

In the Matter of GRACE LINE, INC., and PANAMA MAIL STEAMSHIP COMPANY and NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION, LOCAL NO. 33

Case No. R-110.—Decided November 13, 1936

Water Transportation Industry—Election Ordered: controversy concerning representation of employees—rival organizations; substantial doubt as to majority status; refusal by employer to recognize union as exclusive representative; request by substantial number in appropriate unit—question affecting commerce: confusion and unrest among employees—*Unit Appropriate for Collective Bargaining:* community of interest; craft; established labor organizations in industry; functional coherence.

Mr. David A. Moscovitz for the Board.

Mr. William Cogswell, of New York City, for the Companies.

Mr. Edward Patrick Trainer, of New York City, for the Union.

Mr. Herbert G. DeVarco, of New York City, for United Licensed Officers of the United States of America.

Mr. William Gallagher, of New York City, for International Union of Operating Engineers.

Mary Lemon Schleifer, of counsel to the Board.

DECISION

STATEMENT OF CASE

On September 28, 1936, National Marine Engineers' Beneficial Association, Local No. 33, hereinafter referred to as M. E. B. A., filed a petition with the Acting Regional Director for the Second Region alleging that a question affecting commerce had arisen concerning the representation of the licensed marine engineers employed on the vessels operated by Grace Line, Inc., New York, New York, 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 October 5, 1936, the National Labor Relations Board, hereinafter referred to as the Board, duly authorized the Acting Regional Director for the Second Region to conduct an investigation and to provide for an appropriate hearing. On October 6, 1936, the Acting Regional Director issued notices of a hearing to be held in New York, New York on October 13, 1936. Copies of the notice of hearing were duly served on Grace Line, Inc., M. E. B. A., and two other labor or-

ganizations named in the petition as organizations claiming to represent the engineers. These organizations were the United Licensed Officers of the United States of America, hereinafter referred to as U. L. O., and the International Union of Operating Engineers, Local No. 3,¹ hereinafter referred to as I. U. O. E.

Pursuant to the notice of hearing, a joint hearing in this case and on a petition filed by M. E. B. A. concerning the representation of engineers employed by Seas Shipping Company was held in New York, New York on October 13, 1936, before Charles A. Wood, the Trial Examiner duly designated by the Board. All who were served with notice participated in the hearing. At the hearing, with the consent of the representatives of all parties, Panama Mail Steamship Company, an affiliate of Grace Line, Inc., was also made a party to the proceedings. Full opportunity to be heard, to examine and cross-examine witnesses and to introduce evidence bearing on the issues was afforded all parties. Some objections to the admission of evidence were made by the representatives of the various parties. 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

Grace Line, Inc., a New York corporation, is engaged in the business of transporting freight and passengers on ships sailing from New York and other ports on the east coast of the United States to ports in the West Indies Islands and ports in Central and South America.² Such ports include those of Jamaica and Cuba in the West Indies Islands, the Canal Zone in Central America, and Colombia, Ecuador, Peru and Chile in South America. The company operates 11 vessels in this service. Chief engineers, first assistant engineers, second assistant engineers, and third assistant engineers are employed by the company on each of these ships. In addition, some of the ships carry additional assistant engineers and junior engineers.

¹ Erroneously referred to at the hearing as the National Association of Operating Engineers.

² This company also operates a service designated as the North Pacific Line which operates from California to Chile. The Marine Engineers' Beneficial Association has entered into contracts with the company concerning the engineers employed in this service and those engineers are not included in this petition.

Panama Mail Steamship Company, a Delaware corporation, is engaged in the business of transporting freight and passengers on ships sailing from New York and other ports on the east coast of the United States to ports in the West Indies Islands, Mexico, Central America, South America and the west coast of the United States. Such ports include those of Cuba in the West Indies Islands; Mexico; Guatemala, Salvador, Costa Rica and Canal Zone in Central America; Colombia, and Chile in South America; and California in the United States. The company operates three vessels in this service. Chief engineers and various assistant engineers are employed by the company on each of these ships.

