

IN the MATTERS OF LYKES BROTHERS STEAMSHIP COMPANY, INC., TAMPA INTER-OCEAN STEAMSHIP COMPANY, LYKES BROTHERS RIPLEY STEAMSHIP COMPANY, INC. and NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION, NATIONAL ORGANIZATION OF MASTERS, MATES AND PILOTS OF AMERICA, AMERICAN RADIO TELEGRAPHISTS ASSOCIATION

Cases Nos. R-36, R-37 and R-38.—Decided July 8, 1936

Water Transportation Industry—Unit Appropriate for Collective Bargaining: craft; licensed personnel; occupational differences; established labor organizations in industry—*Representatives:* proof of choice: membership in union—*Certification of Representatives:* after investigation but without election—*Election Ordered:* controversy concerning representation of employees—rival organizations; majority status disputed by employer; substantial doubt as to majority status—question affecting commerce: confusion and unrest among employees—*Certification of Representatives:* after election.

Mr. Gerhard P. VanArkel for the Board.

Mr. Frank Sayre, of Galveston, Tex., and *Mr. C. N. Vosburgh*, of New Orleans, La., for National Marine Engineers' Beneficial Association.

Captain C. R. Kertell, of Galveston, Tex., for National Organization of Masters, Mates and Pilots of America.

Mr. J. E. Cronney, of New Orleans, La., for American Radio Telegraphists Association.

Captain C. E. Taucer, of New Orleans, La., for United Licensed Officers of the United States of America.

Mary Lemon Schleifer, of counsel to the Board.

DECISION

STATEMENT OF CASE

On April 17, April 30, and May 2, 1936, respectively, the National Organization of Masters, Mates and Pilots of America, the National Marine Engineers' Beneficial Association and the American Radio Telegraphists Association each filed a petition with the Regional Director for the Fifteenth Region, alleging that a question affecting commerce had arisen concerning the representation of the masters and deck officers, the engineers, and the radio operators, respectively, of the Lykes Brothers Ripley Steamship Co., Inc., New Orleans,

Louisiana, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, approved July 5, 1935. On May 21, 1936, the National Labor Relations Board, hereinafter called the Board, duly authorized the Regional Director for the Fifteenth Region to conduct an investigation and to provide for an appropriate hearing in connection therewith. On June 4, 1936, the Regional Director issued a notice of hearing which was duly served upon the Lykes Brothers Ripley Steamship Co., Inc., the National Organization of Masters, Mates and Pilots of America, hereinafter referred to as M. M. P., the National Marine Engineers' Beneficial Association, hereinafter referred to as M. E. B. A., the American Radio Telegraphists Association, hereinafter referred to as A. R. T. A., and the United Licensed Officers of the United States of America, hereinafter referred to as U. L. O.

Pursuant to the notice of hearing, a hearing was begun at New Orleans, Louisiana, on June 12, and continued on June 15, 1936, before a Trial Examiner duly designated by the Board. The petitioning unions were all represented and participated in the hearing. Lykes Brothers Ripley Steamship Co., Inc. was represented by R. E. Tipton, executive vice-president of Lykes Brothers Steamship Co., Inc. and vice-president of Lykes Brothers Ripley Steamship Co., Inc. and of Tampa Inter-Ocean Steamship Co.

Upon motion of counsel for the Board at the hearing, R. E. Tipton consented that the notice of hearing be amended to include Lykes Brothers Steamship Co., Inc. and Tampa Inter-Ocean Steamship Co. as well as Lykes Brothers Ripley Steamship Co., Inc., hereinafter referred to collectively as Lykes Brothers. R. E. Tipton also agreed that notice to Lykes Brothers Ripley Steamship Co., Inc. was notice to Lykes Brothers Steamship Co., Inc. and Tampa Inter-Ocean Steamship Co.¹ In the course of the hearing U. L. O. was given leave to intervene and John F. Milliken, president of U. L. O., participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing upon the issues was afforded all parties. Briefs were filed jointly by M. M. P., M. E. B. A. and A. R. T. A. on June 26, 1936, and by U. L. O. on July 3, 1936.

