

IN THE MATTER OF PUGET SOUND NAVIGATION COMPANY<sup>1</sup> and OFFICE  
EMPLOYEES INTERNATIONAL UNION, A. F. L.

*Case No. 19-R-1492.—Decided May 10, 1945*

*Bogle, Bogle & Gates, by Mr. Robert W. Graham, Captain Alex M. Peabody and Mr. H. C. Strassburger, of Seattle, Wash., for the Company.*

*Miss Mildred Erickson and Mr. Charles G. Hughes, of Seattle, Wash., for the Union.*

*Miss Ruth Rusch, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Office Employees International Union, A. F. L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Puget Sound Navigation Company, Seattle, Washington, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph B. Holmes, Trial Examiner. Said hearing was held at Seattle, Washington, on March 20, 1945. The Company and the Union appeared and participated. 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 an 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

The Company is a Nevada corporation and it is engaged in the operation of ferry lines on navigable waters in the vicinity of Seattle, Washington. The Company's annual income amounts to approxi-

<sup>1</sup> At the hearing, the Trial Examiner granted a motion correcting the name of the Company as set forth above.

mately \$6,000,000 in value, of which 10 percent is received from freight transported in interstate commerce.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act, and we so find.

## II. THE ORGANIZATION INVOLVED

Office Employees International Union is a labor organization affiliated with the American Federation of Labor, 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 clerical employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</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 requests a unit comprised of all office and clerical employees, including ticket sellers, ticket takers, cashiers, baggage clerical employees, and billing department employees of the Company at its Colman Dock Terminal and the Canadian National Dock Building, in Seattle, Washington, but excluding all supervisory employees. While the Company agrees with the Union as to the composition of the unit, it contends that the clerical employees at both its home office and branch offices should be included in the same unit. The Union, on the other hand, states that its jurisdiction is limited to the Seattle area and for this reason, it has made no attempt to organize the employees in the branch offices.

The Company's main office is located at the two locations above mentioned in Seattle and in addition, it maintains 18 branch offices at the various ports where its ferries stop.<sup>3</sup> Each port office submits

<sup>2</sup> The Field Examiner reported that the Union submitted application cards, 47 of which bore the names of persons listed on the Company's pay roll, which contained the names of 99 employees in the appropriate unit. The cards were dated: 41 in January 1945, 1 in February 1945, and 5 in March 1945.

<sup>3</sup> The port offices are located at Bremerton, Port Angeles, Port Townsend, Edmunds, Winslow, Fauntleroy, Columbia Beach, Port Ludlow, Kingston, Harper, Manchester, Bainbridge Island, Suquamish, Mukilteo, Anacortes, Arcas, and Friday Harbor, all of which are in the State of Washington, and Victoria, British Columbia.

a daily report to the home office where all records of the Company including receipts and disbursements are handled. Inasmuch as the agents at the branch offices do not have the authority to sign company checks, the semi-monthly pay checks are issued from the Seattle office. At present, there is no interchange of employees between the various offices. In view of the Union's lack of jurisdiction over employees outside the Seattle area, and the limited scope of its organization, and since the office and clerical employees of the Company at its Seattle office constitute a distinct group independent of the employees at the port offices, we shall restrict the unit to the office and clerical employees at the Company's Seattle office. This is without prejudice to a later determination at a time when self-organization among the Company's clerical employees may be more extensive, that a company-wide unit is appropriate.

A further dispute concerns supervisory employees. Although the Union stated that it desires to represent clerical employees and not supervisory employees, it contends that the officers of the Company are the only ones who possess sufficient managerial powers to be excluded from the unit as supervisors. However, no attempt whatsoever was made by the Union at the hearing to contradict the contention of the Company that those employees classified as assistant department heads and chief clerks are supervisory employees and should, therefore, be excluded from the unit.

The Company appears to have three levels in its supervisory hierarchy. The top level is composed of the officers of the Company. Each of the officers, with the exception of the president, is in charge of one of the three main divisions of the Company's operations, namely, traffic, auditing, and operating. As noted, they are excluded from the unit by agreement.

