

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent described in section III, above, occurring in connection with the Respondent's operations described in section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Having found that Respondent has engaged in certain unfair labor practices, I shall recommend that it cease and desist therefrom and take certain affirmative action in order to effectuate the policies of the Act.

Respondent having discriminatorily discharged Roy Hix, Frank Harris, Charley Mays and Oakley Mays on September 17, 1951, and Charley Mays again on November 16, 1951, it is recommended that Respondent offer to each of them immediate and full reinstatement to their former or substantially equivalent positions⁴ without prejudice to their seniority or other rights and privileges and make them whole for any loss of pay suffered by them as a result of the discrimination by payment to them of a sum of money equal to the amount they would have earned from the date of their discharge to December 8, 1952, the date of the filing of the answer herein in the case of Harris and the two Mays,⁵ to the date he is offered reinstatement in the case of Roy Hix, less their net earnings⁶ to be computed on a quarterly basis in the manner established by the Board in F. W. Woolworth Company, 90 NLRB 289, 291-294. Earnings in one particular quarter shall have no effect upon the back pay liability for any other such period. It will also be recommended that the Respondent make available to the Board, upon request, payroll and other records to facilitate the checking of the amount of back pay due.⁷

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, I make the following:

CONCLUSIONS OF LAW

1. Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (1) and (3) of the Act.
2. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

[Recommendations omitted from publication.]

⁴The Chase National Bank of the City of New York, San Juan, Puerto Rico, Branch, 65 NLRB 827.

⁵Respondent's offer of employment to these three in its answer tolls the running of back pay to them as of the date of its filing. The offer of employment specifically excluded Roy Hix.

⁶Crossett Lumber Company, 8 NLRB 440, 497-8. In the case of Charley Mays, his net earnings to be deducted will include what he earned working for Respondent for 2 days in November 1951.

⁷F. W. Woolworth Company, supra.

BULL INSULAR LINE, INC. ET AL. *and* INTERNATIONAL LONGSHOREMEN'S ASSOCIATION DISTRICT COUNCIL OF THE PORTS OF PUERTO RICO (ILA), Petitioner

PUERTO RICO MARINE CORP. ET AL. *and* UNION DE TRABAJADORES DE ABORDO Y Muelles DE PONCE INDEPENDIENTE, Petitioner

EASTERN SUGAR ASSOCIATES (A TRUST), Petitioner *and* LOCAL UNION NO. 1745, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION (ILA)

PUERTO RICO DRY DOCK AND MARINE TERMINAL, INC. *and* CONFEDERACION GENERAL DE TRABAJADORES DE PUERTO RICO (AUTENTICA), Petitioner

BULL INSULAR LINE, INC., ET AL. *and* UNION DE EMPLEADOS DE MUELLES DE PUERTO RICO, Petitioner

BULL INSULAR LINE, INC., Petitioner *and* INTERNATIONAL LONGSHOREMEN'S ASSOCIATION DISTRICT COUNCIL OF PORTS OF P. R.

MENDEZ & CIA., INC. *and* UNION DE EMPLEADOS DE MUELLES DE PUERTO RICO, Petitioner

PUERTO RICO STEAMSHIP ASSOCIATION ET ALS. *and* UNION DE TRABAJADORES DE MUELLES Y RAMAS ANEXAS DE PUERTO RICO (UTM), AFL, Petitioner

PUERTO RICO STEAMSHIP ASSOCIATION, Petitioner *and* INTERNATIONAL LONGSHOREMEN'S ASSOCIATION

PUERTO RICO STEAMSHIP ASSOCIATION, Petitioner *and* INTERNATIONAL LONGSHOREMEN'S ASSOCIATION. Cases Nos. 24-RC-197, 24-RC-248, 24-RM-8, 24-RC-225, 24-RC-359, 24-RM-12, 24-RC-246, 24-RC-663, 24-RM-21 and 24-RM-22. May 18, 1954

SUPPLEMENTAL DECISION, DIRECTION, AND CERTIFICATIONS

Pursuant to a Decision and Direction of Elections issued by the Board on January 5, 1954,¹ elections by secret ballots were conducted on January 26, 1954, under the supervision of the Regional Director for the Twenty-fourth Region among the employees in the unit and voting groups found appropriate by the Board. Thereafter, a tally of ballots was furnished to the parties. On January 29, the International Longshoremen's Association, District Council of the Ports of Puerto Rico (ILA, Ind.), hereinafter referred to as the ILA, filed timely objections to the election.

