority of the employees of Central of New York state that the organization is to be formed "for the purpose of improving the conditions of all employees of the *Associated Greyhound Lines*."¹⁰⁶ The remainder of the applications pledge the signer to abide by its constitution and by-laws. At the hearing, Lewis E. Bush for the I. M. C. E. A., Inc., testified as follows:

Q. Did you limit your corporate organization to the particular group which you are here proposing to limit it to (employees of Central of New York)?

A. No, it was not, not so stated.

Q. Then you could if you desired enlarge it?

A. It is made that way specifically for that very reason.

Q. And you may want to enlarge it at some time to cover the entire system.

A. We may.

Q. But you don't desire to do it at the present time.

A. We haven't enough membership.

Q. And that is the only reason you don't want to enlarge it at the present time?

A. That is the only restriction that I know of.

From other evidence in the record it further appears that, for a number of purposes, Central and Subsidiaries, rather than the separate companies, constitute a single unit.

In the application of Central Greyhound Lines, *et al.*, filed in January 1936 with the Interstate Commerce Commission, under the Motor

^{105a} Board Exhibit No. 22.

¹⁰⁶ Italics supplied. See Petitioner's Exhibit I M. C. E. A. No. 3

Carrier Act of 1935, the applicants ¹⁰⁷ described the interrelationships of the companies as follows:

Applicants constitute an Association doing business under the trade name or style of **CENTRAL GREYHOUND LINES . . . CENTRAL GREYHOUND LINES, INC.** owns the entire voting capital stock of each of the other applicants which in so far as interstate transportation is concerned it controls, directs, and operates as its departments, adjuncts and agencies, through common directors, officers and agents appointed and supervised by it in the conduct of its said business, in its sole interest and in accordance with policies determined by it; and which other agents in so far as intrastate transportation is concerned operate through said proprietary company as their fiscal agent.¹⁰⁸

By order of the Interstate Commerce Commission, the merger of operations of Central New York, and other applicants, with those of Central has been approved,¹⁰⁹ and according to the testimony of Ivan Bowen, counsel for all the Greyhound companies involved in this proceeding,¹¹⁰ they are now operated "as one unit or one corporation." Although Budd submitted separate alphabetical lists of bus drivers, maintenance, and clerical employees for Central and Central of New York, all the employees, including the bus drivers, of Central and Central of New York are listed as employees on the pay roll of

¹⁰⁷ Since January 1936, the five applicants named in the application appear to have been reduced to three: Central Greyhound Lines, Inc., Central Greyhound Lines, Inc. of New York, and Central Greyhound Lines of Indiana. See Board Exhibit No. 22.

¹⁰⁸ Board Exhibit No. 27.

¹⁰⁹ The Report of the Interstate Commerce Commission, Greyhound Mergers, 1936, decided December 19, 1936, although not introduced in evidence, is a public document, and we take judicial notice of the following facts stated therein:

In the latter connection, the laws of some States provide, as in Ohio, that the operating company must have licensed in its name the vehicles which it operates over the routes in that State. The Central Greyhound Lines, Inc. of New York operates from New York to Cleveland, Ohio, and the Central Greyhound Lines, Inc. of Michigan from Cleveland to Chicago. The New York company may not operate busses, the title to which is in the Michigan company, east of Cleveland, and the Michigan company may not operate busses, the title to which is in the New York company, west of Cleveland, thereby necessitating the change of busses on all routes. According to applicants, the merger of the two companies will permit the operation of through busses from New York to Chicago without change, and thereby avoid inconvenience to the passenger of transferring himself and baggage.

In giving effect to the proposed mergers the accounts of the liquidating corporations would be merged with those of the surviving corporations, all intercompany accounts being eliminated. That is to say, the surviving corporations will own exactly the same property, except as previously explained, now owned by the liquidating subsidiaries; debt and stock obligations of the liquidating to the surviving companies now in the hands of the public will remain unchanged; and all liabilities of the liquidating companies will be assumed and at maturity be discharged by the respective surviving companies; and earnings, revenues, and expenses of the latter will be the same as the combined earnings of the surviving and liquidating companies at the present time, with some savings in expenses due to economies already mentioned.

¹¹⁰ Except Southeastern Greyhound Lines.

Central and Subsidiaries, excluding Canadian Greyhound Lines, Limited.¹¹¹

On the basis of the foregoing evidence we conclude that for the purposes of this proceeding Central and Subsidiaries, including Central, Central of Indiana, and Central of New York, is a single employer unit.