Grace Line, Inc. and Panama Mail Steamship Company are wholly owned subsidiaries of Grace Steamship Company. All the vessels operated by Grace Line, Inc. and one of the vessels operated by Panama Mail Steamship Company are owned by Grace Steamship Company. Grace Line, Inc. and Panama Mail Steamship Company operate these vessels under bare boat charters from Grace Steamship Company. The other two vessels operated by Panama Mail Steamship Company are owned by this company.

We find that Grace Line, Inc. and Panama Mail Steamship Company are engaged in transportation and commerce between the States and between the United States and foreign countries and that the engineers employed on the vessels operated by these companies are directly engaged in such transportation and commerce.

II. THE UNIONS INVOLVED

The petitioning union, M. E. B. A., is a labor organization affiliated with the Brotherhood of Railway Locomotive Engineers. Its membership is confined to licensed marine engineers.

U. L. O. is an independent labor organization not affiliated with any other labor organization. Its membership consists of licensed marine engineers and licensed deck officers.

I. U. O. E. is a labor organization affiliated with the American Federation of Labor. Its constitution provides that "An applicant for membership . . . must be a competent Engineer, Junior or Apprentice Engineer". The jurisdictional claims of this organization are "All those engaged in the operation of steam boilers, stationary, marine, Deisel, portable, hoisting and electrical engines, gas engines, internal combustion engines, or any machine that develops power". It is apparent that this organization does not limit its membership to marine engineers and that a marine engineer need not be licensed to be eligible for membership.

III. QUESTION CONCERNING REPRESENTATION

Neither Grace Line, Inc. nor Panama Mail Steamship Company has a contract with any labor organization concerning engineers or licensed deck officers employed by these companies,³ nor has it bargained collectively with any labor organization concerning these employees. Within a period of three to six weeks prior to the hearing, Edward P. Trainer, business manager of M. E. B. A., requested Richard R. Adams, vice-president of both Grace Line, Inc., and Panama Mail Steamship Company, to deal with M. E. B. A. as the representative of the licensed marine engineers employed by these companies. Adams refused to bargain with the representatives of M. E. B. A., stating as the reason that the company was uncertain as to which labor organization was entitled to act as the representative of these employees. At the hearing Adams testified that the companies were not in a position to determine which organization a majority of the employees desired to have represent them, that this question should be determined, and that an election by secret ballot would be an orderly way of determining this question. Adams also testified that Grace Line, Inc. employed 47 licensed chief and assistant engineers and 48 junior engineers and that Panama Mail Steamship Company employed 16 licensed chief and assistant engineers. At the hearing M. E. B. A. introduced 34 cards signed by engineers employed by these companies authorizing M. E. B. A. to represent them. Trainer testified that he was unable to state definitely the actual number of members of M. E. B. A. employed by these companies because of the changing personnel on the ships and the difficulty in securing permission of the companies to go on the ships for the purpose of determining the names of present-employees. It is apparent that a substantial number of these employees desire M. E. B. A. to represent them.

Representatives of both U. L. O. and I. U. O. E. testified that they had members presently employed on the vessels operated by these companies but stated they were unable for the same reasons given by M. E. B. A. to determine the exact or even approximate number of members presently employed on the vessels operated by either company.

Representatives of M. E. B. A. and of I. U. O. E. testified that the contending claims of these various labor organizations have created unrest among the employees of these companies.

We find that a question has arisen concerning the representation of the engineers employed by Grace Line, Inc. and Panama Mail Steamship Company and that this question tends to lead to labor

³ Excepting the contract of Grace Line, Inc. with Marine Engineers' Beneficial Association covering engineers employed in the North Pacific Line. See footnote 2.

disputes burdening and obstructing transportation and commerce between the States and between the United States and foreign countries.

The question which has arisen concerning the representation of employees can best be resolved by the holding of elections by secret ballot to determine which of these organizations the employees desire to represent them.