On March 31, 1954, the Regional Director issued and served on the parties his report on challenges and objections in which he made recommendations with respect to the challenged ballots and the objections. As to the objections, the Regional Director recommended that they be dismissed in toto, that challenges to

¹107 NLRB 674.

certain ballots in group 4 be upheld and that the ILA be certified as bargaining representative for that group, that certain challenges to ballots in group 3 be upheld and others in that group overruled, and recommended that certain labor organizations be certified for other voting groups as hereinafter indicated. Thereafter, the ILA filed timely exceptions to the Regional Director's report.

The Conduct Affecting the Results of the Election

The ILA sets forth 11 general objections² to the conduct of the election as a whole, without relating such objections to the specific unit or voting groups ordered by the Board. As each voting group requires individual consideration and certification, we shall follow the findings of the Regional Director's report and consider the objections as they relate to each group.

Voting Group 1--Case No. 24-RC-197

This group involved some 7,066 eligible employees working as stevedores and in related classifications, who were employed by members of the Association in all ports of the Island where the members do business. Elections were conducted at polls in 8 towns,³ and 4,668 votes were cast.

The ILA alleges that through some 147 supervisory employees, the Employers actively participated in the election campaign and thereby favored the rival union. The Regional Director states that in support of this objection, the ILA offered evidence of only 3 instances of foremen participation, based on statements of 2 employees. One employee stated that Foreman Navarro (Gonzalez) of Pope & Talbot asked him why he preferred the ILA to Union de Trabajadores de Muelles y Ramas Anexas de Puerto Rico (hereinafter referred to as UTM). The second employee stated that Foreman Hernandez, of Bull Insular Line, campaigned for the UTM by talking over a loudspeaker in the town of Catano saying that "We're going to get rid of Moreno's strike breakers," and similar language to that effect, urging that employees vote for the UTM. He also

² Objections Nos. 1, 2, and 3 deal with alleged interference by supervisory employees, No. 4 with discrimination against the ILA and in favor of the rival union; Nos. 5 and 11 with alleged padding of payrolls and eligibility lists; No. 6 with illegal discharge for ILA affiliation; Nos. 7, 8, and 9 with the right of challenge and of voting. Of these objections, there were no exceptions to the Regional Director's finding and recommendation that objections Nos. 5, 6, and 11 be overruled. Although the ILA subsequently filed with the Board, in support of objection No. 5, a long list of employees' names alleged to have been improperly included in the eligibility list, such offer of proof at this time constitutes in effect a post-election challenge which the Board customarily refuses to consider. Moreover, in view of the fact that no exceptions have been filed to the Regional Director's recommendation that the Board overrule this objection, we shall not consider the merits thereof, nor for the same reason shall we consider the merits of objections Nos. 6 and 11, to the Regional Director's dismissal of which no exceptions have been filed.

³ San Juan, Punta Santiago, Puerto Real, Arroyo, Jobos, Mayaguez, Guanica, and Guayanilla.

stated that Carlos Alberto, head foreman of Pope & Talbot, promised him work if he would vote for the UTM.⁴

The Regional Director found, after an investigation, that Hernandez denied the allegation. The head foreman of Pope & Talbot, who stated he was not known as Carlos Alberto and whose name is Alberto Melendez Valentin, stated that he did not know the employee (in question) by name and had never solicited for the UTM. The Regional Director found that the utterances of Navarro (Gonzalez) and of Hernandez, even if made, were isolated in nature, and in any event protected under Section 8 (c) of the Act. As to Valentin's remark, he found that the employee concerned regularly worked for another employer and had never applied for work where Valentin was alleged to be supervisor.⁵

Although we cannot say that either Hernandez' or Navarro's remarks, if made, were privileged under Section 8 (c) we find that in view of the number of employees involved and the extent of the voting in eight towns, such remarks should not be made the basis for setting aside the election.⁶ We therefore adopt the Regional Director's recommendation and find that this objection does not raise substantial and material issues in respect to the election.