As set forth above,¹¹² we find that where the considerations which determine the question of the appropriate unit are evenly balanced, the decisive factor is the desire of the men themselves. Here the majority of the bus drivers employed by Central and Subsidiaries have clearly expressed their desire for a unit composed of bus drivers alone, by choosing the Brotherhood as their representative for the purposes of collective bargaining. In order to insure to the employees the full benefit of their right to self-organization and collective bargaining, and otherwise to effectuate the policies of the Act, we find that all bus drivers employed by Central and Subsidiaries constitute a unit appropriate for the purposes of collective bargaining. We shall, therefore, certify the Brotherhood as the exclusive representative of the bus drivers in that unit.

VI. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

We find that the questions concerning representation which have thus arisen, occurring in connection with the operations of Central and Subsidiaries described in Section I above, tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

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

1. All the bus drivers employed by Central Greyhound Lines, including Central Greyhound Lines, Inc., Central Greyhound Lines, Inc., of Indiana, and Central Greyhound Lines, Inc., of New York, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the bus drivers in the aforesaid unit, within the meaning of Section 9 (c) of the National Labor Relations Act.

3. The Brotherhood of Railroad Trainmen, having been selected for the purposes of collective bargaining by the majority of the bus drivers in the aforesaid unit, is, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative of all the

¹¹¹ Board Exhibit No. 22. Board Supplementary Exhibit No. 2.

¹¹² See p. 634, *supra*.

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

ILLINOIS GREYHOUND LINES, INC.
CANADIAN GREYHOUND LINES, LIMITED
EASTERN GREYHOUND LINES, INC., OF NEW ENGLAND

I. THE COMPANIES AND THEIR BUSINESSES

Illinois Greyhound Lines, Inc., herein called the Illinois company, is an Illinois corporation, having its principal place of business in Cleveland, Ohio. Under the name of Greyhound Lines it is engaged in the business of transporting for hire passengers, mail, express, and newspapers, under regularly published tariffs, through the States of Illinois, Indiana, and Missouri. Its gross revenue for the year ended May 31, 1937, was \$816,602.89.¹¹³ During the month of May 1937 it owned and operated 26 buses, and during the month of June 1937, 28 buses, for the safe and regular operation of which it maintains garages and repair shops in the various cities along its routes. On May 15, 1937, it employed a total of 35 employees, of whom 24 were bus drivers, and on June 15, 1937, a total of 31 employees, of whom 25 were bus drivers.¹¹⁴

Canadian Greyhound Lines, Limited, herein called the Canadian company, is a corporation organized under the laws of the Province of Ontario, having its principal place of business in Windsor, Ontario. Under the name of Greyhound Lines, it is engaged in transporting for hire passengers, mail, express, and newspapers, under regularly published tariffs, between Buffalo, New York, and Detroit, Michigan, through the Province of Ontario, Canada.¹¹³ Its gross revenue for the 12 months ended May 31, 1937, was \$266,068.29. On May 31, 1937, and June 30, 1937, it owned and operated 26 buses, for the safe and regular operation of which it maintains garages and repair shops in the various cities along its routes. On May 15, and June 15, 1937, it employed a total of 21 employees, of whom 15 were bus drivers, three of whom are employed entirely within Canada.

Eastern Greyhound Lines, Inc., of New England, herein called the New England company, a Delaware corporation having its principal place of business in Chicago, Illinois, is an operating subsidiary of The Greyhound Corporation of Delaware, which directly owns the entire voting stock of the New England company. Under

¹¹³ It has filed an application under the Motor Carrier Act of 1935 with the Interstate Commerce Commission (Board Exhibit No. 33).

¹¹⁴ Board Exhibit No. 22.

the name of Greyhound Lines, the New England company is engaged in the business of transporting for hire passengers, mail, express, and newspapers, under regularly published tariffs, through the States of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, and New York.¹¹⁵ Its gross revenue for the 12 months ended May 31, 1937, was \$941,139.34. On May 31, 1937, it owned and operated 52 buses, and on June 30, 1937, 62 buses, for the safe and regular operation of which it maintains garages and repair shops in the various cities along its routes. On May 15, 1937, it employed a total of 115 employees, of whom 51 were bus drivers, and 21 mechanics, and on June 15, a total of 113 employees, of whom 50 were bus drivers and 28 mechanics.

