

In the Matters of LUCKENBACH STEAMSHIP COMPANY, INC., ASSOCIATED-BANNING COMPANY, UNITED FRUIT COMPANY, DOLLAR STEAMSHIP LINES, SAN FRANCISCO STEVEDORING COMPANY, AMERICAN-HAWAIIAN STEAMSHIP COMPANY, MATSON NAVIGATION COMPANY, MCCORMICK STEAMSHIP COMPANY, UNION STEAM SHIP COMPANY OF NEW ZEALAND, LTD., NELSON STEAMSHIP COMPANY, OCEAN TERMINALS, INC., PACIFIC STEAMSHIP LINES, ARROW LINE, PACIFIC ORIENTAL TERMINALS COMPANY, NIPPON YUSEN KAISHA LINE, GRACE LINE, BAY CITIES TRANSPORTATION COMPANY, WILLIAMS DIMOND & COMPANY, SUDDEN & CHRISTENSON, KINGSLEY COMPANY OF CALIFORNIA and GATEMEN, WATCHMEN AND MISCELLANEOUS WATERFRONT WORKERS UNION, LOCAL 38-124; INTERNATIONAL LONGSHOREMEN'S ASSOCIATION

Cases Nos. R-41 to R-60, inclusive

Decided August 31, 1936

Water Transportation Industry—Election Ordered: controversy concerning representation of employees—majority status disputed by employer—question affecting commerce: employees in occupations directly connected with interstate commerce—*Unit Appropriate for Collective Bargaining:* community of interest; eligibility for membership in only organization among employees—*Certification of Representatives.*

• *Mr. Bertram Edises and Mr. David C. Shaw* for the Board.

Mr. Gregory A. Harrison and Mr. Frank C. Gregory, of San Francisco, Cal., for Luckenbach Steamship Co., Inc., United Fruit Co., Dollar Steamship Lines, San Francisco Stevedoring Co., American-Hawaiian Steamship Co., Matson Navigation Co., McCormick Steamship Co., Nelson Steamship Co., Ocean Terminals, Inc., Pacific Steamship Lines, Arrow Line, Pacific Oriental Terminals Co., Grace Line, Williams Dimond & Co., Sudden & Christenson, and Kingsley Company of California.

Mr. J. L. King, Jr., of San Francisco, Cal., for Union Steam Ship Company of New Zealand, Ltd.

Mr. H. J. Surratt, of San Francisco, Cal., for Bay Cities Transportation Co.

Mr. H. P. Melnikow and Mr. James Landye, of San Francisco, Cal., for the Union.

Mary Lemon Schleifer, of counsel to the Board.

DECISION

STATEMENT OF CASE

On April 1, 1936, Gatemen, Watchmen and Miscellaneous Waterfront Workers Union, Local 38-124; International Longshoremen's Association, hereinafter referred to as the Union, filed 20 petitions with the Regional Director for the Twentieth Region alleging that a question affecting commerce had arisen concerning certain classes of employees employed by Luckenbach Steamship Company, Inc., Associated-Banning Company,¹ United Fruit Company, Dollar Steamship Lines,² San Francisco Stevedoring Company, American-Hawaiian Steamship Company, Matson Navigation Company, McCormick Steamship Company, Union Steam Ship Company of New Zealand, Ltd., Nelson Steamship Company, Ocean Terminals, Inc.,³ Pacific Steamship Lines,⁴ Arrow Line, Pacific Oriental Terminals Company,⁵ Nippon Yusen Kaisha Line, Grace Line, Bay Cities Transportation Company, Williams Dimond & Company, Sudden & Christenson and Kingsley Company of California, and requesting investigations and certifications of representatives pursuant to Section 9 (c) of the National Labor Relations Act, approved July 5, 1935. On May 22, 1936, the National Labor Relations Board, hereinafter referred to as the Board, duly authorized the Regional Director for the Twentieth Region to conduct investigations and provide for appropriate hearings in connection therewith. On May 29, 1936, the Regional Director issued and duly served notices to each of the Companies named above, of a hearing to be held on June 22, 1936, at San Francisco, California. Copies of the notices of hearing were sent to the Union.