Objection No. 2 alleges that over 100 supervisors were allowed to remain in the election area and freely express their favoritism for the rival union.⁷ In support of this objection, the ILA states that it had requested and was denied the ruling of the Regional Office that alleged supervisors should be required to vote under challenge in a separate area from nonsupervisory employees. The Regional Director finds, contrary to this allegation, that no such request had been made; however, even if made, as the Board's customary election procedures provide for no separate voting places and no compelling reason had been offered for changing this procedure, the ILA was not prejudiced thereby. The exceptions deny the correctness of this finding, stating that the ILA had specifically demanded that alleged supervisors should be excluded from voting, and that at least they should vote in a separate area under challenge. Regardless of such demand, we find, in agreement with the Regional Director, that the Board's rules do not require that separate areas be established for the challenged voters.

With respect to that portion of the objection dealing with the expression of views by supervisors, several employees stated in support of the allegation, that supervisors actively engaged in electioneering in the proscribed area. Thus, employee Ortas

⁴ Although the ILA's exceptions to the report state that Valentin promised work to 10 other workmen if they would vote for the UTM, no supporting evidence on this point was submitted.

⁵ It appears that Valentin works for Pope & Talbot 2 or 3 days a month and the rest of the time for Bull Insular Line as a rank-and-file longshoreman.

⁶ See Wilson and Company, 95 NLRB 882 at 885.

⁷ The evidence offered by the ILA with respect to this objection relates only to seven alleged foremen.

stated that the brothers Angel and Jesus Castro, both foremen for Pope & Talbot, remained all day throughout the election area about 10 yards from the voting table and that he heard them say to unidentified voters to get rid of those "submarinos."⁸ Angel Castro stated he had voted and immediately left. Jesus Castro stated he had been a foreman, but was not then employed, and denied having been in the election area. The Regional Director credits the statements of the brothers. The exceptions state that these brothers were intensely interested in the election outcome, remained in the proscribed area, and that their evidence was corroborated by the statements of other employees.

Employee Vializ stated that three supervisors had campaigned for the UTM in the election area in Mayaguez, and that all had cast challenged ballots. Foreman Julio Valentin was alleged to have told a group of voters that they would be without bread if they voted for the ILA. Valentin stated that he was a foreman, that he was not a member of either the UTM of ILA, that on the election day he was on the street to observe the progress of the polls, and that while idling there, a group of employees approached him and asked his view on the election, to which he answered that he thought it might be time for a change. Thereafter he admitted that employee Vializ protested Valentin's presence in the area, whereupon he left at the request of the Board agent.

Foreman Nazario stated that he was a part-time foreman, that he was in the election area, voted without challenge, but did not campaign in any way. He was a member of the ILA and stated that he had refused to join the UTM sponsored work stoppage 5 days before the election. Foreman Cruhigger said he had not been in the election area at any time, had not voted, was an ILA member, and had spent most of the day at the ILA offices.

Because the Board's records contradicted Vializ' statement that the foreman had cast challenged ballots, and because of the uncontradicted evidence that at least two of the foremen were ILA members, the Regional Director found Vializ's statements not credible. He also found that Valentin's remark that it was time for a change, containing no element of benefit or threat, was protected by Section 8 (c) of the Act. The exceptions point out that the report fails to make a finding on the coercive remark of Valentin and of many other employees who made statements as to similar action. However, no other specific instances of such alleged illegal conduct is indicated in the ILA exceptions. We find no basis in the ILA exceptions that would warrant a reversal of the Regional Director's findings. However, even if we assume that the above-mentioned foremen made the remarks attributed to them, we believe that the objections there-to raise no substantial and material issues with respect to the

⁸ This is a term meaning fifth columnist.

conduct of the election. It is not alleged in the objections nor was any evidence offered to the effect that the employees alleged to have been intimidated by such remarks were rank-and-file employees of the particular employer for whom the foreman involved at times acted in a supervisory capacity.⁹ Accordingly, we find no basis for inferring that the remarks in question affected the votes of employees in the absence of evidence that a supervisory relationship existed between the individual employee and the foreman alleged to have made the coercive statements.

In further support of its objections, the ILA offered the statement of employee Panigua that he saw Rivera and Gonzalez, foremen,¹⁰ in the San Juan voting area during polling hours and that Rivera had distributed sandwiches to the voters. Employee Recio also stated that Rivera gave him a sandwich, told him that it was to be eaten, not thrown away, and that he heard Rivera tell another employee to whom he gave a sandwich that he had to vote for UTM.