As corporations whose voting capital stock is owned directly or indirectly by The Greyhound Corporation of Delaware, the three companies are closely connected with other Greyhound Systems in the Greyhound Lines, and by means of joint operating, traffic, and facility arrangements with these Systems and interchange arrangements with independent bus lines they operate as a closely coordinated part of an integrated system of national transportation.

II. THE QUESTION CONCERNING REPRESENTATION

As set forth above in Central Greyhound Lines, Section III, R. W. Budd, on behalf of the Canadian, Illinois, and New England Companies, as well as the Central Greyhound companies, refused to bargain collectively with the Brotherhood as the representative of the majority of the bus drivers employed by each company or by all the companies taken together, until this Board had determined bus drivers to be the appropriate unit, and had certified the Brotherhood as the exclusive representative of the bus drivers in that unit.

No petition has been filed in the cases of these three companies for certification of representatives of any employees other than the bus drivers. No question, therefore, has arisen in these cases concerning the representation of such other employees.

III. THE QUESTION OF A MAJORITY

In the Central Greyhound Lines case, the Brotherhood, through S. R. Harvey, introduced in evidence authorizations which it contended were signed by bus drivers employed by Central Greyhound Lines. After amending its petition in that case to exclude therefrom the bus drivers employed by the Canadian, Illinois, and New England companies, the Brotherhood submitted in these cases a number of the same authorizations as evidence of its claim to represent

¹¹⁵ Board Exhibit No. 33.

a majority of the bus drivers employed by the Canadian and Illinois Companies. In addition, it introduced in evidence similar authorizations signed by bus drivers employed by the New England Company.

We have compared these authorizations with the pay rolls submitted by the three companies for the period ended May 31, and June 30, 1937, and find that of the bus drivers who signed these authorizations, 23 are listed by Illinois on its May and June pay rolls of 26 bus drivers, 10 are listed by the Canadian Company on its May and June 1937 pay rolls of 15 drivers, and 41 are listed by the New England Company on its May and June 1937 pay rolls of 54 bus drivers.

IV. THE APPROPRIATE UNIT

As set forth above,¹¹⁶ we find that where the considerations which determine the question of the appropriate unit are evenly balanced, the decisive factor is the desire of the men themselves. Here the majority of the bus drivers employed by the Illinois, Canadian, and New England companies, respectively, have clearly expressed their desire for units composed of bus drivers alone, by choosing the Brotherhood as their representative for the purpose of collective bargaining. In order to insure to the employees of each company the full benefit of their right to self organization and collective bargaining, and otherwise to effectuate the policies of the Act, we find that all the bus drivers employed by each company constitute units appropriate for the purposes of collective bargaining. We shall, therefore, certify the Brotherhood as the exclusive representative of the bus drivers employed by each of the three companies, respectively, in the aforesaid units.

V. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

We find that the questions concerning representation which have thus arisen, occurring in connection with the operations of the companies described in Section I above, tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

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

1. All the bus drivers employed by Canadian Greyhound Lines, Limited, Illinois Greyhound Lines, Inc., and Eastern Greyhound Lines, Inc. of New England, respectively, constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

¹¹⁶ See p. 634, *supra*.

2. Questions have arisen concerning the representation of the bus drivers in the aforesaid units within the meaning of Section 9 (c) of the National Labor Relations Act.

3. The Brotherhood of Railroad Trainmen, having been selected for the purposes of collective bargaining by the majority of bus drivers in each of the aforesaid units, is, by virtue of Section 9, (a) of the National Labor Relations Act, the exclusive representative of all the bus drivers in each such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

PENNSYLVANIA GREYHOUND LINES

I. THE COMPANY AND ITS BUSINESS

Pennsylvania Greyhound Lines, Inc., is a Delaware corporation with Illinois and Indiana subsidiaries, having its principal place of business in Cleveland, Ohio. The Interstate Commerce Commission has granted its application, filed under the Federal Motor Carrier Act of 1935, for a merger of the operations of its various subsidiaries, and, for the purpose of this proceeding, the companies, taken together, constitute one employer, doing business as Pennsylvania Greyhound Lines, herein called Pennsylvania.¹¹⁷ It is engaged in the business of transporting for hire passengers, baggage, mail, express, and newspapers, under regularly published tariffs, through the States of New York, Pennsylvania, Delaware, Maryland, Ohio, Illinois, Indiana, Missouri, and Kentucky and the District of Columbia. Its gross revenue for the year ended May 1937 was \$6,624,825.80, and its total assets on December 31, 1936, were \$6,612,909.76.¹¹⁸ During the months of May and June 1937, it operated 291 and 301 buses, for the safe and regular operation of which it maintains garages and repair shops in the various cities along its routes. On May 15, 1937, it employed a total of 1170 employees, of whom 491 were bus drivers and 253 mechanics, and on June 15, 1937, a total of 1276 employees, of whom 533 were bus drivers and 257 mechanics.¹¹⁹

