In the Matter of SHELL OIL COMPANY *and* INTERNATIONAL ASSOCIATION OF OIL FIELD, GAS WELL AND REFINERY WORKERS OF AMERICA

Case No. R-551

Oil Producing and Refining Industry—Investigation of Representatives: petition for, dismissed in part—*Units Appropriate for Collective Bargaining:* (1) employees engaged within State of California in the production, pipe-line, and refinery departments and the automotive and telephone departments operated in conjunction therewith; (2) employees performing certain functions—*Election Ordered:* run-off.

SUPPLEMENTAL DECISION

CERTIFICATION OF REPRESENTATIVES

THIRD DIRECTION OF ELECTION

AND

ORDER

November 16, 1938

On May 24, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election [1] in the above-entitled case. The Direction of Election provided that an election by secret ballot be held within thirty (30) days from the date of the Direction among five groups of employees of Shell Oil Company of California which, when taken together, constituted all employees of Shell Oil Company of California, as of November 15, 1937, engaged within the State of California in the production, pipe-line, and refinery departments and the automotive and telephone departments operated in conjunction therewith, excluding clerical employees and supervisory employees having the power to hire and discharge, and excluding also employees who had quit or had been discharged for cause since November 15, 1937. A separate ballot was to be prepared for each of the five groups and the election was to determine: In the case of Group 1, whether the employees in such group desired to be represented by the Oil Workers International Union or by the International Association of Machinists or by

[1] 7 N. L. R. B. 417.

neither; in the case of Group 2, whether the employees in such group desired to be represented by the Oil Workers International Union or by the International Brotherhood of Electrical Workers or by neither; in the case of Group 3, whether the employees in such group desired to be represented by the Oil Workers International Union or by the International Brotherhood of Blacksmiths, Drop Forgers, and Helpers or by neither; in the case of Group 4, whether the employees in such group desired to be represented by the Oil Workers International Union or by the International Brotherhood of Boiler Makers, Iron Ship Builders, Welders, and Helpers of America or by neither; and in the case of Group 5, whether the employees in such group desired to be represented by the Oil Workers International Union or by the Oil Industry Metal Trades Council of California or by neither.

On August 16, 1938, the Board issued a Supplemental Decision and Second Direction of Election, setting out results of the balloting which showed that majorities had been accorded to International Brotherhood of Electrical Workers by those voting in Group 2 and to the Oil Workers International Union by those voting in Group 5; that a majority of the votes cast in Group 3 had been for neither union; and that in Groups 1 and 4 the ballots had been indecisive, since in the former the Oil Workers International Union received a plurality but not a majority, while in the latter group a large majority of the votes cast were equally divided between the Oil Workers International Union and the International Brotherhood of Boiler Makers, Iron Ship Builders, Welders, and Helpers of America. The Board directed a run-off election for Group 1 and a repeat election for Group 4 in view of the indecisive results in each group.[2] It also stated that formal certification of representatives would be withheld until such time as conclusive results in all five groups were known.

Pursuant to the Second Direction of Election, an election by secret ballot was conducted on September 7, 1938. Full opportunity was accorded to all of the parties to this investigation to participate in the conduct of the election by secret ballot and to make challenges. On September 16, 1938, Towne Nylander, Regional Director for the Twenty-first Region (Los Angeles, California), acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued his Intermediate Report Upon Secret Ballot, copies of which were duly served upon all parties interested in the balloting. No exceptions to the Intermediate Report have been filed by any of the parties.

[2] 8 N. L. R. B. 920.

As to the balloting and the results thereof, the Regional Director reported as follows:

GROUP 1

1. Total Number Eligible	298
2. Total Number of Ballots Counted	206
3. Total Number of Votes for the Oil Workers International Union (C. I. O.)	120
4. Total Number of Votes Against the Oil Workers International Union (C. I. O.)	80
5. Total Number of Blank Ballots	0
6. Total Number of Void Ballots	0
7. Total Number of Challenged Votes	6

GROUP 4

1. Total Number Eligible	71
2. Total Number of Ballots Counted	63
3. Total Number of Votes for Oil Workers International Union (C. I. O.)	20
4. Total Number of Votes for International Brotherhood of Boiler Makers, Iron Ship Builders, Welders, and Helpers of America (A. F. of L.)	29
5 Total Number of Votes for Neither	9
6. Total Number of Blank Ballots	0
7. Total Number of Void Ballots	1
8. Total Number of Challenged Votes	4

The Regional Director allowed all challenges to stand and recommended that challenged votes not be counted. No exception has been made to such recommendation by any of the parties.

Where one union receives a plurality but not a majority of the votes cast, as in the case of Group 4 above, it has been our practice to direct a run-off election, upon request of the union receiving the greater number of votes, to determine whether or not the employees desire to be represented by such union, for the purposes of collective bargaining.[3] The Regional Director has forwarded to the Board a request in writing from International Brotherhood of Boiler Makers, Iron Ship Builders, Welders, and Helpers of America for such a run-off election. The Board finds that a run-off election should be held and will so direct.

