

In the Matter of McPHILLIPS MANUFACTURING COMPANY and AMERICAN  
FEDERATION OF LABOR

*Case No. 15-R-1172.—Decided September 23, 1944*

*Mr. Marion A. Vickus, of Mobile, Ala., for the Company.*

*Mr. M. B. Boone, of Mobile, Ala., for the Union.*

*Mr. Louis Cokin, of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of McPhillips Manufacturing Company, Mobile, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before LeRoy Marceau, Trial Examiner. Said hearing was held at Mobile, Alabama, on September 1, 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. 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

McPhillips Manufacturing Company is a partnership with its principal place of business at Mobile, Alabama, where it is engaged in ship-joinery on ocean going vessels. The Company receives more than \$100,000 monthly for its services.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

American Federation of Labor is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as exclusive collective bargaining representative of its employees until such time as the Union is certified by the Board.

A statement of the Trial Examiner, read into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be 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 urges that all production and maintenance employees in the ship division of the Company, including leadermen, but excluding clerical employees and supervisors, constitute an appropriate unit. There seems to be disagreement with respect to whether or not the leadermen are supervisors.

The Company employs twelve persons classified by it as leadermen. Each of them has the authority to effectively recommend changes in the status of other employees. Accordingly, we find that leadermen are supervisory employees, and as such, we shall exclude them from the unit.

We find that all production and maintenance employees in the ship division of the Company, excluding clerical employees, leadermen, 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.

<sup>1</sup> The Trial Examiner reported that the Union presented 70 authorization cards bearing the names of persons who appear on the Company pay roll of August 20, 1944. There are approximately 250 employees in the appropriate unit.

## 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with McPhillips Manufacturing Company, Mobile, Alabama, 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 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 or not they desire to be represented by American Federation of Labor, for the purposes of collective bargaining.