

In the Matter of COTTON TRADE WAREHOUSES, INC. and TRANSPORT
WORKERS UNION OF AMERICA, LOCAL NO. 206, C. I. O.

Case No. 15-R-1615.—Decided May 16, 1946

Messrs. Joseph C. Thomas, August Harris, and Earnest Scott, all of
New Orleans, La., for the C. I. O.

Messrs. Walter Daigs and David Fair, of New Orleans, La., for the
Independent.

Mr. F. G. Dunn, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Transport Workers Union of America, Local No. 206, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Cotton Trade Warehouses, Inc., New Orleans, Louisiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Lewis Moore, Trial Examiner. The hearing was held at New Orleans, Louisiana, on April 10, 1946. The C. I. O. and the Independent Warehousemen's Union, Local No. 28, herein called the Independent, appeared and participated.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 Independent moved to dismiss the petition at the hearing upon the grounds discussed in Section III, *infra*. Ruling on said motion was reserved by the Trial Examiner for the Board. For reasons hereinafter stated, the motion is hereby denied. The Trial Examiner's rulings made

¹The Company was served with notice but did not appear at the hearing. However, a stipulation was entered into by the Company covering factual matters pertinent to the issues in this case, which was admitted into evidence.

International Longshoremen's Union, C. I. O., was served with notice but did not appear at the hearing

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

Cotton Trade Warehouses, Inc., is a Louisiana corporation engaged in the business of warehousing. This involves the receiving, weighing, sampling, compressing, storing, and delivering of cotton and other similar products, none of which is owned by the Company. The total capacity of the Company's warehouses is approximately 100,000 bales of high density compressed cotton, and during the year 1945 approximately 75,000 bales of cotton were received by the Company, of which approximately 25 percent came from outside the State of Louisiana. Approximately 60 percent of the cotton shipped by the Company was shipped to points outside the State.

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

II. THE ORGANIZATIONS INVOLVED

Transport Workers Union of America, Local No. 206, is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Independent Warehousemen's Union, Local No. 28, is a labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated February 13, 1946, the C. I. O. notified the Company that it represented a majority of its employees and requested a meeting to negotiate a contract. The Company refused to recognize the C. I. O. as the bargaining representative because of an existing contract with the Independent.

The Independent moved to dismiss the petition on the grounds that its existing contract with the Company was a bar to a determination of representatives. The Company and the Independent entered into a contract on November 5, 1943, which provided that it shall "continue in full force and effect until the date of termination of the unlimited national emergency as declared by the President of the United States of America on May 27, 1941 and 60 days thereafter." Inasmuch as the contract has been

in effect for a period of more than 1 year, and is for an indefinite period of time, we find it is not a bar to a determination of representatives.²

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. 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

We find, substantially in accord with the agreement of the parties, that all employees of the Company at New Orleans, Louisiana, including truck drivers, but excluding engineers and firemen, watchmen, temporary construction employees (except where regular employees are used in that capacity), maintenance employees, office and clerical employees, foremen, 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 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 Cotton Trade Warehouses,

² *Matter of Solar Aircraft Company*, 49 N. L. R. B. 46; *Matter of Trailer Company of America*, 51 N. L. R. B. 1106.

³ The Field Examiner reported that the C. I. O. submitted 45 cards, bearing the names of 24 employees listed on the Company's pay roll of February 28, 1946, and that there are approximately 130 employees in the appropriate unit. In view of the fact that the existing contract between the Company and the Independent contains a closed-shop provision, we regard the C. I. O.'s showing as sufficient.

Inc., New Orleans, Louisiana, 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 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 they desire to be represented by Transport Workers Union of America, Local No. 206, C. I. O., or by Independent Warehousemen's Union, Local No. 28, for the purposes of collective bargaining, or by neither.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Election.