Pursuant to amended notices of hearing duly served upon all the Companies named above and upon the Union, a hearing was held before Charles A. Wood, a Trial Examiner duly designated by the Board, in San Francisco on July 15 and continued on July 16 and 17, 1936. The Union and all of the Companies named above were represented and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on the issues was afforded all parties. By stipulation of all parties concerned, it was agreed that one hearing should be held and that the evidence adduced should apply to each of the Companies severally. Many objections to the admission of evidence were

¹ Erroneously designated as Associated Terminals Company in the petition.

² Erroneously designated as Dollar Steamship Lines, Inc Ltd in the petition

³ Erroneously designated as General Steamship Corporation, Ltd, in the petition.

⁴ Erroneously designated as Admiral Line in the petition.

⁵ Erroneously designated as Silver Java Pacific Line in the petition.

made by counsel representing the Companies. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed.

Upon the evidence adduced at the hearing and from the entire record now before it, the Board makes the following:

FINDINGS OF FACT

I. THE COMPANIES

Luckenbach Steamship Company, Inc., a New Jersey corporation doing business in California, is engaged in the business of transporting freight and passengers in interstate commerce on ships which dock at San Francisco, California.

Associated-Banning Company, a California corporation, is engaged in the business of furnishing stevedores and clerks for the Nippon Yusen Kaisha Line and Pier 25, San Francisco, California. The stevedores and clerks employed by this company handle freight at the docks of San Francisco, California, carried on ships engaged in foreign commerce.

United Fruit Company, a New Jersey corporation doing business in California, is engaged in the transportation of freight and passengers in interstate and foreign commerce on ships which dock at San Francisco, California.

Dollar Steamship Lines, a Delaware corporation doing business in California, is engaged in the transportation of freight and passengers in interstate and foreign commerce on ships which dock at San Francisco, California.

San Francisco Stevedoring Company, a California corporation, is engaged in the business of stevedoring, and in the course and conduct of such business loads and discharges cargo at the docks at San Francisco, California, carried on ships engaged in interstate and foreign commerce.

American-Hawaiian Steamship Company, a Delaware corporation doing business in San Francisco, California, is engaged in the business of transporting freight in interstate commerce on ships which dock at San Francisco, California.

Matson Navigation Company, a California corporation, is engaged in the business of transporting freight and passengers in interstate commerce on ships which dock at San Francisco, California. It also acts as agent for other steamship companies transporting freight and passengers in foreign commerce.

McCormick Steamship Company, a California corporation, is engaged in the business of transporting freight in interstate commerce

and freight and passengers in foreign commerce on ships which dock at San Francisco, California.

Union Steam Ship Company of New Zealand, Ltd., a New Zealand corporation doing business in California, is engaged in the business of transporting freight and passengers in foreign commerce on ships which dock at San Francisco, California.

Nelson Steamship Company, a California corporation, is engaged in the business of transporting freight and passengers in interstate and foreign commerce on ships which dock at San Francisco, California.⁶

Ocean Terminals, Inc., a California corporation, is engaged in the business of stevedoring and in the course and conduct of such business loads and discharges cargo at the docks of San Francisco, California, carried on ships engaged in interstate and foreign commerce.

Pacific Steamship Lines, a Nevada corporation doing business in California, is engaged in the business of transporting freight and passengers in interstate and foreign commerce on ships which dock at San Francisco, California.

Arrow Line is engaged in the business of transporting freight in interstate commerce on ships which dock at San Francisco, California.

Pacific Oriental Terminals Company, a California corporation, is engaged in the business of stevedoring and in the course and conduct of such business loads and discharges cargo at the docks of San Francisco, California, carried on ships engaged in interstate and foreign commerce.

Nippon Yusen Kaisha Line is engaged in the business of transporting freight and passengers in foreign commerce on ships which dock at San Francisco, California.