As corporations whose voting capital stock is owned directly or indirectly by The Greyhound Corporation of Delaware,¹²⁰ the companies in the Pennsylvania group are closely affiliated with other Greyhound Systems in the Greyhound Lines, and by means of joint operating, traffic, and facility arrangements with these Systems and interchange arrangements with independent bus lines they operate as

¹¹⁷ The interrelationships of these companies are similar to those of the companies constituting Central Greyhound Lines which we also treat as a single employer unit for reasons explained at pp. 656-659, *supra*.

¹¹⁸ Board Exhibit No. 15.

¹¹⁹ Board Exhibit No. 19.

¹²⁰ See *Matter of Pennsylvania Greyhound Lines, Inc., et al.*, 1 N. L. R. B. 1.

a closely coordinated part of an integrated system of national transportation.

II. THE QUESTION CONCERNING REPRESENTATION

On May 12, 1937, officials of the Brotherhood sought to enter into negotiations with officials of Pennsylvania for a schedule of rates of pay and working conditions. As proof that it represents a majority of the bus drivers, the Brotherhood presented 375 signed authorizations of a total of 450 drivers, its estimate of the number of bus drivers employed by Pennsylvania. S. R. Sundstrom, president of Pennsylvania Greyhound Lines, Inc., and its subsidiaries, refused to examine the authorizations and stated that he would not enter into such negotiations until this Board had determined bus drivers to be the appropriate unit and had certified the Brotherhood as the exclusive representative of the bus drivers in that unit.

No petition has been filed in the case of Pennsylvania for certification of representatives of any employees other than bus drivers. No question, therefore, has arisen in this case concerning the representation of such other employees.

III. THE QUESTION OF A MAJORITY

At the hearing, the Brotherhood, through S. R. Harvey, introduced in evidence 375 authorizations,¹²¹ similar in all respects to those introduced in the case of Atlantic, signed by bus drivers said to be employed by Pennsylvania. Several special organizers for the Brotherhood testified that they had personally witnessed many of the signatures. We have compared these authorizations with the pay rolls submitted for the periods ended May 31 and June 30, 1937, respectively, and find that of the 375 bus drivers who signed these authorizations, 357 are listed by Pennsylvania on its May pay roll of 491 bus drivers, and 360 on its June pay roll of 533 bus drivers.¹²² In addition, we find that one authorization submitted by the Brotherhood for representation on Ohio Greyhound Lines, Inc., was in fact signed by a bus driver listed on Pennsylvania's June pay roll. The Brotherhood, therefore, has been selected by 357 out of 491 bus drivers employed by Pennsylvania in May 1937, or 361 out of 533 bus drivers employed in June 1937, as their representative for the purpose of collective bargaining.

IV. THE APPROPRIATE UNIT

As set forth above,¹²³ we find that where the considerations which determine the question of the appropriate unit are evenly balanced,

¹²¹ Petitioners Exhibit No. 15.

¹²² Board Exhibit No. 19.

¹²³ See p 634, *supra*.

the decisive factor is the desire of the men themselves. Here, the record clearly indicates that a majority of the bus drivers employed by Pennsylvania, by choosing the Brotherhood as their representative for the purpose of collective bargaining, have expressed their desire for a unit composed of bus drivers alone. In order to insure to the employees the full benefit of their right to self organization and collective bargaining, and otherwise to effectuate the policies of the Act, we find that all the bus drivers employed by Pennsylvania constitute a unit appropriate for the purposes of collective bargaining. We shall, therefore, certify the Brotherhood as the exclusive representative of the bus drivers in that unit.

V. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

We find that the questions concerning representation which have thus arisen, occurring in connection with the operations of Pennsylvania described in Section I above, tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

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

1. All bus drivers employed by Pennsylvania Greyhound Lines, Inc., and its subsidiaries, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the bus drivers in the aforesaid unit, within the meaning of Section 9 (c) of the National Labor Relations Act.

3. The Brotherhood of Railroad Trainmen, having been selected for the purposes of collective bargaining by the majority of bus drivers in the aforesaid unit, is, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative of all the bus drivers in such unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

RICHMOND GREYHOUND LINES, INC.