Upon the evidence adduced at the hearing and from the entire record now before it, including the pleadings, the transcript of the hearing, exhibits introduced, and briefs submitted, the Board makes the following:

¹ On July 3, 1936, with the written consent of R. E. Tipton, the petitions filed by M. M. P., M. E. B. A., and A. R. T. A. were amended to include the two additional companies

FINDINGS OF FACT

1. Lykes Brothers, Inc., a Florida corporation incorporated in 1922, is the parent corporation of approximately 26 subsidiary corporations engaged in many enterprises, including steamship transportation, stevedoring and the cattle and real estate business. All loading and unloading of Lykes Brothers vessels in ports of the United States is done by subsidiaries of Lykes Brothers, Inc.

2. Lykes Brothers, Inc. owns 85% of the stock of Lykes Brothers Steamship Co., Inc., a corporation existing under and by virtue of the laws of Louisiana. Lykes Brothers Steamship Co., Inc. operates seven vessels between Texas ports on the Gulf of Mexico and the West Indies Islands, and Central and South America, and also acts as the parent corporation of all Lykes Brothers' steamship companies in that it owns a controlling interest in the stocks of Tampa Inter-Ocean Steamship Co., and Lykes Brothers Ripley Steamship Co., Inc. "Southern States Line", "Gulf West Mediterranean Line", "Lykes West Indies Lines", "Dixie U. K. Line"; "Dixie Mediterranean Line" and "American Gulf Orient Line" are trade-names under which some of the ships of Lykes Brothers Steamship Co., Inc. and its subsidiaries are operated.

On October 1, 1928, Lykes Brothers Steamship Co., Inc. entered into a ten year contract with the United States Government to carry mail from Galveston or Port Arthur, Texas to Port-au-Prince, Haiti and Santo Domingo City, Dominican Republic and return, and to make not less than 52 trips a year to the said ports. From July 1, 1931, to July 1, 1935, Lykes Brothers Steamship Co., Inc. received \$1,618,370.50 from the United States Government under this contract.

3. Tampa Inter-Ocean Steamship Co., a corporation existing under and by virtue of the laws of Florida operates eight vessels between Louisiana and Texas ports² on the Gulf of Mexico and ports of Spain and Portugal. On April 5, 1930, Tampa Inter-Ocean Steamship Co. entered into a ten year contract with the United States Government to carry mail from New Orleans, Louisiana or other Gulf port to ports of Spain and/or Portugal, and return, a minimum of 32 trips to be made per year. From July 1, 1931, to July 1, 1935, Tampa Inter-Ocean Steamship Co. received \$1,598,332.50 under this contract.

4. Lykes Brothers Ripley Steamship Co., Inc., a corporation existing under and by virtue of the laws of Louisiana, operates 43 vessels between Louisiana and Texas ports² on the Gulf of Mexico and ports in the British Isles, and/or European ports, and/or ports in the Mediterranean, Adriatic and Black Sea and/or Asiatic ports.

² Possibly Florida ports also.

On February 21, 1933, Lykes Brothers Ripley Steamship Co., Inc. entered into a ten year contract to carry mail to the above-mentioned ports on the basis of not less than 60 trips per year to the British Isles, not less than 100 trips per year to ports in continental Europe, not less than 20 trips per year to Mediterranean, Adriatic and Black Sea ports, and not less than 12 trips per year to Asiatic ports. From April 15, 1933, to July 1, 1935, Lykes Brothers Ripley Steamship Co., Inc. had collected \$5,259,452.00 from the United States Government under this contract.

5. The amount of mail carried by these boats is negligible, the mail contracts actually constituting a subsidy. The principal business is the transportation of freight which consists of cotton, lumber, carbon black, Florida phosphate rock and other commodities on outward trips and sugar, salt cake, rice and miscellaneous products from the Orient on return trips. Occasional passengers are carried on all lines, though passenger traffic is not solicited.

6. R. E. Tipton testified that the three companies involved in this proceeding are operated as one unit under one organization; he testified, for example, that all advertising is done and all branch offices and foreign agencies are maintained under the name of Lykes Brothers Steamship Co., Inc. and that one operating manager directs the activities of all three companies. However, since each company has small minority interests that are not identical, the accounts of each company are kept separate, the expense of the branch offices and advertising is allocated proportionately between the three companies, and each company makes its own contracts both as to cargo and for employees.