The Regional Director found that Gonzalez and Rivera were improperly in the voting area after having voted and that Rivera improperly distributed sandwiches. However, he also found that their presence and alleged campaigning were too trivial and isolated to warrant a recommendation that the election be set aside, that the objection on the issues of supervisory interference was not sufficiently supported by evidence, and that no substantial and material issue had been raised with respect to the election.

We agree with the Regional Director in finding that the conduct indicated above was improper. However, in the absence of evidence that this conduct occurred in the presence of a substantial number of voters¹¹ we cannot say that these instances of supervisory interference in an election involving over 7,000 eligible voters warrant us in setting aside the election.¹² Accordingly, we find without merit the ILA's exception to the Regional Director's finding with respect to objections Nos. 2 and 3.

Of the next group, consisting of objections Nos. 4, 5, and 6, Nos. 5 and 6 will not be considered, because, as noted above, no exceptions were taken to the Regional Director's recommendations that they be overruled. As to objection No. 4., this objection alleges that the Bull Insular Line granted permission to the rival union to distribute literature and to engage in propaganda on company property while refusing a like

⁹ It appears that several of the foremen listed above spend varying amounts of their time as rank-and-file employees.

¹⁰ Rivera and Gonzalez conceded they were foremen for Pope & Talbot, but that they also worked as rank-and-file employees the greater part of the time. Rivera was treasurer of UTM.

¹¹ The objections do not identify the voting places involved nor do they indicate the number of employees who might have been affected by the foregoing statement.

¹² Wilson and Company, footnote 6, supra.

privilege to the ILA. The Regional Director found that no evidence in support of this objection had been submitted, and recommended that the objection be overruled. In the absence of evidence to support this objection, we agree with the Regional Director's recommendation.

Objections Nos. 7, 8, and 9 concern the allegations that the ILA was denied the right to challenge. With respect to objection No. 7, employee Reçio stated that when he was an ILA observer at San Juan, he challenged 2 or 3 voters, but when he tried to challenge others,¹³ he was told he could not do so because insufficient reasons were alleged for the challenge. The Regional Director found, on the basis of his investigation, that Reçio had not been deprived of his privilege to challenge voters and recommended that the Board overrule this objection. We adopt this finding.

Objection No. 8 alleges that the practice of the Board in dividing the alphabetically prepared eligibility list among 4 voting tables prejudiced the ILA in its exercise of the right to challenge. The Regional Director's report states that the eligibility list for voting at San Juan had been broken down alphabetically into 4 groups to facilitate voting, that copies of the list were given to the parties prior to the election, and that each party had 2 observers at each of the tables. Other than the general statement that the Board's procedure hampered the right of challenge, no exception was taken to the Regional Director's finding that this customary breakdown in the eligibility list was not prejudicial. We therefore agree with the Regional Director that no substantial or material issues were raised by this objection.

Objection No. 9 states that several employees of certain employers in the unit were denied the right to vote. Prior to the election, three employers had notified the Board that they had resigned from the Association and had determined to abandon joint bargaining on their behalf. These were the Puerto Rico Marine & Dock Terminal Co., formerly known as Abarca Corp., an Juan Mercantile Corp., and Bohn Brothers Inc.¹⁴ As a question arose whether the employees of these companies were eligible to vote for a bargaining representative, the Board advised the parties that under the circumstances, the employees could vote subject to the right of challenge.¹⁵

The ILA takes the position that prior to receiving advice from the Board the Regional Director had expressed the opinion that these employees would probably not be allowed to vote, and that consequently many of them were dissuaded

¹³The employee was vague as to their identity stating "I do not remember the names; there were several (over or nearly 100)."

¹⁴Bohn Brothers was not involved in this issue as it had no employees in the unit found appropriate.

¹⁵In view of the withdrawal of these three employers from the Association, and their indication to pursue a course of independent bargaining in the future, we shall not include their employees in the unit hereinafter established by the Board.

from exercising that right despite the Board's subsequent advice to the parties that these employees could vote under challenge. The ILA further urges that the employees of these three companies were not allowed to vote even when they attempted to do so. The Regional Director found, however, that although the ILA was given an opportunity to show that the employees in question were not allowed to vote, it had failed to produce such evidence. Accordingly, we agree with the Regional Director's recommendation that this objection be overruled.