I. THE COMPANY AND ITS BUSINESS

Richmond Greyhound Lines, Inc., herein called "Richmond," is a Virginia Corporation, having its principal place of business in Richmond, Virginia. Under the name of Greyhound Lines, it is engaged in the business of transporting for hire passengers, mail, express, and newspapers, under regularly published tariffs, between the District of Columbia and the State of Virginia. For the year ending Decem-

ber 31, 1936, its gross revenue was \$466,435.87, and on that date its total assets \$412,962.15.¹²⁴ In May and June 1937 it owned and operated 17 buses, for the safe and regular operation of which it maintains a garage in Richmond, Virginia, where minor repairs and servicing are performed. It also owns 25 per cent of the stock¹²⁵ of the Greyhound Garage of Washington Inc., where the major part of its repair work is done. In May and June 1937 it employed a total of 31 employees, of whom 26 were bus drivers. In its Richmond garage, it employs two mechanics. As one of the corporations whose voting capital stock is owned directly or indirectly by The Greyhound Corporation of Delaware, it is closely affiliated with other Greyhound Systems in the Greyhound Lines, and by means of joint operating, traffic, and facility arrangements with these Systems and interchange arrangements with independent bus lines it operates as a closely coordinated part of an integrated system of national transportation.

II. THE QUESTION CONCERNING REPRESENTATION

In the latter part of May 1937, officials of the Brotherhood wrote to O. S. Caesar, president of Richmond, in Chicago, Illinois, asking him to meet representatives of the Brotherhood there, review the Brotherhood's authorizations, and enter into an agreement for a schedule of rates of pay and working conditions. Mr. Caesar advised the officials of the Brotherhood that S. R. Sundstrom, president of Pennsylvania Greyhound Lines, Inc., and also vice president and general manager of Richmond, was the official of Richmond to conduct these negotiations. Later, Sundstrom stated to officials of the Brotherhood that negotiations for Richmond should be handled in the way he had suggested for Pennsylvania, and that he would refuse to bargain collectively with the Brotherhood until this Board has determined bus drivers to be the appropriate unit and had certified the Brotherhood as the exclusive representative of the bus drivers employed by the company in that unit.

No petition has been filed in the case of Richmond for certification of representatives of any employees other than bus drivers. No question, therefore, has arisen in this case concerning the representation of such other employees.

III. THE QUESTION OF A MAJORITY

The Brotherhood introduced in evidence 24 authorizations, similar in all respects to those introduced in the case of Atlantic, signed by bus drivers employed by Richmond.¹²⁶ We have compared these au-

¹²⁴ Board Exhibits Nos. 15 and 27.

¹²⁵ Pennsylvania Greyhound Lines owns the other 75 per cent.

¹²⁶ Petitioner's Exhibit No. 11.

thorizations with the last pay rolls for May and June 1937,¹²⁷ and find that of the 23¹²⁸ bus drivers who signed these authorizations, 23 are listed by Richmond on its May pay roll of 26 bus drivers, and 22 on its June pay roll of 26 bus drivers.

IV. THE APPROPRIATE UNIT

As set forth above,¹²⁹ we find that where the considerations which determine the question of the appropriate unit are evenly balanced, the decisive factor is the desire of the men themselves. Here, the record clearly indicates that a majority of the bus drivers employed by Richmond, by choosing the Brotherhood as their representative for the purpose of collective bargaining, have expressed their desire for a unit composed of bus drivers alone. In order to insure to the employees the full benefit of their right to self organization and collective bargaining, and otherwise to effectuate the policies of the Act, we find that all the bus drivers employed by Richmond constitute a unit appropriate for the purposes of collective bargaining. We shall, therefore, certify the Brotherhood as the exclusive representative of the bus drivers in that unit.

V. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

We find that the questions concerning representation which have thus arisen, occurring in connection with the operations of Richmond described in Section I above, tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

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

1. All bus drivers employed by Richmond Greyhound Lines, Inc., constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the bus drivers in the aforesaid unit, within the meaning of Section 9 (c) of the National Labor Relations Act.

3. The Brotherhood of Railroad Trainmen, having been selected for the purposes of collective bargaining by the majority of bus drivers in the aforesaid unit, is, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative of all the bus drivers in such unit for the purpose of collective bargaining in

¹²⁷ Board Exhibit No. 21.

¹²⁸ One bus driver signed two authorizations.

¹²⁹ See p. 634, *supra*.

respect to rates of pay, wages, hours of employment, and other conditions of employment.