7. Branch offices are maintained by Lykes Brothers throughout the United States, including New York, New York; Kansas City, Missouri, or Kansas; Memphis, Tennessee; Dallas, Beaumont, Port Arthur and Corpus Christi, Texas; and Lake Charles, Louisiana. Branch offices or foreign agents are also located at Havana, Cuba; Liverpool, London, Manchester, Hull, and Newcastle on Tyne, England; Glasgow, Scotland; Belfast and Dublin, Ireland; Rotterdam, Netherlands; Antwerp and Ghent, Belgium; Bremen and Hamburg, Germany; Paris, Havre, Dunkirk and Marseilles, France; Genoa, Naples, Venice and Trieste, Italy; Piraeus, Greece; Alexandria, Egypt; Shanghai, China; Kobe, Japan; and Manila, Philippine Islands.

Advertising for all three companies, under the heading, "Lykes Lines", is done in newspapers and periodicals having national circulation.

8. Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co., and Lykes Brothers Ripley Steamship Co., Inc., are engaged

in traffic, commerce, and transportation between the States and between the United States and foreign countries. The licensed deck officers, the engineers, and the radio operators on the boats of these three companies are directly engaged in such traffic, commerce, and transportation.

9. M. M. P. is a labor organization affiliated with the American Federation of Labor. Its membership is limited to licensed deck officers, which includes masters, mates and pilots. Each ship operated by Lykes Brothers carries one master, three mates, and no pilots, making a total of 232 persons who are eligible for membership in M. M. P. M. M. P. has two locals, Local No. 20 at Galveston and Local No. 15 at New Orleans, which have members employed by Lykes Brothers. G. L. Forrest, secretary of Local No. 15, testified that approximately 156 of the masters and mates employed by Lykes Brothers are members of M. M. P.

10. M. E. B. A. is a labor organization whose membership is confined to licensed engineers. Each ship operated by Lykes Brothers carries one chief engineer and three assistants, making a total of 232 persons who are eligible for membership in M. E. B. A. Frank A. Sayre, second national vice-president of M. E. B. A., testified that approximately 125 of these 232 engineers are members of M. E. B. A.

11. U. L. O. is a labor organization whose membership covers both licensed deck officers and licensed engineers. John F. Milliken, president of U. L. O., testified that he believes a majority of the licensed deck officers and engineers employed by Lykes Brothers are members of U. L. O.

12. A. R. T. A. is a labor organization whose membership includes marine radio operators. Fifty-eight radio operators are employed by Lykes Brothers, one radio operator to each ship. J. E. Coney, secretary of A. R. T. A., Local No. 5, testified that all 58 radio operators employed on Lykes Brothers ships are members of A. R. T. A., Local No. 5. This testimony was not disputed by Lykes Brothers, by any of the radio operators, or by any other labor organization purporting to represent them.

13. M. M. P., M. E. B. A., U. L. O., and A. R. T. A. have each demanded the right since July 5, 1935, to bargain collectively with Lykes Brothers for the respective crafts over which they claim jurisdiction. Although notified of the conflicting demands of M. M. P. to represent the licensed deck officers, M. E. B. A. to represent the licensed engineers, and U. L. O. to represent both, Lykes Brothers were about to sign a contract with U. L. O. on April 20, 1936, when notified by Charles Logan, Regional Director for the Fifteenth Region, that M. M. P. had filed a petition for an investigation and certification pursuant to Section 9 (c) of the National Labor Relations Act. Upon the filing of the other two petitions by M. E. B. A. and

A. R. T. A., and at the request of Logan, Lykes Brothers refused to sign the contract already drawn up, on the ground that uncertainty existed as to which of these labor organizations were authorized to represent the employees in an appropriate unit.

14. A question has arisen concerning the representation of the licensed deck officers, the licensed engineers, and the radio operators employed by Lykes Brothers.

Since no other organization seeks to represent the radio operators, and since neither Lykes Brothers nor any of the radio operators has disputed Croney's testimony that A. R. T. A., Local No. 5, represents all the radio operators employed by Lykes Brothers, we will certify that A. R. T. A., Local No. 5, represents the radio operators.