Because the exceptions on the issue of challenges covered by objections Nos. 7, 8, and 9 present no further evidence in support thereof, we hereby adopt the Regional Director's recommendation that these objections be overruled.

In addition to the 11 specific objections indicated above, the ILA raised a number of additional objections, which the Regional Director found did not grow out of the formal objections filed with the Board and served on the parties. He therefore found them immaterial and irrelevant. We agree with the Regional Director's ruling and for this reason we shall not consider such miscellaneous objections or the exceptions filed thereto.

The tally of ballots shows that of approximately 7,066 eligible voters, 2,378 votes were cast for UTM, 1,658 were cast for the ILA, 39 for no participating labor organization, 54 ballots were declared void, and 593 ballots were challenged. As the challenged ballots were insufficient to affect the outcome of the election, no report on challenged ballots was submitted.

Voting group 2--Case No. 24-RC-248

This group involves the stevedores and related classifications at the port of Ponce. The Board's Order gives them a choice of a port- or an island-wide unit. There were 2,000 eligible voters.

In support of the ILA's claim that supervisors improperly influenced the election at Ponce, the statements of 3 employees were presented in the investigation. Employee Santos stated that he saw Superintendent Fourquet of Alcoa Steamship Co., Inc., and Pope & Talbot, on 2 different occasions drive employees from the docks to the polls, and that he saw a UTM banner on top of the car. However, he stated that he did not see the employees either get into or out of the car. In a previous sworn statement, Santos stated that he had seen Fourquet make 6 or 7 trips and that Fourquet had delivered the employees to the polls. Fourquet denied that he had used his car to transport employees on the election day and that he ever had a UTM banner on top of his car. In view of Santos' contradictory remarks, the Regional Director did not credit this evidence. There is no specific exception to this finding.

Employee Echevarria stated that while acting as an ILA observer, he saw 7 supervisory employees in the election

area during the polling hours, all of whom, he said, were talking in favor of the UTM. He stated that he saw 1 Tantaó, argue with Perez, 1 of the alleged foremen, telling the latter that he could not stay around to "make propaganda." Tantaó, on the other hand, stated that he saw Perez talking to employees, but that this was outside the customhouse, which was used as a polling place. The Regional Director did not credit Echevarria's evidence, first, because it was contradicted by Tantaó, and second, because the physical facts were such as to make it extremely unlikely that Echevarria could have overheard Tantaó's conversation. The distance between the voting table, where Echevarria was, and the gate, where Tantaó was located, was over 50 feet. The area between the 2 men was crowded with waiting voters. As the alleged conversation, according to Tantaó, took place beyond the gate, the Regional Director found it inconceivable that Echevarria could have overheard this conversation. No specific exception was taken to this finding.

All 7 supervisory employees involved in this charge admitted they were foremen for one or another member of the Association, but only occasionally, that all worked much more frequently as nonsupervisory employees, for different employers. All were members of the UTM and voted but the ballots of only 2 of the 7 were challenged. All denied any attempt to influence the voters. One of them admitted that while on the job he had spoken "to his laborers" about UTM, saying "it was good and I was a bona-fide member of UTM." The Regional Director found no substantial evidence of interference by these alleged supervisors, and that the statement of one of the foremen to his men working with him was not in itself, without more, improper. No specific exceptions were taken to these findings.

No evidence was submitted in support of Objection No. 4, concerning alleged discrimination against the ILA in the use of company grounds for campaign purposes, and the Regional Director therefore recommended overruling this objection. Although the ILA excepted to this recommendation generally, it submitted no evidence in support thereof. We shall therefore uphold the Regional Director's recommendation. As no specific exceptions were taken to the Regional Director's recommendations on the remaining objections, we hereby affirm them.

As indicated with reference to voting group 1 considered above, we cannot say that these instances of supervisory interference in an election involving 2,000 eligible voters, warrant setting aside the election. Accordingly, we find without merit the ILA's exceptions to the Regional Director's findings and recommendations with respect to the election in group 2.

The tally of ballots shows that of approximately 2,000 eligible voters, 965 votes were cast for UTM, 75 for the ILA, 49 for Union de Trabajadores de Abordo y Muelles de Ponce, Ind., 54 against any participating union, and 39 were challenged. As

the challenged ballots were insufficient to affect the outcome of the election, no report on challenged ballots was submitted for this group.

