

In the Matter of HAROLD JACKSON AND C. F. FELLOWS, PARTNERS,
D/B/A AMERICAN PATROL SERVICE, EMPLOYER and SHIP CLERKS'
ASSOCIATION, LOCAL 34, GATEMEN'S AND WATCHMEN'S UNIT,
I. L. W. U., C. I. O., PETITIONER

Case No. 20-R-1769.—Decided August 9, 1946

Mr. Harold Jackson, of San Francisco, Calif., for the Employer.

Gladstein, Anderson, Resner, Sawyer & Edises, by Mr. Norman Leonard, of Oakland, Calif., for the Petitioner.

Mr. H. C. Banks, of San Francisco, Calif., for the Seafarers.

Mr. Arthur Christopher, Jr., of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at San Francisco, California, on June 13, 1946, before Thomas J. Davis, Jr., Trial Examiner. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Harold Jackson and C. F. Fellows, partners, doing business under the name of American Patrol Service, have their office and place of business in San Francisco, California, where they are engaged in supplying civilian watchmen and guards for ships, terminals, docks, piers, warehouse, and other shipping installations located in San Francisco Bay and its tributaries. At the time of the hearing, the Employer was, pursuant to contract, rendering patrol service of this nature to numerous steamship companies, all of which are engaged in interstate commerce. The Employer's annual receipts for such services rendered are substantial.

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

II. THE ORGANIZATIONS INVOLVED

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

Seafarers' International Union of North America, herein called the Seafarers, is a labor organization affiliated with the American Federation of Labor claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Petitioner and the Seafarers agree that the appropriate unit should consist of all guards and patrolmen of the Employer working on ships, piers, docks, and waterfront installations in San Francisco Bay and its tributaries, excluding office and clerical employees, guards and patrolmen with the rank of sergeant, and all other supervisory employees.¹ The Employer takes no position as to the composition of the unit.

On the basis of the entire record, we find, in agreement with the unions, that all guards and patrolmen of the Employer working on ships, piers, docks, and waterfront installations in San Francisco Bay and its tributaries, excluding office and clerical employees, guards and patrolmen with the rank of sergeant, 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, subject to the limitations and additions set forth in the Direction.

The Petitioner requests that the election be conducted by mail ballot, for the asserted reason that it would be impractical to follow the

¹ The unit as described above embraces all rank and file guards and watchmen employed by the Employer.

Board's usual procedure of conducting elections at central polling places, due chiefly to the frequent and sudden shifting of the situs of employment of many of the Employer's 160 or more employees and the consequent inability of the Employer to tell even a day or two in advance where the men would be working on a specified date. The Seafarers, however, opposes balloting of the employees by mail, whereas the Employer is neutral. Since the Regional Director is authorized to conduct elections in such manner as he deems advisable and expedient under the circumstances presented, we shall leave the determination of the methods to be employed in the conduct of the election to his discretion.²

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Harold Jackson and C. F. Fellows, partners, d/b/a American Patrol Service, San Francisco, California, 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 Twentieth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of National Labor Relations Board Rules and Regulations—Series 3, as amended, 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 they desire to be represented by Ship Clerks' Association, Local 34, Gatemen's and Watchmen's Unit, I. L. W. U., C. I. O., or by Seafarers' International Union of North America, A. F. of L., for the purposes of collective bargaining, or by neither.

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

² See *Matter of Albers Super Markets, Inc.*, 61 N. L. R. B. 1101.