

In the Matter of STANDARD OIL COMPANY OF CALIFORNIA *and* SAILORS' UNION OF THE PACIFIC, AFFILIATED WITH AMERICAN FEDERATION OF LABOR

In the Matter of STANDARD OIL COMPANY OF CALIFORNIA *and* SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, PACIFIC DISTRICT, ENGINE DIVISION, AFFILIATED WITH AMERICAN FEDERATION OF LABOR

In the Matter of STANDARD OIL COMPANY OF CALIFORNIA *and* SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, PACIFIC DISTRICT, STEWARDS' DIVISION, AMERICAN FEDERATION OF LABOR

In the Matter of STANDARD OIL COMPANY OF CALIFORNIA *and* NATIONAL MARITIME UNION

Cases Nos. 20-R-1125, 20-R-1126, 20-R-1127 and 20-R-1139 respectively.—Decided September 26, 1944

Mr. John Paul Jennings and Mr. Bernard L. Alpert, for the Board. Pillsbury, Madison & Sutro, by Mr. Norbert Korte, of San Francisco, Calif., for the Company.

Mr. Charles J. Janigian, Mr. Harry Lundeberg, and Mr. H. C. Banks, of San Francisco, Calif., for the S. U. P. and the S. I. U.

Mr. Benjamin Dreyfus, of San Francisco, Calif., for the N. M. U.

Carlson & Collins, by Mr. Robert Collins, of Richmond, Calif., for the S. M. E. A.

Mr. Robert E. Tillman, of counsel to the Board.

DECISION

DIRECTION OF ELECTIONS

AND

ORDER

STATEMENT OF THE CASE

Upon separate petitions duly filed by Sailors' Union of the Pacific, by Seafarers International Union of North America, Pacific District, Engine Division and by Seafarers International Union of North America, Pacific District, Stewards' Division, all affiliated with the American Federation of Labor, and herein collectively called the S. U. P.-

S. I. U.; and by National Maritime Union, affiliated with the Congress of Industrial Organizations, herein called the N. M. U., alleging that questions affecting commerce had arisen concerning the representation of employees of Standard Oil Company of California, San Francisco, California, herein called the Company, the National Labor Relations Board consolidated the cases with certain charges of unfair labor practices filed by the S. U. P.-S. I. U. and the N. M. U. Thereafter, the Board provided for an appropriate hearing upon due notice before Charles W. Schneider, Trial Examiner. Said hearing was held at San Francisco, California, on August 30 and 31, and on September 1 and 2, 1944. The Company, the S. U. P.-S. I. U., the N. M. U., and Standard Marine Employees Association, herein called the S. M. E. A., appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.

During the course of the hearing, the S. U. P.-S. I. U. moved to dismiss the petition filed by the N. M. U., on the ground that the N. M. U. had not made a substantial showing of representation. Ruling on this motion was reserved for the Board. In view of our Direction of Elections hereinafter, the motion is hereby denied. The S. U. P.-S. I. U. also moved, without objection, that the Board dispose separately of the representation and the complaint cases. Ruling on this motion was likewise reserved for the Board by the Trial Examiner. It now appearing to the Board that the purposes of the Act will be best effectuated by severance of the representation and complaint cases, and separate disposition thereof, the motion is granted and the Board hereby orders that the said complaint cases, namely Case No. 20-C-1231 and Case No. 20-C-1274, be, and they hereby are, severed from the representation cases named in the caption hereof.

Insofar as it is presently necessary to determine, the Trial Examiners' 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

Standard Oil Company of California, a Delaware corporation, maintains its principal offices in San Francisco, California. The Company is engaged in the production, refining, transportation, sale, and distribution of petroleum and petroleum products. It and its subsidiaries and affiliates own, lease, or hold under contract extensive oil lands in the United States and foreign countries. The Company owns and

operates refineries at Richmond, Bakersfield, and El Segundo, California, and, in addition to these operations, through subsidiaries, operates refineries in Texas and British Columbia. The Company also operates 15 seagoing tankers and a number of harbor vessels which transport crude oil from pipe-line terminals to refineries, and refined products from refineries to points outside the State of California, including the South Pacific. Rail and truck facilities of common carriers are also engaged to transport the Company's refined products from refineries to points outside California. During the year 1943, the Company produced approximately 87,500,000 barrels of refined petroleum products, of which at least 40 percent was shipped from California to various other States of the United States and to foreign countries.

The present proceedings involve only the employees of the Company's Marine Department, those engaged in the transportation of the Company's products by water.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Sailors' Union of the Pacific, Seafarers International Union of North America, Pacific District, Engine Division, and Seafarers International Union of North America, Pacific District, Stewards' Division, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

National Maritime Union is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Standard Marine Employees Association is a labor organization admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

Early in 1944, the S. U. P.-S. I. U. requested recognition from the Company as the collective bargaining representative of the employees within the units alleged by the S. U. P.-S. I. U. as appropriate herein. The Company did not grant such recognition.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the S. U. P.-S. I. U. represents a substantial number of employees in the units alleged by it to be appropriate.¹

¹The Board agent reported that the S. U. P.-S. I. U. submitted evidence which, upon comparison with the Company's July 6, 1944 pay roll, indicated that the S. U. P.-S. I. U. represented 127 of 212 employees in the deck department, 65 of 188 in the engine department; and 58 of 125 in the steward's department. The Board agent also reported that the N. M. U. submitted evidence, which, upon comparison with the July 18, 1944, pay roll, indicated that the N. M. U. represented 20 persons in the deck department, 14 in the engine department, and 7 in the steward's department. Subsequently the N. M. U. sub-