IV. THE APPROPRIATE UNIT

Grace Line, Inc. employs 47 chief and assistant engineers who are required by law to hold licenses as engineers. It also employs, as required by law, 48 junior engineers who are not required to be licensed. Actually, many of the junior engineers employed on the vessels operated by these and by other companies hold licenses but because of the surplus of labor are forced to accept positions as junior engineers. M. E. B. A. stated in its petition that it considered the licensed engineers to be an appropriate unit. At the hearing Trainer testified that because of prior precedents established by the Board *In the Matter of International Mercantile Marine Company and its subsidiaries and affiliates: American Merchant Line, Panama Pacific Line and United States Lines and International Union of Operating Engineers, Local No. 3*, Case No. R. 24, decided March 21, 1936 (1 N. L. R. B. 384), and *In the Matter of Black Diamond Steamship Corporation and Marine Engineers Beneficial Association, Local No. 33*, Case No. R. 107, decided September 24, 1936 (*supra*, p. 241), he considered junior engineers who held licenses to be within the designated unit, and that he had been reliably informed that practically all junior engineers employed at the present time by Grace Line, Inc. held licenses. Subsequently, evidence was introduced on behalf of the company that out of the 48 junior engineers employed at the time of the hearing, 27 did not have licenses, 20 did have licenses, and that the company had no information as to whether the one remaining junior engineer was or was not licensed. Neither Trainer nor any other representative of M. E. B. A. was recalled to testify as to what they considered the appropriate unit under these circumstances.

A junior engineer occupies a position between that of a licensed assistant engineer and the oilers, wipers and watertenders also employed in the engine room. He acts as an aid to assistant engineers, carrying orders to the oilers, wipers and watertenders and supervises the carrying out of these orders. His position is, therefore, that of a petty officer. The evidence shows that the company recognizes his position as being more closely allied to that of the licensed officer than to that of the oiler, wiper and watertender, in that the juniors

eat with the officers and sleep in quarters separate from the oilers, wipers and watertenders. While a junior engineer is not allowed by law to stand watch alone, he stands watch as an assistant to the licensed engineer in charge of the watch, a position of responsibility never given to oilers, wipers or watertenders. Junior engineers employed by these companies are required to have technical training or experience, a requirement not made as to wipers, oilers or watertenders. The evidence also shows that there is no distinction between the duties of a junior engineer who happens to possess a license and one who does not have a license.

In the Matter of International Mercantile Marine Company, supra, the Board held that the appropriate unit did not include unlicensed junior engineers. The evidence showed, however, that practically every junior engineer employed by the International Mercantile Marine Company held a license. The appropriate unit in each case must be determined in light of the circumstances existing in the particular case. The result of finding the appropriate unit in the instant case to include only licensed junior engineers would be to split off from this homogeneous group, a minority of their number. We feel this is undesirable and so are faced with the alternative of either including no junior engineers or including all junior engineers within the appropriate unit. We feel that under the circumstances of this case and because the position of these juniors is more closely allied with that of the licensed engineers than with the oilers, wipers and watertenders, the junior engineers whether licensed or not should be included in the unit. We have experienced some hesitancy in reaching this result because unlicensed junior engineers are not eligible for membership in two of the three labor organizations involved in this proceeding. However, since they are eligible to membership in one of these organizations and since, even though not eligible to membership they may desire one of the other two labor organizations to represent them, we feel that on the particular facts before us our conclusion is justified.

At the hearing there was testimony that Grace Line, Inc. has on its payroll licensed relief engineers who act as night engineers at piers. The companies and the unions agreed at the hearing that relief engineers should be included in the unit. We see no reason for excluding them.

The record shows that Panama Mail Steamship Company does not employ any junior engineers. The record is not entirely clear as to whether this company employs any licensed relief engineers, but seems to indicate that it does.

Representatives of U. L. O. testified they believed the appropriate unit should include licensed deck officers as well as licensed engineers. This problem was raised and carefully considered by the

Board *In the Matter of International Mercantile Marine Company, supra; In the Matter of Lykes Brothers Steamship Co., Inc., Tampa Inter-Ocean Steamship Co., Lykes Brothers Ripley Steamship Co., 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 (supra, p. 102); In the Matter of Black Diamond Steamship Corporation, supra; In the Matter of Swayne & Hoyt, Ltd. and National Marine Engineers' Beneficial Association, Pacific Coast District, Case No. R. 106, decided October 2, 1936 (supra, p. 282); and In the Matter of Panama Rail Road Company and Marine Engineers' Beneficial Association, Case No. R-108, decided October 21, 1936 (supra, p. 290).* For the reasons stated in those decisions the licensed deck officers will not be included.