Grace Line, a Maryland corporation doing business in California, is engaged in the business of transporting freight and passengers in interstate and foreign commerce on ships which dock at San Francisco, California.

Bay Cities Transportation Company is engaged in the business of transporting freight by barges. In the course and conduct of such business it receives and transports freight bound to and from ships engaged in transporting freight in interstate and foreign commerce.

Williams Dimond & Company, a California corporation, is engaged in the business of representing steamship companies as agents

⁶ An order of the United States District Court for the Northern District of California, No. 27277-S, dated May 15, 1936, appointed a trustee for the Charles Nelson Company and its subsidiary, the Nelson Steamship Company, in reorganization proceedings under Sec. 77B of the Bankruptcy Act. Such an order has been held not to suspend or interfere with a proceeding under the National Labor Relations Act. See *In the Matter of Englander Spring Bed Company, Inc.*, decided July 1, 1936, by the United States District Court, Eastern District of New York.

and in connection with such activities performs services on the docks of San Francisco, California for the account of steamship companies engaged in interstate and foreign commerce.

Sudden & Christenson, a California corporation, is engaged in the business of transporting freight in interstate commerce on ships which dock at San Francisco, California.

Kingsley Company of California, a California corporation, is engaged in the business of transporting freight in interstate and foreign commerce on ships which dock at San Francisco, California.

All of the above Companies may be divided into four categories by reason of their activities:

1. Those directly engaged in the transportation of freight and/or passengers in interstate and/or foreign commerce. This category includes Luckenbach Steamship Company, Inc., United Fruit Company, Dollar Steamship Lines, American-Hawaiian Steamship Company, Matson Navigation Company, McCormick Steamship Company, Union Steam Ship Company of New Zealand, Ltd., Nelson Steamship Company, Pacific Steamship Lines, Grace Line, Sudden & Christenson and Kingsley Company of California;

2. Those engaged in the loading and unloading of freight from ships engaged in interstate and/or foreign commerce. This category includes Associated-Banning Company, San Francisco Stevedoring Company, Ocean Terminals, Inc. and Pacific Ocean Terminals Company;

3. Williams Dimond & Company engaged as the agent of steamship companies engaged in interstate and foreign commerce and which, in connection with such activities, performs services on the docks of San Francisco, California for the account of such steamship companies; and

4. Bay Cities Transportation Company, engaged in receiving and carrying freight bound to and from ships engaged in interstate and foreign commerce.

We find that all of the Companies engaged in the activities described in the four categories above are engaged in transportation and commerce between the States and/or between the United States and foreign countries and in operations directly involved in such transportation and commerce.

Testimony was introduced at the hearing that no employees in the categories involved are employed by Arrow Line or by Nippon Yusen Kaisha Line, such persons used by Arrow Line being employees of Sudden & Christenson, and by Nippon Yusen Kaisha Line, employees of Associated-Banning Company. For this reason the petitions as to these two Companies will be dismissed and these Companies will not be included in the remainder of this decision.

II. THE UNION

Gatemen, Watchmen and Miscellaneous Waterfront Workers Union, Local 38-124, is a labor organization which is a local of International Longshoremen's Association, affiliated with the American Federation of Labor. It was organized and received a charter from the International Longshoremen's Association in December, 1935. Its membership is confined to gatemen, watchmen and those miscellaneous waterfront workers who are not eligible for membership in the established International Longshoremen's Association locals. The Union lists the following classes as those waterfront workers who are eligible for membership and on whose behalf these petitions were filed:

1. Watchmen—who are divided into three categories:

(a) Gatemen—defined as men stationed at dock entrances, whose duties are chiefly to inspect tickets and credentials of persons seeking admission to the docks;

(b) Dock and cargo watchmen—defined as men who patrol docks for purposes of protection against fire and theft and who report irregularities to the companies; and

(c) Hatch watchmen—defined as men stationed in the hatches of vessels during the loading or unloading of cargoes to observe the condition of cargo, report damaged goods, and prevent pilfering.