As to the licensed deck officers and the licensed engineers, the only feasible method of determining which organization they wish to represent them, is by an election by secret ballot.

15. The question which has arisen among the licensed deck officers, the licensed engineers, and the radio operators of Lykes Brothers, has led to bitterness, unrest and uncertainty, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

16. M. M. P. in its petition stated that it considered the licensed deck officers to be an appropriate bargaining unit; M. E. B. A. in its petition stated it considered the licensed engineers to be an appropriate bargaining unit; and A. R. T. A. stated it considered the radio operators to be an appropriate bargaining unit. At the hearing M. M. P. changed its position. Forrest testified that M. M. P. considered the deck officers and engineers together should be considered a unit, since U. L. O. covered both. Sayre of M. E. B. A. testified that deck officers and engineers should each be a separate unit. Croney of A. R. T. A. testified that radio operators should bargain as a separate unit. Lykes Brothers offered no testimony concerning bargaining units.

No evidence was introduced by M. M. P. to show just how the bargaining would be conducted if the deck officers and the engineers were considered a single unit for the purpose of representation. It seems apparent from the entire testimony that M. M. P. and M. E. B. A. would each be unwilling to have their members represented by the other, but rather that M. M. P. contemplated that members of each organization should vote for their respective organizations and that the two together by some arrangement for joint action would each bargain for the employees eligible for membership in the respective organizations.

It is conceivable that a situation might arise where two unions having mutually exclusive jurisdiction might be joined in some fashion to constitute virtually a single bargaining agency for the

sake of opposing themselves to an organization having jurisdiction over both. There is evidence in the record that in numerous instances M. M. P. and M. E. B. A. have made identical contracts with other steamship companies, each organization signing the contract. But this is a voluntary arrangement for mutual advantage. It does not amount to a formal declaration that on the same steamship lines for purposes of choosing representatives for bargaining now and in the future, deck officers and engineers shall constitute a single constituency free to vote even for an organization which denies them membership, and equally free to vote against the organization to which they belong. Such a proposal we believe would not be lightly agreed to by either of these organizations. We do not find it advocated here by M. M. P. whose officials merely indicate without tracing the implication of their desires, that they believe the licensed engineers and deck officers should, in this election, vote as a unit. The officials of M. E. B. A. made no such request.

We therefore are not convinced that the rule laid down *In the Matter of International Mercantile Marine Company*, decided March 21, 1936 (1. N. L. R. B. 384), should not apply here. For the reasons stated in that decision, we find that the licensed deck officers, the licensed engineers, and the radio operators employed by Lykes Brothers each constitute a unit appropriate for the purposes of collective bargaining.

17. As in the case of other steamship companies, the vessels of Lykes Brothers apparently have different sailing dates; new ships' articles are signed for every round trip voyage; employees may sign such articles only a few hours before sailing; and the personnel of the vessels may change from one voyage to another. In addition, R. E. Tipton testified that vessels employed by Lykes Brothers in the "Far East trade" require six months for a round trip.

We desire to complete the holding of these elections as soon as practical so that the employees may enjoy the right to bargain collectively as soon as possible. In order to expedite the elections, and in view of the practical difficulties involved, we will order that notices of election, a sample ballot, a list of deck officers and engineers who are eligible to vote, and the time and place where the balloting will be held, shall be posted as soon as possible after the date of this direction of election on each vessel operated by Lykes Brothers before it leaves its home port in the Gulf of Mexico. Balloting shall take place in the discretion of the Regional Director either when the vessel returns to its home port or, in the case of vessels making another stop or stops in Gulf ports, at the first or second port of call. In the case of vessels employed in the "Far East trade" balloting may take place at the discretion of the Regional Director either

before the vessel sails from its home port, or at any other port of call on the Gulf of Mexico.

18. Again because of the peculiar circumstances of this case, we will limit the right to vote to those licensed deck officers and licensed engineers who were employed as such on vessels operated by Lykes Brothers at any time between April 17, 1936, the date on which the first petition in this case was filed, and the date of this direction of election, and who also sign articles to make the round trip voyage on the vessels operated by Lykes Brothers on which the Regional Director posts notices pursuant to paragraph 17.