We find that the licensed chief, assistant and relief engineers and the junior engineers, whether licensed or not, employed by Grace Line, Inc. constitute a unit appropriate for the purposes of bargaining collectively with respect to rates of pay, wages, hours of employment and other conditions of employment.

We find that the licensed chief, assistant and relief engineers employed by Panama Mail Steamship Company constitute 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 ELECTIONS

U. L. O. and I. U. O. E. both requested that the Board order a separate election in each of these companies. The companies and M. E. B. A. opposed this method. We believe that since the unit found by the Board to be appropriate is different as to the two companies, that since the evidence shows that although the two companies are affiliated and have the same executive officers they are factually maintained and in some respects operated as two separate companies,⁴ and that since labor conditions and incentives for organization may differ between boats going only to South America and those going also to the west coast of the United States, a separate election should be held as to each of these companies.

An affidavit filed by Adams and made part of the record in this case indicates that engineers are sometimes interchanged between the companies. This evidence alone does not seem sufficient to justify a conclusion that one election should be held. Because of this fact, however, we feel that any engineer within the unit found appropriate employed by either of these companies between September 28,

⁴The evidence shows that the companies each have their own superintending engineer but that the same port captain and commissary superintendent act for both.

1936, and the date of the Direction of Election, should be eligible to vote as an employée of the company for which he makes the round-trip voyage at the conclusion of which the election is held.

Because of the peculiar conditions of employment in the maritime industry and because no facts were developed in this case to show any conditions which would require any variation, the Board will follow the procedure it has used in similar cases. Notices of the election, a sample ballot, a list of the employées eligible to vote and a notice of the time and place where balloting will be held, shall be posted in New York on each vessel operated by both of the companies, at the beginning of the next trip, if possible, after the issuance of the Direction of Election and shall remain posted until the vessel returns to the port of New York where balloting will take place at a time and place to be designated by the Acting Regional Director of the Second Region. Eligibility to vote in the election held among the employees of Grace Line, Inc. will be limited to those persons who were employed as licensed chief, assistant or relief engineers, or as junior engineers on any vessel operated by Grace Line, Inc. or by Panama Mail Steamship Company at any time between September 28, 1936, the date of the filing of the petition in this case, and the date of the Direction of Election and who make the round trip voyage, at the conclusion of which the election will be held, on a vessel operated by Grace Line, Inc. Eligibility to vote in the election held among the employees of Panama Mail Steamship Company will be limited to those persons who were employed as licensed chief, assistant or relief engineers on any vessel operated by Panama Mail Steamship Company or as licensed chief, assistant or relief engineers or junior engineers on any vessel operated by Grace Line, Inc. at any time between September 28, 1936, the date of the filing of the petition in this case, and the date of the Direction of Election and who make the round trip voyage, at the conclusion of which the election will be held, on a vessel operated by Panama Mail Steamship Company.

THE BALLOT

At the hearing and again in a brief filed subsequent to the hearing, counsel for the companies urged that if the Board ordered an election there should also be included on the ballot a blank space where employees could designate any other organization they might prefer to have represent them. This suggestion has been considered by the Board. We hold that since ample opportunity was given at the hearing for the introduction of any evidence tending to show that any other organization claimed to represent these employees but that no such evidence was presented, the placing of a blank space on the ballot is unnecessary.

CONCLUSIONS OF LAW

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

1. The licensed chief, assistant and relief engineers and the junior engineers, whether licensed or not, employed by Grace Line, Inc., 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 representation of licensed chief, assistant and relief engineers, and junior engineers employed on the vessels operated by Grace Line, Inc., within the meaning of Section 9 (c) of the National Labor Relations Act.