2. Baggage men and porters—defined as men employed on passenger ships on days of sailing and arrival of ships to take care of passengers' hand luggage.

3. Storemen—defined as men employed in handling ship's stores from dock to ship and vice versa.

4. Gearmen—defined as men employed on the docks in the manufacture and maintenance of stevedoring gear. This category includes sailmakers but does not include men who transport gear from shop to ship.⁷

5. Linemen—defined as men employed to take and cast off ships' lines.

6. Sliders—defined as men employed on two-story docks to transfer cargo from one dock level to another.

7. Janitors and sweepers—janitors are defined as men who regularly do janitorial work in the dock offices. Sweepers are defined as men who regularly perform such services including the clearing up of debris and removing of rubbish from the docks.

⁷ Such persons are eligible for membership in International Longshoremen's Association Local 38-79.

8. Inventory clerks—defined as men engaged in the checking and inspection of damaged and pilfered cargo in inventory corrals, and who frequently repair the same.

9. Dock and ship oil pumpers—defined as men engaged in loading and discharging bulk liquid cargo.

10. Handymen—defined as men engaged as roustabouts or helpers who do odd jobs on the docks or on ships which are docked.

All of the activities performed by the above classes of employees are essential to the conduct of the interstate and/or foreign commerce in which the above-named Companies are engaged. We find that the employees herein involved are directly engaged in transportation and commerce between the States and/or between the United States and foreign countries.

III. QUESTION CONCERNING REPRESENTATION

On or about March 5, 1936, the Union sent letters to each of the above named Companies requesting that each of the Companies meet with the Union for the purpose of arriving at an agreement concerning the wages, hours and working conditions of their employees who were engaged in the above named classes and who were members of the Union. A majority of the Companies addressed replied in exactly the same terminology asking that the Union enumerate and define accurately each class of employees they claimed to represent and present evidence that they represented the classes of employees in question. It is apparent that a question has arisen as to whether or not the Union represents such classes of employees. This question can best be determined by the holding of an election by secret ballot.

The question which has arisen concerning the representation of the above classes of employees of the above named Companies tends to lead to labor disputes burdening and obstructing commerce and transportation between the States and between the United States and foreign countries and the free flow of such commerce and transportation.

IV. THE APPROPRIATE UNIT

The Union states that the miscellaneous workers set forth and defined above constitute a unit appropriate for the purposes of collective bargaining. The reasons given by the Union for this contention are that these classes of employees are not eligible for membership in any of the other International Longshoremen's Association locals; that many of these employers employ only some of these classes of employees and that often only a few persons are employed by each employer in those classes which he employs; and that an or-

ganization exists in which all are eligible for membership and which can therefore represent all of these employees. The evidence substantiates all of the contentions of the Union. The evidence also shows that some of these dock workers are regular employees employed by the week or month, some are casual employees working a portion of the time for one employer and at other times for another and that the rates of pay and working conditions vary among the Companies for comparable work; that some work on a per diem basis and some work on an hourly basis, and that many do work at one time which comes under one of the above classifications and at other times work under another classification. Due to these peculiar circumstances of employment these employees feel that the need for collective bargaining is great and desire to be joined in one unit to enhance their collective bargaining strength. The employers did not advance any cogent reasons in opposition to such a unit. The position of the employers was that most of these employees are eligible for membership in other International Longshoremen's Association locals and are covered by existing contracts and that watchmen should not be included in the unit because of reasons set forth hereafter. But as stated above, the evidence shows that these employees, as defined above, are not eligible for membership either in other International Longshoremen's Association locals or in any other labor organization which has contracts with these employers.