CAPITOL GREYHOUND LINES

I. THE COMPANY AND ITS BUSINESS

Capitol Greyhound Lines is a Virginia corporation, with Indiana and Illinois subsidiaries, having its principal place of business in Cincinnati, Ohio.¹³⁰ The companies, taken together, constitute one employer, doing business as Capitol Greyhound Lines, herein called Capitol.^{130a} It is engaged in the business of transporting for hire passengers, baggage, mail, express, and newspapers, under regularly published tariffs, through the States of Missouri, Indiana, Illinois, Kentucky, Maryland, West Virginia, and Virginia, and the District of Columbia. Its consolidated gross revenues for the year ended December 31, 1936, were \$517,477.92, and for the first six months of 1937, \$225,992.59, and its total consolidated assets on December 31, 1936, were \$550,099.18.¹³¹ On May 31, 1937, it operated 23 buses, and on June 30, 25 buses, for the safe and regular operation of which it maintains garages and repair shops in the various cities along its routes. On May 31 and June 30, 1937, it employed a total of 36 employees, of whom 35 were bus drivers.

As corporations whose voting capital stock is owned directly or indirectly by The Greyhound Corporation of Delaware, the companies in the Capitol group are closely affiliated with other Greyhound Systems in the Greyhound Lines, and by means of joint operating, traffic, and facility arrangements with these Systems and interchange arrangements with independent bus lines they operate as a closely coordinated part of an integrated system of national transportation.

II. THE QUESTION CONCERNING REPRESENTATION

During the latter part of May 1937, after securing authorizations from a majority of bus drivers, officials of the Brotherhood communicated with Mr. A. S. Hill, president of Capitol Greyhound Lines and subsidiaries, at Charleston, West Virginia, in an attempt to negotiate an agreement for a schedule of rates of pay and working conditions. Mr. Hill referred the Brotherhood to Mr. C. E. Graves, vice president and general manager, at Cincinnati, Ohio, who stated that he would refuse to bargain collectively with the Brotherhood

¹³⁰ See Application of Capitol Greyhound Lines *et al.* filed with the Interstate Commerce Commission, under the Motor Carrier Act of 1935, Board Exhibit No. 27.

^{130a} The interrelationships of these companies are similar to those of the companies constituting Central Greyhound Lines which we also treat as a single employer unit for reasons explained at pp 656-659, *supra*.

¹³¹ Board Exhibits Nos 15, 17.

until this Board had decided bus drivers to be an appropriate unit and had certified the Brotherhood as the exclusive representative of the bus drivers in that unit. No petition has been filed in the case of Capitol for certification of representatives of any employees other than the bus drivers. No question, therefore, has arisen concerning the representation of such other employees.

III. THE QUESTION OF A MAJORITY

The Brotherhood introduced in evidence authorizations, similar in all respects to those introduced in the case of Atlantic, signed by bus drivers said to be employed by Capitol.¹³² We have compared these authorizations with Capitol's pay rolls for the period ending May 31 and June 30, 1937,¹³³ and find that of the 25 bus drivers who signed these authorizations, 25 are listed on the May pay roll of 35 bus drivers, and 24 on the June pay roll of 35 bus drivers.

IV. THE APPROPRIATE UNIT

As set forth above,¹³⁴ we find that where the considerations which determine the question of the appropriate unit are evenly balanced, the decisive factor is the desire of the men themselves. Here, the majority of the bus drivers employed by the company, by choosing the Brotherhood as their representative for the purposes of collective bargaining, have clearly expressed their desire for a unit composed of bus drivers alone. In order to insure to the employees the full benefit of their right to self-organization and collective bargaining, and otherwise to effectuate the policies of the Act, we find that all the bus drivers employed by Capitol constitute a unit appropriate for the purposes of collective bargaining. We shall, therefore, certify the Brotherhood as the exclusive representative of the bus drivers in that unit.

V. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

We find that the questions of representation which have thus arisen, occurring in connection with the activities of Capitol described in Section I above, tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

CONCLUSIONS OF LAW

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

1. All bus drivers employed by Capitol Greyhound Lines and subsidiaries constitute a unit appropriate for the purpose of collective

¹³² Petitioner's Exhibit No. 10.

¹³³ Board's Exhibit 17.

¹³⁴ See p. 634, *supra*.

bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the bus drivers in the aforesaid unit within the meaning of Section 9 (c) of the National Labor Relations Act.