3. The licensed chief, assistant and relief engineers employed by Panama Mail Steamship Company, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

4. A question affecting commerce has arisen concerning the representation of licensed chief, assistant and relief engineers employed on the vessels operated by Panama Mail Steamship Company, within the meaning of Section 9 (c) of the National Labor Relations Act.

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, 49 Stat. 449, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Grace Line, Inc., an election by secret ballot shall be conducted as soon as convenient, and beginning as promptly as is practicable after the date of this Direction, in conformity with the rules set forth hereinabove for the conduct of the election, under the direction and supervision of the Acting Regional Director for the Second 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—as amended, among the licensed chief, assistant and relief engineers and the junior engineers, whether licensed or not, employed on the vessels operated by Grace Line, Inc., to determine whether they desire to be represented by Marine Engineers' Beneficial Association, Local No. 33, or United Licensed Officers of the United States of America or International Union of Operating Engineers, Local No. 3; and it is further

DIRECTED that, an election by secret ballot shall be conducted as soon as convenient, and beginning as promptly as is practicable after the date of this Direction, in conformity with the rules set forth hereinabove for the conduct of the election, under the direction and supervision of the Acting Regional Director for the Second 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—as amended, among the licensed chief, assistant and relief engineers employed on the vessels operated by Panama Mail Steamship Company, to determine whether they desire to be represented by Marine Engineers' Beneficial Association, Local No. 33, or United Licensed Officers of the United States of America or International Union of Operating Engineers; Local No. 3.

[SAME TITLE] . . .

SUPPLEMENTAL DECISION
AND
DIRECTION OF ELECTION

February 4, 1937

On November 13, 1936, the National Labor Relations Board, pursuant to an investigation duly authorized on a petition filed September 28, 1936 by National Marine Engineers' Beneficial Association, Local No. 33, issued a Decision and Direction of Election in the above entitled case. The Direction of Election provided that an election by secret ballot be held among the licensed chief, assistant, and relief engineers, and the junior engineers, whether licensed or not, employed on the vessels operated by Grace Line, Inc., and that an election be held among the licensed chief, assistant, and relief engineers employed by Panama Mail Steamship Company, to determine the choice of these employees of representatives for the purposes of collective bargaining.

On December 8, 1936, Grace Line, Inc. and Panama Mail Steamship Company filed a petition asking for a rehearing, stating that if such a rehearing were granted the petitioners would show by additional evidence that one election, in which the specified employees of both Companies should vote, should be held instead of a separate election in each Company and that the unit found to be appropriate, should not have included junior engineers. On December 31, 1936, the Board issued and duly served notice of a hearing to be held in New York City on January 7, 1937, on the matters set forth in the petition. Pursuant to the notice, a hearing was held in New York City on January 7, 1937, before Charles A. Wood,

the Trial Examiner duly designated by the Board. Grace Line, Inc., Panama Mail Steamship Company, hereinafter referred to collectively as the Companies, National Marine Engineers' Beneficial Association, hereinafter referred to as M. E. B. A., United Licensed Officers of the United States of America, hereinafter referred to as U. L. O., and International Union of Operating Engineers, hereinafter referred to as I. U. O. E., were all 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:

Upon the evidence adduced at the hearing and from the entire record now before it, the Board, in addition to the findings of fact embodied in the decision of November 13, 1936, makes the following:

FINDINGS OF FACT

1. The Companies employ 111 engineers, 63 of whom are employed as licensed chief, assistant, and relief engineers, and 48 of whom are employed as junior engineers. The 48 junior engineers include 18 employed on the vessels operated by Panama Mail Steamship Company, and 30 on the vessels operated by Grace Line, Inc.

The Board in its original Decision gave as one of its reasons for ordering separate elections, the fact that the unit found appropriate in each Company differed, in that Grace Line, Inc. employed junior engineers, while Panama Mail Steamship Company did not. We believe that even though we have now found that the unit is the same in each Company, separate elections should still be held for the other reasons given in the original Decision.