CONCLUSIONS OF LAW

Upon the basis of the above findings of fact, the Board makes the following conclusions of law:

1. The licensed deck officers, the licensed engineers, and the radio operators employed on the vessels operated by Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co., and Lykes Brothers Ripley Steamship Co., Inc., each constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the licensed deck officers, the licensed engineers, and the radio operators employed on the vessels operated by Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co., and Lykes Brothers Ripley Steamship Co., Inc., within the meaning of Section 9 (c) of the National Labor Relations Act.

CERTIFICATION OF REPRESENTATIVES

AND

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, approved July 5, 1935, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that American Radio Telegraphists Association, Local No. 5, has been selected by a majority of the radio operators employed on vessels operated by Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co., and Lykes Brothers Ripley Steamship Co., Inc., as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the National Labor Relations Act, American Radio Telegra-

phists Association, Local No. 5, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment; and

IT IS HEREBY DIRECTED, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co., and Lykes Brothers Ripley Steamship Co., Inc., that elections by secret ballot shall be conducted as soon as convenient, and beginning as promptly as is practical after the date of this direction of election, subject to the directions for the administration of the elections contained hereinabove, under the direction and supervision of the Regional Director for the Fifteenth Region, acting in this matter as agent of the National Labor Relations Board, and subject to Article III, Section 9 of said Rules and Regulations—Series 1, as amended; (a) among the licensed deck officers employed on vessels operated by Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co., and Lykes Brothers Ripley Steamship Co., Inc., to determine whether they desire to be represented by the National Organization of Masters, Mates and Pilots of America, or by the United Licensed Officers of the United States of America; and (b) among the licensed engineers employed on vessels operated by Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co., and Lykes Brothers Ripley Steamship Co., Inc., to determine whether they desire to be represented by National Marine Engineers' Beneficial Association or by the United Licensed Officers of the United States of America.

CHAIRMAN MADDEN took no part in the consideration of the above Decision, Certification, and Direction of Election.

[SAME TITLE]

AMENDMENT OF DIRECTION OF ELECTION

July 15, 1936

The National Labor Relations Board, being fully advised in the premises, and acting 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, approved July 5, 1935, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

FURTHER DIRECTS that, in the discretion of the Regional Director for the Fifteenth Region, acting in this matter as agent of the National Labor Relations Board, and subject to Article III, Section 9

of said Rules and Regulations—Series 1, as amended, balloting pursuant to paragraph 17 of the findings of fact and the Direction of Election issued in this matter on July 8, 1936, may take place after any vessel sails from its home port by the mailing of ballots from any other port of call on the Gulf of Mexico to an address designated by the Regional Director, and under conditions which will protect the secrecy of the ballot.

CHAIRMAN MADDEN took no part in the consideration of the above Amendment of Direction of Election.

[SAME TITLE]

DECISION ON PETITION FOR REHEARING

August 20, 1936

On July 8, 1936 the National Labor Relations Board duly issued a decision in which it ordered elections to be held among the licensed deck officers and among the licensed engineers employed on the vessels of the above-named companies, to determine the choice of the licensed deck officers and of the licensed engineers as to representatives for the purposes of collective bargaining.

On July 15, the United Licensed Officers of the United States of America made a motion for a reconsideration and rehearing of this case, which motion was denied by order of the Board of July 18, 1936.

On August 7, 1936, the United Licensed Officers of the United States of America filed a petition with the Board for a rehearing in the case and for a stay of the election order pending the determination of such application.

The petition contains a recital of various facts, from which the petitioner adduces that the Board erred in the decision which it rendered in this case. However, none of the facts recited in the petition has arisen since the hearing held by the Board in this case. The petition contains an argument that the Merchant Marine Act of 1936 provides for the appointment of a Marine Commission to investigate and to fix minimum-manning scales, minimum wage scales and reasonable working conditions on vessels receiving an operating subsidy. The petitioner alleges that the functions of the Marine Commission overlap those of the National Labor Relations Board and that a decision of the Marine Commission would be binding on the Board. An analysis of the Merchant Marine Act of 1936 shows that there is no conflict between the scope of that Act and that of the National Labor Relations Act and that there is nothing in

the Merchant Marine Act of 1936 which in any manner affects the jurisdiction of the National Labor Relations Board to determine the choice of employees as to representatives for collective bargaining.