3. The Brotherhood of Railroad Trainmen, having been selected for the purposes of collective bargaining by the majority of bus drivers in the aforesaid unit, is, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative of all the bus drivers in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

OHIO GREYHOUND LINES, INC.

I. THE COMPANY AND ITS BUSINESS

Ohio Greyhound Lines, Inc., herein called Ohio, is an Indiana corporation, having its principal place of business in Chicago, Illinois. Under the name of Greyhound Lines, it is engaged in the business of transporting for hire passengers, mail, express, and newspapers, under regularly published tariffs, through the States of Michigan, Ohio, and Indiana.¹³⁵ Its gross revenue for the year ended December 31, 1936, was \$610,637.61, and for the first five months of 1937, \$247,088.25. During the month of May 1937, it owned 20 and leased 6 buses, for the safe and regular operation of which it maintains garages and repair shops in the various cities along its routes. On May 31, 1937, it employed a total of 42 employeés, of whom 21 were bus drivers and two mechanics.¹³⁶

As one of the corporations whose voting capital stock is owned directly or indirectly by The Greyhound Corporation of Delaware, Ohio is closely affiliated with other Greyhound Systems in the Greyhound Lines, and, by means of joint operating, traffic and facility arrangements with these Systems and interchange arrangements with independent bus lines, it operates as a closely coordinated part of an integrated system of national transportation.

II. THE QUESTION OF REPRESENTATION

During the latter part of May 1937, after securing authorizations from a majority of the bus drivers, officials of the Brotherhood communicated with O. S. Caesar, president of Ohio, requesting that he meet a representative of the Brotherhood, review the authorizations, and, if satisfied, enter into an agreement for a schedule of

¹³⁵ Board Exhibit No. 27.

¹³⁶ Board Exhibit No. 30.

rates of pay and working conditions. Mr. Caesar referred the Brotherhood to Manfred Burleigh, general manager of Ohio, at Detroit, Michigan, who stated that he would refuse to bargain collectively with the Brotherhood until this Board had decided bus drivers to be an appropriate unit and had certified the Brotherhood as the exclusive representative of the bus drivers in that unit.

No petition has been filed in the case of Ohio for investigation and certification of representatives of any employees other than bus drivers. No question, therefore, has arisen in this case concerning the representation of such other employees.

III. THE QUESTION OF A MAJORITY

The Brotherhood, through S. R. Harvey, introduced in evidence authorizations, similar in all respects to those introduced in the case of Atlantic, signed by 17 bus drivers said to be employed by Ohio.¹³⁷ We have compared these authorizations with Ohio's last pay rolls for May and June, 1937, and find that one authorization was signed by a bus driver listed on the June pay roll of Pennsylvania, and that 15 were signed by bus drivers listed on Ohio's May pay roll of 21 bus drivers, and 14 on its June pay roll of 20 drivers.¹³⁸

IV. THE APPROPRIATE UNIT

As set forth above,¹³⁹ we find that where the considerations which determine the question of the appropriate unit are evenly balanced, the decisive factor is the desire of the men themselves. Here again the record clearly indicates that the majority of the bus drivers employed by the company, by choosing the Brotherhood as their representative for the purposes of collective bargaining, have expressed their desire for a unit composed of bus drivers alone. In order to insure to the employees the full benefit of their right to self-organization and collective bargaining, and otherwise to effectuate the policies of the Act, we find that all the bus drivers employed by Ohio constitute a unit appropriate for the purposes of collective bargaining. We shall, therefore, certify the Brotherhood as the exclusive representative of the bus drivers in that unit.

V. THE EFFECT OF THE QUESTION OF REPRESENTATION ON COMMERCE

We find that the questions concerning representation which have thus arisen, occurring in connection with the operations of Ohio described in Section I above, tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

¹³⁷ Petitioner's Exhibit No. 13.

¹³⁸ Board Exhibit No. 30.

¹³⁹ See p. 634, *supra*.

CONCLUSIONS OF LAW

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

1. All bus drivers employed by the Ohio Greyhound Lines, Inc., constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the bus drivers in the aforesaid unit within the meaning of Section 9 (c) of the National Labor Relations Act.

