

In the Matter of TODD SHIPYARDS CORPORATION *and* UNITED OFFICE
AND PROFESSIONAL WORKERS OF AMERICA, LOCAL 9, C. I. O.

In the Matter of TODD SHIPYARDS CORPORATION *and* LOCAL B-11, INTER-
NATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, A. F. OF L.

*Cases Nos. 21-R-2532 and 21-R-2557, respectively.—Decided
February 26, 1945*

*Katz, Gallagher & Margolis, by Mr. John McTernan, of Los Angeles,
Calif., for the United.*

*Messrs. David Sokol and Frank Schrier, of Los Angeles, Calif., for
the I. B. E. W.*

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon separate petitions duly filed by United Office and Professional Workers of America, Local 9, C. I. O., herein called the United, and Local B-11, International Brotherhood of Electrical Workers, A. F. of L., herein called the I. B. E. W., alleging that questions affecting commerce had arisen concerning the representation of employees of Todd Shipyards Corporation, San Pedro, California, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Charles M. Ryan, Trial Examiner. Said hearing was held at Los Angeles, California, on February 2, 1945. The United and the I. B. E. W. appeared at and participated in the hearing.¹ All parties 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:

¹ Although the Company was served with Notice of Hearing, it did not appear.

60 N. L. R. B., No. 151.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Todd Shipyards Corporation is a New York corporation with its principal offices at New York City. We are here concerned with its shipyards at San Pedro, California, known as the Los Angeles Shipbuilding and Drydock Corporation shipyards, where it is engaged in the building of ships for the United States Navy and in the repairing of ships for the United States Army, Navy, Maritime Commission, and War Shipping Administration, and for the British Government. Over 50 percent of all raw materials used by the Company at its San Pedro shipyards is shipped to it from points outside the State of California.

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

II. THE ORGANIZATIONS INVOLVED

United Office and Professional Workers of America, Local 9, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Local B-11, International Brotherhood of Electrical Workers, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

During November 1944 the United and the I. B. E. W. each requested the Company to recognize it as the exclusive collective bargaining representative of the employees claimed by each of them. The Company refused these requests until such time as the United and the I. B. E. W. are certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the United and the I. B. E. W. each represents a substantial number of employees within the unit alleged by each to be appropriate.²

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.

² The Field Examiner reported that the United presented 231 authorization cards bearing the names of persons who appear on the December 15, 1944, pay roll of the Company. There are approximately 653 employees in the unit alleged by the United to be appropriate. The Field Examiner further reported that the I. B. E. W. presented 6 authorization cards bearing the names of persons who appear on the December 15, 1944, pay-roll period. There are 7 persons within the unit the I. B. E. W. alleges to be appropriate.

IV. THE APPROPRIATE UNIT; THE DETERMINATION OF REPRESENTATIVES

The United contends that all clerical and administrative employees in all departments at the San Pedro shipyards of the Company, except employees in Departments 12 and 27 and supervisory employees, constitute an appropriate bargaining unit. The I. B. E. W. contends that all telephone operators at the San Pedro shipyards of the Company, excluding supervisory employees, constitute a separate appropriate unit. As stated hereinabove, the Company did not appear at the hearing; however, prior thereto it notified the Regional Director that it was strictly neutral with respect to the unit. The unit urged by the United would include the telephone operators.

The telephone operators work in a room separated from the rest of the clerical and administrative employees and are under the supervision of a separate person. There is no interchange or transfers between the telephone operators and the remaining employees involved herein. There is no history of bargaining with respect to the employees involved herein. The United and the I. B. E. W. agreed at the hearing that a separate election should be conducted among the telephone operators to determine whether they desire to be represented by the I. B. E. W. in a separate unit or by the United as part of a larger unit.

It appears that the telephone operators in the Company's employ constitute an identifiable group of employees performing specialized functions. We are of the opinion that the telephone operators may properly constitute a separate bargaining unit if they so desire. On the other hand, evidence introduced at the hearing also indicates the propriety of including the telephone operators in a plant-wide unit of clerical and administrative employees. Accordingly, we shall make no present determination as to the appropriate unit, but shall first ascertain the desires of the employees involved, to be expressed in separate elections hereinafter directed.

We shall direct that separate elections be held among the employees of the Company in the following groups, excluding from each group all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction: (1) all clerical and administrative employees of the Company's yard at San Pedro, except employees in Departments 12 and 27; and (2) all telephone operators. Upon the results of these elections will depend in part our determination of the appropriate unit or units.

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 Todd Shipyards Corporation, San Pedro, California, elections 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 Twenty-first 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 following groups 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 those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the elections:

(1) All clerical and administrative employees, excluding employees in Departments 12 and 27, telephone operators, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether or not they desire to be represented by United Office and Professional Workers of America, Local 9, C. I. O., for the purposes of collective bargaining;

(2) All telephone operators, excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether they desire to be represented by Local B-11, International Brotherhood of Electrical Workers, A. F. of L., or by United Office and Professional Workers of America, Local 9, C. I. O., for the purposes of collective bargaining, or by neither.

[See *infra*, 60 N. L. R. B. 1342, for Supplemental Decision and Amendment to Decision and Direction of Elections.]