In the Decision and Direction of Election[4] previously referred to, we stated that upon the results of the ballots would rest the determination of the unit or units appropriate for the purposes of collective bargaining. We stated also that all groups in which a majority was returned for Oil Workers International Union would

[3] *Matter of Interlake Iron Corporation* and *Amalgamated Association of Iron, Steel, and Tin Workers of North America, Local No. 1657*, 4 N. L. R. B. 55, and *Matter of Fedders Mfg. Co* and *Lodge No 1753, Amalgamated Association of Iron, Steel, and Tin Workers of North America*, 4 N. L. R. B. 770.

[4] 7 N. L. R. B. 417.

be consolidated into a single collective bargaining unit, but that a separate collective bargaining unit would be established for each group in which a majority of the employees chose the union opposing the Oil Workers International Union on the ballot.

Because of the one remaining indecisive ballot and of our decision to order a further election, we cannot make a final determination at this time concerning the unit for which such ballot has been directed. We can, however, certify representatives for the three groups in which a majority of the employees chose one or the other of the contesting unions and dismiss the petition in so far as it relates to the group in which the ballot has resulted in a majority vote for neither union, since the result of the ballot yet to be conducted will in no way alter or affect the units for which representatives are now certified.

Upon the entire record in the case, the Board makes the following:

Supplemental Findings of Fact

In order to insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act, we find that the following employees of Shell Oil Company of California constitute units appropriate for the purposes of collective bargaining:

(a) Groups 1 and 5 combined, comprising employees engaged within the State of California in the production, pipe-line, and refinery departments and the automotive and telephone departments operated in conjunction therewith, including all employees performing the same functions as those performed by the persons listed on Intervenors Exhibit No. 11, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937, but excluding clerical employees and supervisory employees having the power to hire and discharge, and excluding also all employees performing the same functions as those performed by the persons listed on Intervenors Exhibits Nos. 12, 14, and 15, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937;

(b) Group 2, comprising employees performing the same functions as those performed by the persons listed on Intervenors Exhibit No. 12, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

Supplemental Conclusions of Law

The following employees of Shell Oil Company of California constitute units appropriate for the purposes of collective bargaining,

within the meaning of Section 9 (b) of the National Labor Relations Act:

(a) Groups 1 and 5 combined, comprising employees engaged within the State of California in the production, pipe-line, and refinery departments and the automotive and telephone departments operated in conjunction therewith, including all employees performing the same functions as those performed by the persons listed on Intervenors Exhibit No. 11, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937, but excluding clerical employees and supervisory employees having the power to hire and discharge, and excluding also all employees performing the same functions as those performed by the persons listed on Intervenors Exhibits Nos. 12, 14, and 15, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937;

(b) Group 2, comprising employees performing the same functions as those performed by the persons listed on Intervenors Exhibit No. 12, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937.

CERTIFICATION OF REPRESENTATIVES

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, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that Oil Workers International Union has been designated and selected by the majority of the employees of Shell Oil Company of California, as of November 15, 1937, engaged within the State of California in the production, pipe-line, and refinery departments and the automotive and telephone departments operated in conjunction therewith, including all employees listed on Intervenors Exhibit No. 11, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937, but excluding clerical employees and supervisory employees having the power to hire and discharge, and excluding also all employees listed on Intervenors Exhibits Nos. 12, 14, and 15, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the National Labor Relations Act, Oil Workers International Union is the exclusive representative of all such employees and all other employees performing like functions, for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment; and

IT IS ALSO HEREBY CERTIFIED that International Brotherhood of Electrical Workers has been designated and selected by the majority of the employees listed on Intervenors Exhibit No. 12, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the National Labor Relations Act, International Brotherhood of Electrical Workers is the exclusive representative of all such employees and all other employees performing like functions, for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

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, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Shell Oil Company of California, San Francisco, California, an election by secret ballot shall be conducted within 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, Section 9, of said Rules and Regulations, among all employees listed on Intervenors Exhibit No. 15, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937, except those who have quit or been discharged for cause since November 15, 1937, to determine whether or not they desire to be represented by the International Brotherhood of Boiler Makers, Iron Ship Builders, Welders, and Helpers of America, for the purposes of collective bargaining.

ORDER

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, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY ORDERED that the petition for investigation and certification of representatives of all employees of Shell Oil Company of California engaged within the State of California in the production, pipe-line, and refinery departments and the automotive and telephone departments operated in conjunction therewith, excluding

clerical employees and supervisory employees having the power to hire and discharge, filed by Oil Workers International Union, be, and it hereby is, dismissed in so far as it relates to employees listed on Intervenors Exhibit No. 14, introduced in evidence at the hearing conducted in this proceeding from November 22 to December 23, 1937, and to other employees performing like functions.