IT IS HEREBY ORDERED that the petition for a rehearing be, and hereby is, denied.

[SAME TITLE]

SECOND AMENDMENT OF DIRECTION OF ELECTION

November 25, 1936

On July 8, 1936, the Board directed elections, under the direction and supervision of the Regional Director for the Fifteenth Region, among the licensed deck officers and among the licensed engineers employed on vessels operated by Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co., and Lykes Brothers Ripley Steamship Co., Inc., hereinafter called the Companies. On July 15, 1936, the Board issued an Amendment of Direction of Election directing the Regional Director, in his discretion, to conduct balloting by mail.

Pursuant to the Direction of Election and the Amendment of Direction of Election, the Regional Director for the Fifteenth Region has proceeded to conduct the elections, and to date the officers and engineers employed on 54 of the 58 vessels operated by the Companies have voted.

The remaining four vessels have been tied-up as a result of the current maritime strike, and members of the National Marine Engineers' Beneficial Association and of the National Organization of Masters, Mates and Pilots of America, the petitioning labor organizations, are presently on strike in all Atlantic and Gulf ports. Consequently, the date on which the remaining four vessels will again be in active service so that balloting among the officers and engineers pursuant to the Board's Directions may be completed is of course in doubt.

Since the delay may be considerable, and since the Companies and the labor organizations which are entitled to represent the officers and engineers may wish to carry on negotiations during the current strike, the Board is of the opinion that it is desirable to count the ballots already cast in the elections without waiting for balloting to take place among the men on the four remaining vessels. It may be that as a result of the balloting which has already taken place, the remaining votes would have no effect on the ultimate result, in which event the Board could proceed to an immediate certification. If a count of the ballots already cast leads to no decisive result, it will be necessary to conclude the election by permitting the employees on the remaining four vessels to vote.

The National Labor Relations Board, being fully advised in the premises, and acting 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, approved July 5, 1935, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

FURTHER DIRECTS that the Regional Director for the Fifteenth Region shall tally the ballots already cast in the elections previously directed herein, and shall prepare and serve an Intermediate Report thereon pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended.

[SAME TITLE]

CERTIFICATION OF REPRESENTATIVES

December 9, 1936

An April 17, April 30, and May 2, 1936, respectively, National Organization of Masters, Mates and Pilots of America, hereinafter referred to as M. M. P., National Marine Engineers' Beneficial Association, hereinafter referred to as M. E. B. A., and American Radio Telegraphists Association, each filed a petition with the Regional Director for the Fifteenth Region, alleging that a question affecting commerce had arisen concerning the representation of the deck officers, the engineers and the radio operators, respectively, employed by Lykes Brothers Ripley Steamship Co., Inc., New Orleans, Louisiana, and requesting an investigation and certification of representatives pursuant to Section 9(c) of the National Labor Relations Act, 49 Stat. 449, hereinafter referred to as the Act. On May 21, 1936, the National Labor Relations Board, hereinafter referred to as the Board, duly authorized the Regional Director for the Fifteenth Region to conduct an investigation and to provide for an appropriate hearing. Pursuant to notice duly issued and served by the Regional Director on June 4, 1936, a hearing was held on June 12, 1936, and continued on June 15, at New Orleans, Louisiana before Walter Wilbur, the Trial Examiner duly designated by the Board. At the hearing R. E. Tipton, executive vice-president of Lykes Brothers Steamship Co., Inc. and vice-president of Lykes Brothers Ripley Steamship Co., Inc. and of Tampa Inter-Ocean Steamship Co., agreed that the proceedings be amended to include Lykes Brothers Steamship Co., Inc. and Tampa Inter-Ocean Steamship Co. The three Companies hereinafter will be referred to collectively as Lykes Brothers.

