

In the Matter of BETHLEHEM-FAIRFIELD SHIPYARD, INCORPORATED and
LOCAL No. 43, INDUSTRIAL UNION OF MARINE AND SHIPBUILDING
WORKERS OF AMERICA, CIO

Case No. 5-R-1660.—Decided November 28, 1944

*Mr. Gerald J. Reilly, of Bethlehem, Pa., and Messrs. William L. Kin-
nahan and E. A. Sheehan, of Baltimore, Md., for the Company.*

*Messrs. I. Duke Avnet, and Walter McManamon, of Baltimore, Md.,
for the Union.*

Mr. Sidney Grossman, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by Local No. 43, Industrial Union of Marine and Shipbuilding Workers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Bethlehem-Fairfield Shipyards, Incorporated,¹ Fairfield, Baltimore, Maryland, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Earle K. Shawe, Trial Examiner. Said hearing was held at Baltimore, Maryland, on October 18, 1944. The Company and the Union appeared and participated. All parties² were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing, the Company made two motions to dismiss the petition for the general reason that the proposed unit is inappropriate. Ruling was reserved for the Board. For the reasons appearing in Section IV, below, the motions are denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

¹ At the hearing, the name of the Company was amended to read as above set forth.

² Although served with Notice of Hearing, the Baltimore Metal Trades Council, A. F. of L., did not appear.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Bethlehem-Fairfield Shipyard, Incorporated, a Maryland corporation, operates a shipyard at Fairfield, Baltimore, Maryland, where it is engaged in the construction of merchant vessels. All the shipbuilding facilities are owned by, and all the vessels are being constructed on a cost plus basis for, the United States Maritime Commission. During the year 1943, approximately 90 percent of all materials used at the shipyard was furnished by the Commission, and at least 50 percent of all materials used was shipped to the shipyard from points outside the State of Maryland. During the same period more than 100 merchant vessels were constructed by the Company and delivered to the Commission.

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

II. THE ORGANIZATION INVOLVED

Local No. 43, Industrial Union of Marine and Shipbuilding Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.³

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 requests a unit comprised of all clerks in the time division of the accounting department, including the time clerks in the

³ The Field Examiner reported that the Union submitted 59 application-for-membership cards, of which 10 were dated in October 1943, and 49 in June 1944, in an alleged appropriate unit consisting of 156 employees.

The Baltimore Metal Trades Council, A. F. of L., was requested in writing on August 25, 1944, to submit representation evidence, if any, but has failed to do so.

fabricating shop at Curtis Bay, but excluding shift supervisors, the chief counter and timekeeper, the assistant chief counter and timekeeper, and all other supervisory employees.⁴ In opposing the proposed unit, the Company contends that the time clerks are an essential part of management and do not constitute employees within the meaning of the Act, but does not otherwise object to the specific composition of the unit.

The duties of the time clerks are, in substance, concerned with the compiling of information relating to the attendance and hours of employment of the production and maintenance employees, thereby enabling other departments of the Company to prepare the pay roll and to allocate labor costs for its various contracts. The record does not disclose that they are charged with any administrative discretion nor that they have been entrusted with any degree of managerial authority. Accordingly, we find that a unit consisting of time clerks is appropriate for the purposes of collective bargaining.⁵

We find that all clerks in the time division of the accounting department at the Company's shipyard at Fairfield, Baltimore, Maryland, including the time clerks at its fabricating shop at Curtis Bay, but excluding shift supervisors, the chief counter and timekeeper, the assistant chief counter and timekeeper, and all or 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 an election by secret ballot among the employees in the appropriate unit who were employed during the payroll 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

⁴ As a result of a consent election in 1941, the Union was certified as the bargaining representative of the Company's production and maintenance employees, excluding the time clerks.

⁵ *Matter of Sullivan Drydock and Repair Corp.*, 56 N. L. R. B. 582; *Matter of Chrysler Corporation*, 55 N. L. R. B. 1215; *Matter of General Motors Corporation, Eastern Aircraft, Trenton Division*, 51 N. L. R. B. 1366.

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 Bethlehem-Fairfield Shipyard, Incorporated, Fairfield, Baltimore; Maryland, 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 Fifth 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 the 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 those employees 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 I. U. M. S. W. A., CIO Local 43, for the purposes of collective bargaining.⁶

⁶ The Union's request to appear on the ballot as designated above is hereby granted.