

In the Matter of TODD-JOHNSON DRY DOCKS, INC. and INDUSTRIAL UNION OF MARINE AND SHIPBUILDING WORKERS OF AMERICA, LOCAL No. 29, AFFILIATED WITH THE CONGRESS OF INDUSTRIAL ORGANIZATIONS

*Case No. 15-R-1053.—Decided February 16, 1944*

*Messrs. J. N. Pharr, John L. Hein, and Robert S. Sbisio, and Miss E. A. Cappel, all of New Orleans, La., for the Company.*

*Messrs. W. T. Crist and Philip A. Comeant, both of New Orleans, La., for the Union.*

*Mr. Wallace E. Royster, of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Industrial Union of Marine and Shipbuilding Workers of America, Local No. 29, affiliated with the Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Todd-Johnson Dry Docks, Inc., New Orleans, Louisiana herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Laurence H. Whitlow, Trial Examiner. Said hearing was held at New Orleans, Louisiana, on January 10, 1944. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the close of the hearing, the Company moved the dismissal of the petition, alleging that the unit requested is inappropriate. For reasons appearing in Section IV, *infra*, the motion is denied. 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Todd-Johnson Dry Docks, Inc. is a Delaware corporation with offices, shipyards, and dry docks located on the Mississippi River at New Orleans, Louisiana, 54 N. L. R. B., No. 208.

Orleans, Louisiana, where it is engaged in the repair of vessels of all flags in foreign and coast-wide trade, boats and barges in river and inland water trade, as well as harbor craft and government owned vessels. The Company operates two yards about 6 miles apart called the upper plant and the lower plant. The two yards operate as one unit. During 1943, the Company purchased raw materials valued in excess of \$3,500,000, most of which was shipped to the Company from points outside Louisiana. During the same period the gross receipts of the Company for the services it performed were in excess of \$15,000,000. Approximately 90 percent of the Company's business is the repairing, altering, converting, and dry docking of Marine vessels under master contracts with the United States Navy, United States Army, and War Shipping Administration. The Company does not contest the jurisdiction of the Board in the premises, and we find that its operations effect commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

Industrial Union of Marine and Shipbuilding Workers of America, Local No. 29, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

Prior to the filing of petition herein, the Union requested recognition of the Company as bargaining representative of the timekeepers employed in the operations at the two yards. The Company refused to extend such recognition and suggested representation proceedings before the Board.

A statement of the Regional Director introduced into evidence at the hearing indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

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

The Union is the certified representative of the production and maintenance employees of the Company in a unit excluding time-

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<sup>1</sup>The Regional Director stated that the Union submitted 21 application-for-membership cards, all of which bore apparently genuine, original signatures and dates in October and November 1943. Eighteen of the cards bore names of persons whose names appear on the Company's pay roll for the period ending November 30, 1943. The pay roll contains the names of 30 employees in the appropriate unit.

keepers among others. The Company employs approximately 30 timekeepers who are stationed at strategic locations throughout the Company's yards to record the badge numbers of employees reporting for work. During the shift, timekeepers make two separate checks to verify the physical presence on the job of the employees who have reported for work and to determine by such check and by consultation with foremen, the number of hours each employee spends on a particular operation. The data so collected is used by the Company to make up the pay rolls for the production and maintenance employees and to allocate labor costs on its various contracts. Perhaps 50 percent of a timekeeper's day is devoted to clerical work in collating and posting the information he has gathered.

The Company opposes the unit requested. Many of the Company's contentions are directed against the inclusion of timekeepers in a unit with production and maintenance employees. Since the Union does not seek such an amalgamation, we need not give these contentions consideration. The Company contends further, however, that timekeepers perform management functions and have access to confidential information pertaining to labor relations. These contentions are not supported by the record. The "management functions" attributed to the timekeepers appear to consist of the task of noting the hours worked by the production and maintenance employees. The confidential information which it is alleged they possess or have access to relates to the earnings of other employees, the nature of the work being performed on the ships and to the equipment or armament of the ships. While this information may not generally be divulged to the public and may therefore be confidential, the possession of it is not a consideration which would impel us to exclude such employees from an otherwise appropriate bargaining unit. The possession of important information is not of itself sufficient to justify a denial of the right to collective bargaining, unless the information pertains directly to labor relations.<sup>2</sup> The Company also contends that if timekeepers are to be represented for the purposes of collective bargaining, they should be included in a unit with other clerical employees. We have included timekeepers in units with clerical employees where the parties have so requested and where it appeared that their working conditions, supervision, and interests were so similar to make such inclusion appropriate. The employees here in question, however, have supervision separate from the other clerical employees, work in locations away from the general offices and operate on all three shifts.

<sup>2</sup> See *Matter of Creamery Package Manufacturing Company (Lake Mills Plant)*, 34 N. L. R. B. 108.

See also *Matter of Warner Bros. Pictures, Inc., et al.*, 35 N. L. R. B. 739.

These factors serve to set them apart from the remaining clerical employees of the Company and we are persuaded that they constitute a distinct and identifiable group.

We find then that all timekeepers employed by the Company at its New Orleans operations, excluding supervisory timekeepers 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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Todd-Johnson Dry Docks, Inc., New Orleans, Louisiana, 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 Fifteenth 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 said payroll 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 or not they desire to be represented by Industrial Union, Marine and Shipbuilding Workers of America, Local No. 29, affiliated with the Congress of Industrial Organizations for the purposes of collective bargaining.