Although both Companies are wholly-owned subsidiaries of Grace Steamship Company, they are operated as independent Companies. In this regard, the evidence introduced by the Companies at the second hearing merely corroborates that introduced at the first. Indeed, additional evidence introduced by Albert N. Floyd, vice-president of the Grace Line, Inc., shows that the person to whom the representatives chosen by the engineers of each of these Companies would go in the first instance for purposes of collective bargaining, would be the marine superintendent. As is stated in the original Decision, each of the Companies has its own marine superintendent. Evidence introduced at the second hearing also shows that on a prior occasion the Companies acted separately in executing contracts with the International Seamen's Union.

2. No additional evidence was introduced at the rehearing which indicated that either licensed junior engineers or unlicensed junior engineers should be excluded from the unit found to be appropriate. Floyd stated that he did not believe junior engineers should be in-

cluded as a matter of discipline because junior engineers take orders from licensed assistant engineers. This testimony lost any effect it might otherwise have had by his admission that licensed assistant engineers were required to take orders from the chief engineers. No objection was made by the Companies against the inclusion of chief and licensed assistant engineers in the unit.

Floyd also testified that International Seamen's Union, hereinafter referred to as I. S. U., claimed to represent the unlicensed junior engineers since they represented all unlicensed personnel. He subsequently admitted that in the contract which Grace Line, Inc. now has with I. S. U. there are no provisions covering unlicensed junior engineers and that so far as he knows I. S. U. has never made any attempt to negotiate for unlicensed junior engineers.

M. E. B. A. and U. L. O. both stated they did not wish unlicensed junior engineers to be included in the bargaining unit as they are not eligible for membership in either organization. This situation was discussed in the original decision of the Board. The matter of eligibility for membership in a labor organization is only one factor to be considered in determining the appropriate bargaining unit in each case. The other considerations stated in the original decision have not been shown erroneous. For the reasons there stated we find that the licensed chief, assistant, and relief engineers and the junior engineers, whether licensed or not, employed by each of the Companies, constitute a unit appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

CONCLUSIONS OF LAW

Upon the basis of the above findings of fact and the findings of fact made in the decision dated November 13, 1936, the Board makes the following conclusions of law and issues the following Direction of Election, which conclusions of law and Direction of Election shall supersede those of the original Decision of the Board:

1. The licensed chief, assistant, and relief engineers and the junior engineers, whether licensed or not, employed by Grace Line, Inc. and by Panama Mail Steamship Company, respectively, 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 representation of the licensed chief, assistant, and relief engineers and the junior engineers, employed by Grace Line, Inc. and by Panama Mail Steamship Company, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

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, 49 Stat. 449, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Grace Line, Inc. and Panama Mail Steamship Company, respectively, elections by secret ballot shall be conducted as soon as convenient, and beginning as promptly as is practicable after the date of this Direction, in conformity with the rules set forth for the conduct of these elections in the Decision of this case issued by the Board on November 13, 1936, under the direction and supervision of the Regional Director for the Second 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—as amended, among the licensed chief, assistant, and relief engineers and the junior engineers, whether licensed or not, employed on the vessels operated by Grace Line, Inc. and by Panama Mail Steamship Company, respectively, to determine whether they desire to be represented by Marine Engineers' Beneficial Association or United Licensed Officers of the United States of America or International Union of Operating Engineers.

[SAME TITLE]

AMENDMENT OF DECISION
AND
DIRECTION OF ELECTIONS

September 8, 1937

On November 13, 1936, the National Labor Relations Board, pursuant to an investigation duly authorized on petitions filed September 28, 1936, by National Marine Engineers' Beneficial Association Local No. 33, herein called M. E. B. A., issued a Decision and Direction of Election in the above entitled case. On February 4, 1937, the Board issued a Supplemental Decision and Direction of Election. The Supplemental Decision found that the licensed chief, assistant, and relief engineers; and the junior engineers, whether licensed or not, employed by Grace Line, Inc. constituted a unit appropriate for the purposes of collective bargaining, and that the same classes of employees of the Panama Mail Steamship Company constituted an appropriate unit. Pursuant to the Direction of Election, elections

were held by the Regional Director for the Second Region (New York City) between March 13 and June 9, 1937, but no certification of representatives has yet been made by the Board.

