

In the Matter of DACHEL-CARTER SHIP BUILDING CORPORATION and
INDUSTRIAL UNION OF MARINE AND SHIPBUILDING WORKERS OF
AMERICA, C. I. O.

Case No. 7-R-1574.—Decided November 11, 1943

Mr. W. M. Hill, of St. Joseph, Mich., for the Company.

Mr. Robert S. Feldman, of Benton Harbor, Mich., for the C. I. O.

Mr. C. O. Van Horn, of Ft. Wayne, Ind., and *Mr. A. J. Schultz*, of
Benton Harbor, Mich., for the A. F. of L.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition and amended petition duly filed by Industrial Union of Marine and Shipbuilding Workers of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Dachel-Carter Ship Building Corporation, Benton Harbor, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sylvester J. Pheney, Trial Examiner. Said hearing was held at Benton Harbor, Michigan, on October 27, 1943. At the commencement of the hearing, the Trial Examiner granted a motion of Ship Builders Local Union No. 208, affiliated with United Brotherhood of Carpenters and Joiners of America, A. F. L., herein called the A. F. L., to intervene. The Company, the C. I. O., and the A. F. L. appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

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

53 N. L. R. B., No. 101.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Dachel-Carter Ship Building Corporation is a Michigan corporation operating a plant at Benton Harbor, Michigan, where it is engaged in the making of war craft for the United States armed forces. During the first 6 months of 1943 the Company purchased raw materials valued at about \$962,261, approximately 75 to 80 percent of which was shipped to it from points outside the State of Michigan. During the same period the Company sold finished products valued at about \$948,000, to the United States Government. The Company admits, for the purpose of this proceeding, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Industrial Union of Marine and Shipbuilding Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Ship Builders Local Union No. 208, affiliated with United Brotherhood of Carpenters and Joiners of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 10, 1943, the C. I. O. requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request on the ground that it was operating under a contract with the A. F. L.

On December 24, 1941, the Company and the A. F. L. entered into a closed-shop contract covering the employees involved herein. The contract provides that it shall remain in full force and effect until January 1, 1944. It further provides that it shall remain in effect for 1 year thereafter unless either party thereto notifies the other of the desire to terminate not less than sixty (60) days prior to January 1, 1944. As stated above, the C. I. O. made its claim upon the Company on September 10, 1943. Inasmuch as the C. I. O. made its claim upon the Company prior to November 1, 1943, the date upon which the contract would have automatically renewed itself, we find that the contract does not constitute a bar to a determination of representatives at this time.

Statements of the Regional Director and the Trial Examiner, introduced into evidence at the hearing, indicate that the C. I. O. represents

a substantial number of employees in the unit hereinafter found to be appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, in substantial agreement with a stipulation of the parties, that all production and maintenance employees and employees of the Company directly associated with production, excluding timekeepers, inspectors, nurses, police and plant guards, draftsmen, office and clerical employees, foremen, assistant foremen, labor leaders, leadmen, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTION

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 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Dachel-Carter Ship Building Corporation, Benton Harbor, Michigan, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Seventh

¹ The Regional Director and the Trial Examiner reported that the C. I. O. presented 202 application-for-membership cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of September 27, 1943. There are approximately 608 employees on that pay roll who are in the appropriate unit. The A. F. L. did not present any evidence of representation but relies upon its contract as evidence of its interest in the instant proceeding.

Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during such pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Industrial Union of Marine and Shipbuilding Workers of America, affiliated with the Congress of Industrial Organizations, or by Ship Builders Local Union No. 208, affiliated with United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.