

In the Matter of SANTA FE TRAILS TRANSPORTATION COMPANY and  
INTERNATIONAL ASSOCIATION OF MACHINISTS, LOCAL LODGE 1308

*Case No. R-657.—Decided May 21, 1938*

*Motorbus Transportation Industry—Investigation of Representatives:* controversy concerning representation of employees: employer's refusal to grant recognition of union until question of representation is determined by Board; rival organizations—*Unit Appropriate for Collective Bargaining:* mechanical department employees; foremen whose work is not purely supervisory included in unit; stipulation as to—*Representatives:* proof of choice: comparison of list of employees with union membership cards—*Certification of Representatives:* upon proof of majority representation; collective agreement with rival organization, no bar to.

*Mr. Arthur R. Donovan*, for the Board.

*Blood & Prosser*, by *Mr. J. W. Blood* and *Mr. F. W. Prosser*, of Wichita, Kans., for the Company.

*Mr. H. W. Ray*, of Wichita, Kans., for Lodge 1308.

*Mr. W. M. Reeser*, of Wichita, Kans., for the Transportation Workers.

*Mr. Roman Beck*, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On March 5, 1938, International Association of Machinists, Local Lodge 1308, herein called Lodge 1308, filed with the Regional Director for the Seventeenth Region (Kansas City, Missouri) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Santa Fe Trails Transportation Company, Inc., Wichita, Kansas, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On March 19, 1938, the National Labor Relations Board, herein called 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, ordered an

investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On March 22, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon Lodge 1308, and upon Motor Transportation Workers Union, herein called Transportation Workers, a labor organization purporting to represent employees directly affected by the investigation. Pursuant to a notice postponing the hearing date, copies of which were served upon all the parties, a hearing was held on April 4, 1938, at Wichita, Kansas, before Peter F. Ward, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel, Lodge 1308 was represented by its Grand Lodge Representative, and Transportation Workers by its president. All participated in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on objections to the admission of evidence. 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

#### I. THE BUSINESS OF THE COMPANY

The Company is a Kansas corporation. It operates an interstate bus transportation system extending through the States of Kansas, Missouri, Oklahoma, Colorado, New Mexico, Arkansas, and California. A majority of its corporate stock is owned by the General Improvement Company, Chicago, Illinois, which is a wholly owned subsidiary of the Atchison, Topeka, and Santa Fe Railway Company. The latter operates a transcontinental railway system between Chicago, Illinois, and the Pacific Coast of the United States. The operations of the Company are coordinated with this railway system. Certain terminal facilities are used jointly, certain tickets are interchangeable, and the tariffs and time tables of the railway include information pertaining to the transportation services of the Company.

#### II. THE ORGANIZATIONS INVOLVED

International Association of Machinists, Local Lodge No. 1308, is a labor organization affiliated with the American Federation of Labor, admitting to its membership all employees of the Company in its mechanical department, including mechanics, body men, electricians, upholsterers, painters, glazers, sheet metal workers, welders, stockroom men, helpers, greasers, washers, laborers, and lubricator men.

Motor Transportation Workers Union is a labor organization unaffiliated with any other labor organization. It admits to membership all employees of the Company in its mechanical department.

### III. THE QUESTION CONCERNING REPRESENTATION

The Southern Kansas Stage Lines Company and The Cardinal Stage Lines Company were motor bus transportation companies which served part of the territory now included in the area through which the Company now operates. Effective as of January 1, 1938, these two companies, together with other bus companies, were merged with the Company. In December 1936 the president of Transportation Workers obtained authority from 91 employees of the Southern Kansas Stage Lines Company and The Cardinal Stage Lines Company to negotiate an agreement between each of these companies and Transportation Workers regarding terms of employment. An agreement was made with each of these companies to become effective on March 1, 1937, and to continue until March 1, 1938, and thereafter subject to termination by either party on 30 days' written notice.

In July 1937, Lodge 1308 began its membership campaign among the workers in the mechanical departments of certain of the constituent companies now integrated in the Company. On February 12, 1938, after the merger, a representative of Lodge 1308 informed the president of the Company that Lodge 1308 represented more than 70 per cent of the Company's employees in its mechanical department, and requested the Company to bargain collectively with it as the representative of such employees. The Company refused to accede to this request and stated that it preferred that the Board determine whether Lodge 1308 or Transportation Workers had the right to represent the mechanical department employees of the Company.

We find that a question has arisen concerning representation of employees of the Company.

### IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

### V. THE APPROPRIATE UNIT

All parties have stipulated that the mechanical department employees of the Company, including mechanics, body men, electricians, up-

holsterers, painters, glazers, sheet metal workers, welders, stockroom men, helpers, greasers, washers, laborers, and lubricator men, constitute a unit appropriate for the purposes of collective bargaining. The stipulation recites that 219 men are within this unit, and at the hearing a list of 219 employees was submitted which, it was agreed, constituted the mechanical department employees of the Company on the date of the hearing. An examination of this list shows that several foremen are included. At the hearing it was orally stipulated that both Lodge 1308 and Transportation Workers admit to membership foremen whose work is not purely supervisory. The Company apparently did not object to their inclusion.

We find that the mechanical department employees of the Company, including mechanics, body men, electricians, upholsterers, painters, glazers, sheet metal workers, welders, stockroom men, helpers, greasers, washers, laborers, and lubricator men, including foremen whose work is not purely supervisory, and excluding supervisory employees, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining, and otherwise effectuate the policies of the Act.

#### VI. THE DETERMINATION OF REPRESENTATIVES

As has been stated, the Company submitted a list of its employees in the mechanical department and it was stipulated at the hearing by all parties that the 219 persons on that list constituted the entire personnel of that department as of April 4, 1938, the date of the hearing.

Transportation Workers produced the 91 written authorizations signed in December 1936, which appointed it to negotiate the contracts with the Southern Kansas Stage Lines Company and The Cardinal Stage Lines Company, described in Section III above. According to the list of employees furnished by the Company, 78 of the 91 employees who had signed these authorizations were still in the Company's employ.

Lodge 1308 introduced in evidence 166 membership application cards. These cards authorized Lodge 1308 to represent the applicants for the purposes of collective bargaining, and most of the cards state explicitly that such authority supersedes any prior appointment of bargaining representatives. The employee's signature on each card is attested by that of a subscribing witness, and the authenticity of the signatures has not been challenged. A comparison of these membership cards with the list of employees discloses that 152 represented men still in the Company's employ. Each card is dated, and 101 of the men in the Company's employ on the date of the hearing had signed their cards within a few weeks before the date of the hearing. The

membership application cards of the remaining 51 employees were signed July 2, 1937, or thereafter.

The testimony of several witnesses showed that in June 1937, a meeting of 44 members of Transportation Workers was held, at which a resolution was adopted by a vote of 30 to 14 to take steps to discontinue the Transportation Workers. The inference is reasonably clear from the evidence that Transportation Workers became inactive subsequent to the execution of its March 1, 1937, agreements with the Southern Kansas and Cardinal Companies. Eleven employees testified that they intended to revoke the authority of Transportation Workers when they applied for membership in Lodge 1308.

In brief, 101 of the 152 members joined Lodge 1308 so recently as to compel the conclusion that they desire it to act for them. There is no evidence that the others who had become members about 6 months earlier had changed their allegiance. The inactivity of Transportation Workers after Lodge 1308 began its organizing efforts reinforces this conclusion.

As has been observed, the Company indicated that it preferred the institution of this proceeding to determine the representative of the majority of its mechanical department employees. The agreements between Transportation Workers and the Southern Kansas and Cardinal Stage Line Companies are terminable on 30 days' notice. Neither agreement provides that Transportation Workers shall be the exclusive bargaining agent. The president of the Company testified that it would recognize the representative certified by the Board. Under these circumstances we need not determine the effect of these agreements since they are no barrier to the certification of Lodge 1308 as the exclusive representative of the employees in the appropriate unit.

We find that Lodge 1308 has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all employees in such unit for the purposes of collective bargaining, and we will so certify.

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

#### CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Santa Fe Trails Transportation Company, Inc., Wichita, Kansas, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The mechanical department employees of the Company, including mechanics, body men, electricians, upholsterers, painters, glazers,

sheet metal workers, welders, stockroom men, helpers, greasers, washers, laborers, and lubricator men, including foremen whose work is not purely supervisory, and excluding supervisory employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. International Association of Machinists, Local Lodge No. 1308, is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

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

IT IS HEREBY CERTIFIED that International Association of Machinists, Local Lodge No. 1308, has been designated and selected by a majority of the mechanical department employees of Santa Fe Trails Transportation Company, Inc., including mechanics, body men, electricians, upholsterers, painters, glazers, sheet metal workers, welders, stockroom men, helpers, greasers, washers, laborers, and lubricator men, including foremen whose work is not purely supervisory, and excluding supervisory employees, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, International Association of Machinists, Local Lodge No. 1308, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.