Those officials whom the Company calls assistant department heads comprise the second level. In reality, these men are the executive heads of departments as their titles imply—general freight and passenger agent, purchasing agent, and freight agent.<sup>4</sup> The chief clerk, the head accountant, and the general cashier in the auditing department occupy comparable positions. The chief clerk is in actual charge of the department with full authority to hire and discharge employees. The head accountant directs the work of approximately 15 bookkeepers. Although he has no power to hire or dismiss employees, his recommendations as to discharge are always followed. It is the function of the general cashier to audit the work of the cashiers and to check the reports of the various port agents. Although

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<sup>4</sup>The marine superintendent and the superintendent of maintenance are also executive heads; but since they do not direct the work of any clerical employees, we are not concerned with their status in this proceeding.

he does not directly oversee the work of employees, he formulates instructions for the handling of funds. We shall exclude the foregoing officials from the appropriate unit.

The chief clerks form the lowest stratum of supervision.<sup>5</sup> They work in the various departments under the executive heads and are characterized as follows:

*Chief clerk in traffic department.* He supervises the work of three or four clerks and possesses authority to hire, discharge, and make recommendations effecting changes in the status of employees. We shall exclude him from the unit.

*Assistant chief clerk in auditing department.* In the absence of the chief clerk, he is in charge of the auditing department. However, since the record does not disclose how frequently these absences occur, it may be presumed that it is only during vacations and periods of illness. It does not appear that this employee exercises supervisory authority except when he is substituting for the chief clerk. We shall, therefore, include the assistant chief clerk in the unit.<sup>6</sup>

*Day superintendent in the operating department.* This employe is in charge of the Company's cashiers, ticket takers, and ticket sellers at the terminal during the day. He has the power to hire and discharge all clerical employes on the dock. The day superintendent is clearly a supervisory employe and we shall exclude him.

*Night superintendent in the operating department.* His duties are similar to those of the day superintendent and we shall also exclude him from the unit.

*Assistant freight agent in terminal freight agency.<sup>7</sup>* The assistant freight agent has the same supervisory powers as the freight agent, with the power to hire and discharge employes. We shall, therefore, exclude him from the unit.

*Chief clerk in terminal freight agency.* He is empowered to hire and dismiss employes and we shall, therefore, exclude him from the unit.

*Rate clerk in terminal freight agency.* The rate clerk, according to the Company's witnesses, may make recommendations concerning the status of other employes, but the testimony indicates that the Company attaches no particular weight to such recommendations. We find that the rate clerk is not a supervisory employe, and we shall include him in the unit.

<sup>5</sup> We shall not discuss the position of maintenance engineer since he has no supervisory authority over clerical employes

<sup>6</sup> *Matter of Wadham's Division of Socony-Vacuum Oil Company*, 54 N. L. R. B. 1164; *Matter of Corn Products Refining Company*, 56 N. L. R. B. 1140.

<sup>7</sup> The terminal freight agency is a small department which is responsible to both the traffic and auditing departments

*Over, short, and damage clerk in terminal freight agency.* This employee works by himself and is responsible to the traffic and auditing departments. Since he has no supervisory authority and performs clerical functions, we shall include him in the unit.

We find, in accordance with our foregoing determination, that all office and clerical employees of the Company at its offices in the Canadian National Dock Building and the Colman Dock Terminal in Seattle, Washington, including ticket sellers, ticket takers, cashiers, baggage clerical employees, the assistant chief clerk in the auditing department, the rate clerk and the over, short, and damage clerk in the terminal freight agency department, but excluding executives, the general freight and passenger agent, the chief clerk in the auditing department, the head accountant, the general cashier, the purchasing agent, the freight agent, the chief clerk in the traffic department, the day and night superintendents, the assistant freight agent, the chief clerk in the terminal freight agency, and all 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 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Puget Sound Navigation Company, Seattle, Washington, 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 Nineteenth 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 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 Office Employees International Union, A. F. L., for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.