Because the Union de Trabajadores de Muelles y Ramas Anexas de Puerto Rico (UTM) has received a majority of the valid votes cast in the election in groups 1 and 2, we find that the employees in these groups have indicated their desire to constitute a single unit, which we find under the circumstances to be appropriate for purposes of collective bargaining. Accordingly, we shall certify the UTM (AFL) as the exclusive representative in the combined unit.

[The Board certified the Union de Trabajadores de Muelles y Ramas Anexas de Puerto Rico (UTM), AFL,¹⁶ as the designated collective-bargaining representative of the employees of the members of the Puerto Rico Steamship Association in the unit found by the Board to be appropriate in Cases Nos. 24-RC-197 (group 1) and 24-RC-248 (group 2).]

Voting Group 3--Cases Nos. 24-RC-359 and 24-RM-12

This group involves employees classified as checkers and related classifications working for employer-members of the Association at San Juan. Approximately 575 eligible voters were listed.

In support of its objections that supervisors had interfered with this election, the ILA presented employee Nevarez. He stated that when he and several other employees, of whom he identified 2, attempted to vote, they were challenged by a number of people including 2 unidentified supervisors. It appears that the difficulties Nevarez and his group encountered in voting arose out of an attempt of the employees to vote in groups 1 and 3. Nevarez stated that he had no trouble in voting in group 1, but when he and his group tried to vote in group 3 they were challenged, but that 2 of the group, Burgos and Nieves, left because of the interference of the supervisors. The Regional Director's investigations showed that Nevarez and Burgos had cast challenged ballots in group 1 and that they and Nieves had voted unchallenged in group 3. The exceptions, while repeating the charge that this group was interfered with by supervisors, offered no additional evidence in support of this allegation.

We find that the objections to the election in this group raise no substantial and material issues and we therefore overrule them. No other exceptions were taken to the Regional Director's report concerning this group.

The tally of ballots shows that of the 575 eligible voters, 146 cast votes for the ILA, 227 for the Union de Empleados de

¹⁶ We have been advised that this union has affiliated with the American Federation of Labor subsequent to the election.

Muelles de Puerto Rico, (UDEM), 1 against any participating labor organization, and 95 ballots were challenged.¹⁷ The challenged ballots were therefore determinative of the election in this group.

In his report on challenged ballots, the Regional Director found that 42 had been challenged by the Board and/or one of the participating labor organizations on the ground that the names did not appear on the eligibility list; 32, whose names appeared on the list, were challenged by the ILA on the ground that they were improperly included by the Puerto Rico Coal Co. and Puerto Rico Lighterage Co.; 14 were challenged on the ground of improper identification; and the rest were individual challenges on various grounds.

As a result of the investigation, the report recommends that 5 of the challenges be sustained, 47 challenges overruled, and that these ballots be opened and counted, that should the latter not be determinative, a further investigation be undertaken to resolve the remaining challenges for which no recommendation is made. As no exceptions were taken to the report on challenged ballots in this group, we sustain the Regional Director's recommendation.

[The Board directed that as part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, Bull Insular Line, Inc., the Regional Director for the Twenty-fourth Region shall, pursuant to the Rules and Regulations of the Board, within ten (10) days from the date of this Direction, open and count the challenged ballots of the 47 employees referred to in the Regional Director's report, and thereafter prepare and cause to be served upon the parties a supplemental tally of ballots.]

Voting Group ¹⁸ 4--Case No. 24-RC-225

This group involves a single Employer, the drydock employees of the Puerto Rico Dry Dock and Marine Terminal, Inc., at San Juan. Approximately 100 eligible voters were involved. The tally shows that 46 votes were cast for the ILA, 17 for the UTM, 1 against any labor organization,¹⁹ and 29 votes were challenged. As the challenged ballots would affect the results of the election, the Regional Director investigated these challenges, and recommended that certain challenges be sustained. He made no recommendations with regard to other challenged ballots, inasmuch as they could not affect the results of the election. No exceptions were taken to this report. Because the

¹⁷ The UTM was given permission to withdraw from the ballot.

¹⁸ No objections to the election appear to relate to his Group and no exceptions to the report on elections and challenged Ballots were filed by the participating unions.