The employers contend that watchmen should not be included in the bargaining unit because of the peculiar nature of their duties. They claim, first, that if the watchmen are members of the same union as the men they are engaged to watch they will not exercise their duties in the same independent manner that they would if they were not members of the same organization and, second, that if a strike occurs among the other members of the Union, the watchmen would be compelled to join the strikers, and the docks would be left unguarded. Some testimony of a vague and general nature was introduced on behalf of some of the employers to show that pilfering and vandalism had increased since the organization of the Union. It is noteworthy that the only specific instance testified to was one where a watchman who was a member of the Union had promptly reported to his employer and to International Longshoremen's Association Local 38-79 the case of a longshoreman whom he had detected pilfering. The contention of the employers that the watchman would in the event of a strike join the strikers is perhaps well-founded, but the inconvenience suffered by the employers in such a case differs only in degree from the inconvenience suffered when any other type of employee goes on strike. In addition, the testi-

mony, shows that at the time of a strike of the ship's clerks employed by Luckenbach Steamship Company, Inc., although the watchmen joined in the strike on the instruction of the striking unions, some of the watchmen remained on duty until the docks were cleared and the companies had secured other watchmen.

The employers contend as a further reason against including watchmen in the bargaining unit that many of the watchmen employed by them are special police officers who hold licenses as such from the Board of Police Commissioners of San Francisco⁸ and that a rule of the Board of Police Commissioners provides: "No Special Police Officer shall belong to any organization, association, society or group, the activities or purposes of which will in any way interfere with or control the work or services of any Special Police Officer in such official capacity." The employers interpret this rule as preventing special police officers from joining a labor organization. The Union does not so interpret this rule and introduced evidence to show that special police officers are represented in the Federation of Municipal Employees of the City and County of San Francisco. We feel it is unnecessary for us to determine the proper interpretation of the rule of the Board of Police Commissioners or to decide whether, if the employers' interpretation of the rule be correct, a Board of Police Commissioners has the power to deprive employees of a right guaranteed them by the National Labor Relations Act, for the case before us contains no charge that the right to join a labor organization of their own choosing has been denied these employees. We are herein concerned only with the question of whom these employees desire to be represented by in bargaining with their employers concerning rates of pay, wages, hours of employment and other conditions of employment. That these watchmen are entitled to bargain about their working conditions, that they may delegate the bargaining to an agent, and that such agent may be a labor organization which they may not for various reasons be eligible to join, are matters not prohibited by the regulation under any interpretation nor, we take it, seriously controverted by the employers. Without here deciding whether or not watchmen who are special police officers may become members of the Union, we hold that these watchmen, whether special police officers or not, may be properly included in the bargaining unit and may, if they desire, designate the Union as their representative for collective bargaining.

⁸ Employment figures of 14 of the Companies introduced at the hearing show that eight Companies employ only special policemen as watchmen, three Companies employ both special policemen and watchmen who are not special policemen, and that three Companies employ only watchmen who are not special policemen. These same 14 Companies employ 114 watchmen, 67 of whom are special policemen and 47 of whom are not special policemen.

We find that the watchmen, baggagemen and porters, storemen, gearmen, linemen, sliders, janitors and sweepers, inventory clerks, dock and ship oil pumpers and handymen, as defined above, employed by each of the Companies herein involved, or any portion of them so employed, constitute, for each Company, a unit appropriate for the purposes of bargaining collectively with respect to rates of pay, wages, hours of employment and other conditions of employment.

THE ELECTION

As previously stated some of the employees involved are regular employees of the Companies named, and some are casual employees working during short periods when ships are at dock and sometimes working for more than one Company. As an election must be held among the employees of each Company, it will be left to the discretion of the Regional Director to determine the exact day on which each of these elections shall be held within the period designated by the Board. Every person employed in any one of the above categories for the Company whose employees are casting ballots on the day selected by the Regional Director, including all regular employees on the payroll immediately preceding the date of this direction of election, whether working or not on that particular day, and all casual employees working for the Company on that particular day, even though they may have previously cast ballots as employees of any of the other Companies herein involved, shall be eligible to vote.