On June 11, 1937, a petition was filed with the Board by International Seamen's Union of America, herein called I. S. U., alleging that a question affecting commerce had arisen concerning the representation of the unlicensed personnel employed in the deck, engine, and stewards' departments of the vessels operated by Grace Line, Inc. Notice of hearing was duly served on M. E. B. A., United Licensed Officers of the United States of America, herein called U. L. O., and International Union of Operating Engineers, herein called I. U. O. E. At the hearing in New York City on June 21, 1937, additional evidence was taken on whether or not junior engineers, who are not required to be licensed by the United States Bureau of Marine Inspection and Navigation but many of whom hold licenses, should be included with the licensed personnel or with the unlicensed personnel for the purposes of collective bargaining. After consideration of all the evidence, the Board determined that junior engineers who do not hold licenses should be included in the unit consisting of unlicensed personnel.¹ This conclusion appears equally applicable to the unlicensed junior engineers employed by Panama Mail Steamship Company.

In the elections which have been held in Grace Line, Inc. and Panama Mail Steamship Company among the licensed engineers and the junior engineers, pursuant to the petitions filed by M. E. B. A., the majority received by one of the unions was so slight that it is apparent that the exclusion of junior engineers who do not hold licenses might materially affect the results of these elections. Since the ballots of junior engineers who do not hold licenses were not segregated and the Board has no way of determining for which union these men voted, another election must be held in these companies before certification can be made pursuant to the petitions filed by M. E. B. A.

We, therefore, issue a new Direction of Elections, and for the reasons stated in our decision of July 16, 1937, we amend the Supplemental Decision of February 4, 1937, by striking out the Conclusions of Law therein and substituting the following therefor:

CONCLUSIONS OF LAW

1. The licensed chief, assistant, and relief engineers, and the junior engineers who hold licenses, employed by Grace Line, Inc. and by Panama Mail Steamship Company, respectively, consti-

¹ *American, France Line et al and International Seamen's Union of America*, Case No. R-157, decided July 16, 1937.

tute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

2. Questions affecting commerce have arisen concerning the representation of the licensed chief, assistant, and relief engineers, and the junior engineers who hold licenses, employed by Grace Line, Inc. and by Panama Mail Steamship Company, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

DIRECTION OF ELECTIONS

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, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Grace Line, Inc. and Panama Mail Steamship Company, respectively, elections by secret ballot shall be conducted as soon as convenient and beginning as promptly as is practicable after the date of this Direction, under the direction and supervision of the Regional Director for the Second Region, acting in the 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:

1. Among the licensed chief, assistant, and relief engineers, and the junior engineers who hold licenses who were employed as licensed chief, assistant, or relief engineers, or as junior engineers on vessels operated by Grace Line, Inc. or Panama Mail Steamship Company at any time between September 28, 1936, the date of the filing of the petition, and November 13, 1936, the date of the original Direction of Election in this case, and who make the round trip voyage, at the conclusion of which the election will be held, as licensed chief, assistant, or relief engineers, or junior engineers, on vessels operated by Grace Line, Inc.; and

2. Among the licensed chief, assistant, and relief engineers, and the junior engineers who hold licenses, who were employed as licensed chief, assistant, or relief engineers, or junior engineers on vessels operated by Grace Line, Inc. or Panama Mail Steamship Company at any time between September 28, 1936, the date of the filing of the petition, and November 13, 1936, the date of the original Direction of Election in this case, and who make the round trip voyage, at the conclusion of which the election will be held, as licensed chief, assist-

ant, or relief engineers, or junior engineers, on vessels operated by Panama Mail Steamship Company;

to determine whether they desire to be represented by Marine Engineers' Beneficial Association, or United Licensed Officers of the United States of America or International Union of Operating Engineers, for the purposes of collective bargaining.

MR. EDWIN S. SMITH took no part in the consideration of the above Amendment of Decision and Direction of Elections.