We find that questions affecting commerce have 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 UNITS ; THE DETERMINATION OF REPRESENTATIVES

During July 1944, representatives of the Company and of the various labor organizations involved, conferred for the purpose of arriving at an agreement for a consent election among the unlicensed personnel on the Company's 15 deepwater oil tankers. The proposed agreement provided for 3 separate elections among the unlicensed employees of, respectively, the deck, engine, and steward departments, with all the labor organizations on the ballot. However, this agreement was not executed. During the hearing herein, the parties formally took differing positions, based on bargaining history, with respect to the appropriate unit or units.² However, during the course of the hearing, the Company and the S. U. P.-S. I. U. urged that the board proceed with elections on the basis of the proposed consent agreement; the S. M. E. A. stated its desire for elections on such a basis; and the N. M. U. indicated its willingness so to proceed upon condition, *inter alia*, that any units in which the N. M. U. was selected as bargaining agent be consolidated. We construe these expressions as having the same effect as a stipulation for an election. It is therefore unnecessary to consider the various contentions as to the history of collective bargaining within the Company, along the Pacific Coast, and in the maritime industry generally.

Under such circumstances, we shall make no final determination at this time as to the appropriate unit or units, but shall direct that the questions concerning representation which have arisen be resolved by separate elections by secret ballot among the unlicensed employees in, respectively the deck, engine, and steward's departments, in accordance with, and subject to the limitations and additions set forth in, our Direction of Elections hereinafter.³ Any certification resulting from

mitted to the Board agent and to the Trial Examiner 171 authorizations alleged to be those of persons within the claimed appropriate units. However, these 171 authorizations were not checked against the Company's pay roll for the reason that the Company declined to submit current records for comparison

While the S. M. E. A. did not submit evidence of authorizations, it submitted evidence indicating that the employees in the alleged appropriate units are covered by existing contract between the S. M. E. A. and the Company, dated March 24, 1942, and effective to January 1, 1943, and continuing yearly thereafter unless cancelled upon 30 days' written notice prior to any January 1. No contention is made that this contract constitutes a bar to an election

² Thus, the Company and the S. M. E. A. stated that the appropriate unit should embrace all licensed and unlicensed personnel of both the Company's deep-water and inland vessels, the S. U. P.-S. I. U., that the voting groups set out in the proposed consent election agreement constituted separate appropriate units; and the N. M. U., that all unlicensed personnel on the deepwater tankers constituted an appropriate unit

³ The record indicates that boatswains, who are employed in the deck department, and chief stewards, one of whom is in charge of the steward's department on each tanker, exercise some supervisory authority. Both boatswains and chief stewards are unlicensed personnel. For more than 40 years, they have been admitted to membership in maritime

such elections will, however, be without prejudice to any findings we may subsequently make in Case No. 20-C-1231 and Case No. 20-C-1274 respecting the status of the S. M. E. A. or John Hansen.⁴

In view of the present uncertainty as to the arrival, departure, routes, and personnel of vessels under the Company's present operations, we shall direct that the Regional Director for the Twentieth Region, under whose direction the elections will be held, shall determine the exact time, place, and procedure for giving notice of the elections and for balloting. Those eligible to vote will be those employees in the respective voting groups set forth below employed on each vessel as of the date of this Direction, subject to the limitations and additions set forth therein.

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, 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 Standard Oil Company of California, San Francisco, California, separate elections by secret ballot shall be conducted as soon as convenient and beginning as promptly as is practicable after the date of this Direction, in conformity with the instructions set forth in Section IV, above, for the conduct of such elections, under the direction and supervision of the Regional Director for the Twentieth 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 voting groups set forth below, employed on each vessel as of the date of this Direction, including employees who are not now or at the time balloting takes place at work because they are 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 elections; and, except as otherwise specified, further excluding all supervisory employees with authority to hire, promote, discharge,

labor organizations composed of unlicensed personnel in their respective departments. They have been traditionally bargained for in the same units with those employees. All parties desire their inclusion in the election units. We shall include them within the appropriate voting groups set forth in the Direction of Elections. *Matter of Midland Steamship Line, Inc.*, 56 N. L. R. B. 839.

⁴The charges in those cases allege that the Company dominated and interfered with the administration of the S. M. E. A. and contributed support to it, and that the Company discriminatorily discharged Hansen.

discipline, or otherwise effect changes in the status of employees, or effectively recommend such action:

(1) All unlicensed personnel in the deck department of the Company's deepwater tankers, including the boatswains, and the relief and standby crews, to determine whether they desire to be represented by Sailors' Union of the Pacific, affiliated with the American Federation of Labor, or by National Maritime Union, affiliated with the Congress of Industrial Organizations, or by Standard Marine Employees Association, for the purposes of collective bargaining, or by none of those organizations;

(2) All unlicensed personnel in the engine department of the Company's deepwater tankers, including the relief and standby crews, to determine whether they desire to be represented by Seafarers International Union of North America, Pacific District, Engine Division, affiliated with the American Federation of Labor, or by National Maritime Union, affiliated with the Congress of Industrial Organizations, or by Standard Marine Employees Association, for the purposes of collective bargaining, or by none of those organizations;

(3) All unlicensed personnel in the stewards' department of the Company's deepwater tankers, including the chief stewards, and the relief and standby crews, to determine whether they desire to be represented by Seafarers International Union of North America, Pacific District, Stewards' Division, affiliated with the American Federation of Labor, or by National Maritime Union, affiliated with the Congress of Industrial Organizations, or by Standard Marine Employees Association, for the purposes of collective bargaining, or by none of those organizations.