The Board on July 8, 1936, issued a decision in which, on the basis of evidence introduced at the hearing, it certified American Radio Telegraphists Association as the exclusive representative of the radio

operators employed by Lykes Brothers and directed that an election be held among the licensed deck officers employed by Lykes Brothers to determine whether they desired to be represented for the purposes of collective bargaining by M. M. P. or by United Licensed Officers of the United States of America, hereinafter referred to as U. L. O.; and that an election be held among the licensed marine engineers employed by Lykes Brothers to determine whether they desired to be represented for the purposes of collective bargaining by M. E. B. A. or by U. L. O. On July 15, 1936, the Board issued an Amendment of Direction of Election.

Pursuant to the Direction of Election and the Amendment of Direction of Election, elections by secret ballot were begun by the Regional Director on August 21, 1936. On November 25, 1936, the Board issued a Second Amendment of Direction of Election in which it recited that to date the licensed deck officers and licensed engineers employed on 54 of the 58 vessels operated by Lykes Brothers had voted; that the remaining four vessels had been tied up as a result of the current maritime strike; that the date on which the remaining four vessels would again be in active service so that balloting among the deck officers and engineers could be completed was in doubt; and that the Companies and the labor organizations which are entitled to represent the officers and engineers might wish to carry on negotiations during the current strike. For these reasons the Board directed the Regional Director for the Fifteenth Region to tally the ballots already cast and prepare and serve an Intermediate Report pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended.

In accordance with the direction of the Board, the Regional Director issued and duly served an Intermediate Report on December 1, 1936. No exceptions to the Intermediate Report have been filed by any of the parties. As to the licensed deck officers, the Regional Director found:

Total number of eligible deck officers on 58 vessels.....	232
Total number of ballots cast by deck officers on 54 vessels....	206
Total number of contested ballots not counted.....	8
Total number of ballots counted.....	198
Total number of ballots for M. M. P.....	150
Total number of ballots for U. L. O.....	48

In the case of the licensed engineers the Regional Director found:

Total number of eligible licensed engineers on 58 vessels.....	237
Total number of ballots cast by licensed engineers on 54 ves- sels	215
Total number of contested ballots not counted.....	1
Total number of ballots counted.....	214
Total number of ballots cast for M. E. B. A.....	202
Total number of ballots cast for U. L. O.....	12

The 150 licensed deck officers who cast ballots for M. M. P. constitute a majority of the number of licensed deck officers who voted and also a majority of the licensed deck officers eligible to vote, and it is apparent that this result would not be changed even though all of the remaining licensed deck officers eligible to vote cast their ballots for U. L. O. M. M. P., having been selected by a majority of the licensed deck officers as their representative for the purposes of collective bargaining, is, by virtue of Section 9 (a) of the Act, the exclusive representative for the purposes of collective bargaining of all the licensed deck officers employed by Lykes Brothers, and we will so certify.

The 202 licensed engineers who cast ballots for M. E. B. A. constitute a majority of the number of licensed engineers who voted and also a majority of the licensed engineers eligible to vote, and this result would not be changed even though all of the remaining licensed engineers eligible to vote cast their ballots for U. L. O. M. E. B. A., having been selected by a majority of the licensed engineers as their representative for the purposes of collective bargaining, is by virtue of Section 9 (a) of the Act, the exclusive representative for the purposes of collective bargaining of all the licensed engineers employed by Lykes Brothers, and we will so certify.

NOW THEREFORE, 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 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that National Organization of Masters, Mates and Pilots of America has been selected by a majority of the licensed deck officers employed by Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co. and Lykes Brothers Ripley Steamship Co., Inc. as their representative for the purposes of collective bargaining and that pursuant to Section 9 (a) of the National Labor Relations Act, National Organization of Masters, Mates and Pilots of America is the exclusive representative of the licensed deck officers employed by Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co. and Lykes Brothers Ripley Steamship Co., Inc. for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment; and

IT IS HEREBY CERTIFIED that National Marine Engineers' Beneficial Association has been selected by a majority of the licensed engineers employed by Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co. and Lykes Brothers Ripley Steamship Co.,

Inc. as their representative for the purposes of collective bargaining and that pursuant to Section 9 (a) of the National Labor Relations Act, National Marine Engineers' Beneficial Association is the exclusive representative of the licensed engineers employed by Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co. and Lykes Brothers Ripley Steamship Co., Inc., for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.