CONCLUSIONS OF LAW

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

1. The watchmen, baggagemen and porters, storemen, gearmen, linemen, sliders, janitors and sweepers, inventory clerks, dock and ship oil pumpers and handymen, as defined above, who are employed by each of the Companies herein involved, or any portion of them so employed, constitute, for each Company, 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 representation of the watchmen, baggagemen and porters, storemen, gearmen, linemen, sliders, janitors and sweepers, inventory clerks, dock and ship oil pumpers and handymen employed, respectively, by Luckenbach Steamship Company, Inc., Associated-Banning Company, United Fruit Company, Dollar Steamship Lines, San Francisco Stevedoring Company, American-Hawaiian Steamship Company, Matson Navigation Company, McCormick Steamship Company,

Union Steam Ship Company of New Zealand, Ltd., Nelson Steamship Company, Ocean Terminals, Inc., Pacific Steamship Lines, Pacific Oriental Terminals Company, Grace Line, Bay Cities Transportation Company, Williams Dimond & Company, Sudden & Christenson and Kingsley Company of California, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

DIRECTION OF ELECTION

AND

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

IT IS HEREBY DIRECTED, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining, that elections by secret ballot shall be held under the direction and supervision of the Regional Director for the Twentieth 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, within a period of four weeks after the date of this Direction of Election on days to be designated by the Regional Director, and subject to the rule of eligibility set forth above, among the watchmen, baggagemen and porters, storemen, gearmen, linemen, sliders, janitors and sweepers, inventory clerks, dock and ship oil pumpers and handymen, or any portion of the above-named classes, employed, respectively, by Luckenbach Steamship Company, Inc., Associated-Banning Company, United Fruit Company, Dollar Steamship Lines, San Francisco Stevedoring Company, American-Hawaiian Steamship Company, Matson Navigation Company, McCormick Steamship Company, Union Steam Ship Company of New Zealand, Ltd., Nelson Steamship Company, Ocean Terminals, Inc., Pacific Steamship Lines, Pacific Oriental Terminals Company, Grace Line, Bay Cities Transportation Company, Williams Dimond & Company, Sudden & Christenson and Kingsley Company of California, to determine whether they wish to be represented by Gatemen, Watchmen and Miscellaneous Water-front Workers Union, Local 38-124; International Longshoremen's Association for the purposes of collective bargaining; and

IT IS HEREBY ORDERED that the petitions concerning the Arrow Line and the Nippon Yusen Kaisha Line be, and hereby are, dismissed.

[SAME TITLES]

DECISION
AND
CERTIFICATION OF REPRESENTATIVES

October 30, 1936

Petitions for investigations and certifications of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, were filed on April 1, 1936, with the Regional Director for the Twentieth Region by Gatemen, Watchmen and Miscellaneous Waterfront Workers Union, Local 38-124; International Longshoremen's Association, hereinafter referred to as the Union, alleging that a question affecting commerce had arisen concerning the representation of certain classes of miscellaneous waterfront workers employed by Luckenbach Steamship Company, Inc., Associated-Banning Company, United Fruit Company, Dollar Steamship Lines, San Francisco Stevedoring Company, American-Hawaiian Steamship Company, Matson Navigation Company, McCormick Steamship Company, Union Steam Ship Company of New Zealand, Ltd., Nelson Steamship Company, Ocean Terminals, Inc., Pacific Steamship Lines, Pacific Oriental Terminals Company, Grace Line, Bay Cities Transportation Company, Williams Dimond & Company, Sudden & Christenson, and Kingsley Company of California. The National Labor Relations Board on May 22, 1936, acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director for the Twentieth Region to conduct investigations and to provide for appropriate hearings upon due notice. Pursuant to such authorization, notices of a hearing were duly issued and served by the Regional Director and on July 15, 16 and 17, 1936, a joint hearing on all of the petitions was held at San Francisco, California, before Charles A. Wood, duly designated by the Board as Trial Examiner. Thereafter, the National Labor Relations Board issued its Decision and Direction of Election dated August 31, 1936. Pursuant to the Direction of Election, elections by secret ballot were conducted by the Regional Director on September 25, 1936, among the watchmen, baggagemen and porters, storemen, gearmen, linemen, sliders, janitors and sweepers, inventory clerks, dock and ship oil pumpers and handymen employed by each of the Companies, including all regular employees who were on the payroll immediately preceding the date of the Direction of Election, whether working or not on September 25, 1936, and all casual employees who were working for each of the Companies on September 25, 1936. Thereafter,

the Regional Director prepared and served upon the parties to the proceeding an Intermediate Report. On October 20, 1936, the Regional Director issued and duly served upon the parties a Supplementary Intermediate Report. No objections to the ballot, to the Intermediate Report, or to the Supplementary Intermediate Report were filed by any of the parties.