¹⁹ Permission was granted to the Confederacion General de Trabajadores de Puerto Rico (Autentica) to withdraw from the ballot.

International Longshoremen's Association, District Council of the Ports of Puerto Rico (ILA) has received a majority of the valid votes cast in the election in group 4, but has not been selected as the bargaining representative of the islandwide unit, we find that the employees in group 4 constitute a separate appropriate unit. Accordingly, we shall certify the ILA as the exclusive bargaining representative of the employees of the Employer.

[The Board certified the International Longshoremen's Association, District Council of the Ports of Puerto Rico (ILA) as the designated collective-bargaining representative of the employees of the Employer, Puerto Rico Dry Dock and Marine Terminal, Inc., in the unit herein found by the Board to be appropriate in Case No. 24-RC-225.]

Voting Group²⁰ 5--Case No. 24-RM-8

This group relates to a unit of repair and maintenance workers employed by one Employer, Eastern Sugar Associates at Punta Santiago. The tally shows that there were approximately 75 eligible voters, 1 vote was cast for the ILA, 56 for the Union de Construccion, Reparacion, Mantenimiento y Trabajos Portuarios de Punta Santiago (UCRM).²¹ There were 5 challenged ballots. As the UCRM received a majority of the valid votes cast in the election in group 5, we shall certify this labor organization as the exclusive bargaining representative of these employees. Further, inasmuch as UCRM is the existing bargaining representative, we find that the foregoing employees constitute a separate appropriate unit.

[The Board certified the Union de Construccion, Reparacion, Mantenimiento y Trabajos Portuarios de Punta Santiago (UCRM) as the designated collective-bargaining representative of the employees of the Employer, Eastern Sugar Associates at Punta Santiago, in the unit of repair and maintenance workers found by the Board to be appropriate in Case No. 24-RM-8.]

Voting Group 6--Case No. 24-RM-8

This group involved warehouse stevedores and related classifications for the Eastern Sugar Associates at Punta Santiago. The tally shows that there were approximately 140 eligible voters, 5 votes were cast for the ILA, 104 for the Union de Trabajadores del Muelle y Almacenes de Punta Santiago (UTMA), and 21 ballots were challenged. As it appears that the UTMA received a majority of the valid

²⁰No objections to the elections were filed in groups 5 and 6 and in Case No. 24-RC-246.

²¹The Union de Trabajadores de Muelles y Ramas Anexas de Puerto Rico (UTM) was given permission to withdraw from the ballot.

votes cast, we shall certify that labor organization as the exclusive representative of these employees. Further, inasmuch as the UTMA is the existing bargaining representative, we find that the foregoing employees constitute a separate appropriate unit.

[The Board certified the Union de Trabajadores del Muelle y Almacenes de Punta Santiago (UTMA) as designated collective-bargaining representative of the employees of the Employer, Eastern Sugar Associates at Punta Santiago, in the unit of warehouse stevedores found by the Board to be appropriate in Case No. 24-RM-8.]

Case No. 24-RC-246

In the unit found appropriate by the Board in this proceeding, there were approximately 18 eligible voters. No ballots were cast for any participating labor organization, 17 ballots were cast against any participating labor organization, and 1 ballot was declared void. We shall therefore issue a certification of results of election to that effect.

[The Board certified that a majority of the valid ballots was not cast for International Longshoremen's Association, District Council of the Ports of Puerto Rico (ILA) or Union de Empleados de Muelles and that neither of the said Unions is the exclusive representative of the employees of the Employer in the unit heretofore found by the Board to be appropriate in Case No. 24-RC-246.]

H. O. WHEELER AND E. L. BURNHAM, co-partners doing business as TACOMA HARBOR LUMBER AND TIMBER CO., and H. O. WHEELER, surviving partner, doing business as TACOMA HARBOR LUMBER AND TIMBER CO. *and* JOSEPH E. WELCOME

LUMBER AND SAWMILL WORKERS UNION, LOCAL NO. 2758 *and* JOSEPH E. WELCOME. Cases Nos. 19-CA-759 and 19-CB-234. May 20, 1954

DECISION AND ORDER

On September 18, 1953, Trial Examiner David F. Doyle issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices, and recommending that they cease and desist therefrom and take certain affirmative action as set forth in the Intermediate Report attached hereto. Thereafter, Lumber and Sawmill Workers Union, Local No. 2758,