3. The Brotherhood of Railroad Trainmen, having been selected for the purposes of collective bargaining by the majority of bus drivers in the aforesaid unit, is, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative of all the bus drivers in such unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

DIRECTION OF ELECTIONS

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, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is

DIRECTED that, as part of the investigations authorized by the Board to ascertain representatives for the purpose of collective bargaining with Atlantic Greyhound Lines, Inc., and its subsidiaries, elections by secret ballot shall be conducted within twenty (20) days from the date of this Direction, under the direction and supervision of the Regional Director for the Ninth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9 of said Rules and Regulations, among those employees of Atlantic Greyhound Lines, Inc., and its subsidiaries, who fall within the groups described below who were on the pay roll of said companies for the period ending May 31, 1937:

a. Bus drivers, and temporary dispatchers who hold seniority rights as bus drivers, to determine whether they desire to be represented by the Brotherhood of Railroad Trainmen, the Interstate Motor Transportation Employees Union, Inc., or neither, for the purposes of collective bargaining.

b. Maintenance employees, to determine whether they desire to be represented by the International Association of Machinists, the Inter-

state Motor Transportation Employees Union, Inc., or neither, for the purposes of collective bargaining.

c. All other employees, except supervisory employees, to determine whether or not they desire to be represented by the Interstate Motor Transportation Employees Union, Inc., for the purposes of collective bargaining.

FURTHER DIRECTED that, as part of the investigations authorized by the Board to ascertain representatives for the purpose of collective bargaining with Southwestern Greyhound Lines, Inc., and its subsidiary, elections by secret ballot shall be conducted within twenty (20) days from the date of this Direction, under the direction and supervision of the Regional Director for the Sixteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to said Rules and Regulations, among those employees of Southwestern Greyhound Lines, Inc., and its subsidiary who fall within the groups described below who were on the pay roll of said companies on May 25, 1937, or available for service on that date:

a. Bus drivers, and temporary despatchers who hold seniority rights as bus drivers, to determine whether they desire to be represented by the Brotherhood of Railroad Trainmen, the Greyhound Employees Union, or neither, for the purposes of collective bargaining.

b. Maintenance employees, to determine whether they desire to be represented by the International Association of Machinists, the Greyhound Employees Union, or neither, for the purposes of collective bargaining.

c. All other employees, except supervisory employees, to determine whether or not they desire to be represented by the Greyhound Employees Union for the purposes of collective bargaining.

FURTHER DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Southeastern Greyhound Lines, an election by secret ballot shall be conducted within twenty (20) days from the date of this Direction, under the direction and supervision of the Regional Director for the Ninth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9 of said Rules and Regulations, among all the bus drivers employed by Southeastern Greyhound Lines, including Southeastern Greyhound Lines of Kentucky, Southeastern Greyhound Lines of Tennessee, and Southeastern Greyhound Lines of Alabama, on the pay rolls of each of the three companies, respectively, during the period ended May 31, 1937, to determine whether they wish to be represented by the Brotherhood of Railroad Trainmen, the Consolidated Coach Operators Association, or neither, for the purposes of collective bargaining.

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 and selected by a majority of the bus drivers, employed by each of the following corporations, as their representative for the purposes of collective bargaining:

1. Pennsylvania Greyhound Lines, Inc. and Subsidiaries,
2. Central Greyhound Lines, Inc. and Subsidiaries,
3. Eastern Greyhound Lines, Inc. of New England,
4. Illinois Greyhound Lines, Inc.,
5. Canadian Greyhound Lines, Limited,
6. Ohio Greyhound Lines, Inc.,
7. Capitol Greyhound Lines and Subsidiaries,
8. Southeastern Management Company,
9. Richmond Greyhound Lines, Inc.,

and that, pursuant to Section 9 (a) of the National Labor Relations Act, The Brotherhood of Railroad Trainmen is the exclusive representative of all such employees of each of the above named corporations for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

MR. EDWIN S. SMITH took no part in the consideration of the above Decision, Direction of Elections, and Certification of Representatives.

[SAME TITLE]

AMENDMENT TO DIRECTION OF ELECTIONS

September 29, 1937.

On September 14, 1937, the National Labor Relations Board, herein called the Board, issued a Decision, Direction of Elections, and Certification of Representatives in the above-entitled proceeding, the elections to be held within 20 days from the date of Direction, under the direction and supervision of the Regional Directors for the Ninth Region (Cincinnati, Ohio) and Sixteenth Region (Fort Worth, Texas): The Board, having been advised by the Regional Director for the Ninth Region that a longer period is necessary, hereby amends the Direction of Elections issued on September 14, 1937, by striking therefrom, wherever they occur, the words "within 20 days from the date of this Direction" and substituting therefor the words "within 35 days from the date of this Direction"

MR. EDWIN S. SMITH took no part in the consideration of the above Amendment to Direction of Elections.