The payroll submitted by the American-Hawaiian Steamship Company indicated that 55 persons regularly employed by this Company were eligible to vote. Nineteen of these employees cast ballots. Seventeen ballots were cast for the Union and two were cast against the Union. On October 19, 1936, Woodley B. Fitch, president of the Union, requested that the Board take no action "until the Union has time to investigate certain circumstances surrounding the Election." For this reason the Board will take no action at this time on the petition relating to the employees of this Company.

The payrolls submitted by Bay Cities Transportation Company and Kingsley Company of California indicated that only one person in the unit found by the Board to be appropriate was regularly employed by each of these Companies. At the election no casual employees claimed to be entitled to vote because employed by these Companies on September 25, 1936. In both of these Companies the one employee indicated his desire to be represented by the Union. The payroll submitted by Ocean Terminals, Ltd., indicated that only one employee eligible to vote was regularly employed by this Company. One other person claiming to be employed by this Company as a casual employee on September 25, 1936, voted. Both ballots were cast for the Union. However the Company challenged the vote of the casual employee and this vote was disallowed by the Regional Director. The case of this Company is therefore the same as that of the other two.

The National Labor Relations Act creates the duty of employers to bargain collectively. But the principle of collective bargaining presupposes that there is more than one eligible person who desires to bargain. The Act therefore does not empower the Board to certify where only one employee is involved. This conclusion does not mean that a single employee may not designate a representative to act for him; he had such a right without the Act, and the Act in no way limits the right. By the same token, this conclusion in no way limits the protection which the Act otherwise gives such an employee.

At the time of the election the Nelson Steamship Company was not operating any boats. Four persons claiming to be employed by this Company were allowed to vote but those votes were subsequently disallowed by the Regional Director upon being challenged by the Company. No certification is possible as to this Company.

In the case of each of the other Companies involved in this case, either a majority of those eligible chose the Union to represent them, or a majority of those eligible voted and a majority of those voting chose the Union to represent them. The Board will certify in each of these cases, relying in the latter situation upon its precedent in *In the Matter of Associated Press, a corporation, and American Newspaper Guild*; Case No. R-26, decided July 3, 1936 (1 N. L. R. B. 686).

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 Gatemen, Watchmen and Miscellaneous Waterfront Workers Union, Local 38-124; International Longshoremen's Association has been selected by a majority of the watchmen, baggagemen and porters, storemen, gearmen, linemen, sliders, janitors and sweepers, inventory clerks, dock and ship oil pumpers and handymen employed by Luckenbach Steamship Company, Inc., Associated-Banning Company, United Fruit Company, Dollar Steamship Lines, San Francisco Stevedoring Company, Matson Navigation Company, McCormick Steamship Company, Union Steam Ship Company of New Zealand, Ltd., Pacific Steamship Lines, Pacific Oriental Terminals Company, Grace Line, Williams Dimond & Company, and Sudden & Christenson, respectively, as their representative for the purposes of collective bargaining with each of the aforementioned Companies, and that pursuant to Section 9 (a) of the National Labor Relations Act, Gatemen, Watchmen and Miscellaneous Waterfront Workers Union, Local 38-124; International Longshoremen's Association is the exclusive representative of the watchmen, baggagemen and porters, storemen, gearmen, linemen, sliders, janitors and sweepers, inventory clerks, dock and ship oil pumpers and handymen employed by each of the Companies, respectively, for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

The petitions to certify representatives of employees of the Nelson Steamship Company, Ocean Terminals, Inc., Bay Cities Transportation Company and Kingsley Company of California are hereby denied.