

In the Matters of WILLIAMS DIMOND & COMPANY, BANNING CONSOLIDATED STEVEDORING COMPANY, AMERICAN-HAWAIIAN STEAMSHIP COMPANY, LUCKENBACH STEAMSHIP COMPANY, INC., SWAYNE & HOYT, LTD., MCCORMICK STEAMSHIP COMPANY, HAMMOND SHIPPING COMPANY, LTD., W. R. GRACE & COMPANY, OUTER HARBOR DOCK & WHARF COMPANY, INNER HARBOR TERMINAL COMPANY, PACIFIC PORT SERVICE CORPORATION, PINKERTON NATIONAL DETECTIVE AGENCY AND PATROL SERVICE and PORT WATCHMAN, LOCAL No. 137

Cases Nos. R-130 to R-141, inclusive

Decided May 24, 1937

Water Transportation Industry—Election Ordered: controversy concerning representation of employees—refusal by employer to recognize and negotiate with union as bargaining agency; majority status disputed by employer—question affecting commerce: confusion and unrest among employees; strike threatened—*Unit Appropriate for Collective Bargaining:* occupational differences; wage differentials; no controversy as to—*Certification of Representatives.*

Mr. Ralph T. Seward for the Board.

Young, Lillick, Olson & Kelly, by *Mr. H. R. Kelly*, for American-Hawaiian Steamship Company, Luckenbach Steamship Company, General Steamship Corporation, Ltd., and Matson Navigation Company.

Young, Lillick, Olson & Kelly, by *Mr. Edward R. Young*, for American Lumber & Treating Company.

Mr. C. B. McElroy for E. K. Wood Lumber Company.

Mr. M. A. Richley for McCormick Steamship Company and Inner Harbor Terminal Company.

Mr. D. B. Turner for Banning Consolidated Stevedoring Company and Interocean Steamship Company.

Mr. John E. Marshall for John E. Marshall, Inc.

Mr. H. C. Smith for Williams Dimond & Company.

Mr. F. R. Johnston for American Lumber & Treating Company.

Mr. Rex Clark for Consolidated Lumber Company.

Mr. J. B. Buck for W. R. Grace & Company.

Mr. J. B. Banning, Jr. for Matson Navigation Company.

Mr. S. M. Haskins for Pinkerton National Detective Agency & Patrol Service.

Mr. Morgan Huntoon for Swayne & Hoyt, Ltd.

Mr. H. R. Dorr for Pacific Port Service Corporation.

Mr. G. C. Cable and *Mr. J. K. Horton* for Hammond Shipping Company, Ltd.

Mr. E. J. Buffalo and *Mr. P. P. Linnartz* for the Union.
Mr. Aaron W. Warner and *Mary Lemon Schleifer*, of counsel to the Board.

DECISION

STATEMENT OF CASE

On February 15, March 9, and March 15, 1937, Port Watchmen, Local No. 137, hereinafter referred to as the Union, filed petitions with the Regional Director for the Twenty-first Region (Los Angeles, California) alleging that a question affecting commerce had arisen concerning the representation of the watchmen employed by Williams Dimond & Company,¹ Banning Consolidated Stevedoring Company,¹ American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc.,¹ Swayne & Hoyt, Ltd.,¹ McCormick Steamship Company, Hammond Shipping Company, Ltd., W. R. Grace & Company,¹ Outer Harbor Dock & Wharf Company, Inner Harbor Terminal Company, Pacific Port Service Corporation, and Pinkerton National Detective Agency and Patrol Service, hereinafter referred to collectively as the Companies, all located in Los Angeles, San Pedro, or Wilmington, California, and requesting investigations and certifications of representatives pursuant to Section 9 (c) of the National Labor Relations Act (49 Stat. 449), hereinafter referred to as the Act.² On March 11 and March 16, 1937, respectively, the National Labor Relations Board, hereinafter referred to as the Board, duly authorized the Regional Director for the Twenty-first Region to conduct investigations and provide for appropriate hearings in connection therewith. By order of the Board, all of the above named cases were consolidated for the purpose of hearing. On March 17, the Regional Director issued and duly served notices on each of the Companies of a hearing to be held on March 24 at Los Angeles, California. The date of the hearing was subsequently postponed to April 1, 1937, by order of the Regional Director.

Pursuant to the notices of hearing contained in the order postponing the date of hearing, which was duly served upon all the Companies and upon the Union, a hearing was held before Maurice

¹ The name of the Company was incorrectly stated in the petition, and was amended at the hearing.

² Petitions concerning the following companies were also filed: Panama Pacific Line, Norton Lilly & Company, Interocean Steamship Corporation, Dollar Steamship Lines, Inc., General Steamship Corporation, Matson Navigation Company, Kerckhoff & Cuzner Lumber Company, Hammond Lumber Company, Consolidated Lumber Company, Patten-Blinn Lumber Company, John E. Marshall, Inc., Gripper & Haglund Lumber Company, Barber Steamship Lines, Inc., Dodwell & Company, Ltd., Furness Pacific, Ltd., Marine Terminals Corporation, P. F. Soto Shipping Company, Ltd., Sudden Christensen, American Lumber & Treating Company, and E. K. Wood Lumber Company. These petitions were all withdrawn by the Union prior to or at the hearing, with the exception of the petition in the case of Matson Navigation Company, which was withdrawn subsequent to the hearing, on April 13, 1937.

Howard, the Trial Examiner duly designated by the Board, in Los Angeles, California, on April 1, 2, and 5, 1937. The Union and all of the Companies, with the exception of the Outer Harbor Dock & Wharf Company,³ 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. The Board has reviewed the conduct of the hearing and the rulings of the Trial Examiner and finds that no prejudicial errors were committed.

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

FINDINGS OF FACT

I. THE COMPANIES

The Companies involved in this proceeding may be divided into four groups according to their activities. These are as follows:

1. Those directly engaged in the transportation of freight in interstate and foreign commerce in vessels which dock at Los Angeles, California. This category includes American-Hawaiian Steamship Company (a Delaware corporation), Luckenbach Steamship Company, Inc. (a New Jersey corporation), Swayne & Hoyt, Ltd. (a Nevada corporation), McCormick Steamship Company (a California corporation), Hammond Shipping Co., Ltd. (a California corporation), and W. R. Grace & Co. (a West Virginia corporation).

2. Those engaged in the loading and unloading of freight transported in vessels engaged in interstate and foreign commerce, at docks at Los Angeles, California. This category includes Banning Consolidated Stevedoring Company (a California corporation), Outer Harbor Dock & Wharf Company (a California corporation), Inner Harbor Terminal Company (a California corporation), and Pacific Port Service Corporation (a Delaware corporation).

3. Williams Dimond & Company, a California corporation, engaged in the business of representing steamship companies as agents and brokers. In connection with such activities, it performs services necessitating the employment of watchmen on the docks of Los Angeles, California, for the account of steamship companies engaged in interstate and foreign commerce.

4. Pinkerton National Detective Agency and Patrol Service, engaged in the business of furnishing watchmen and guards to various shipping companies having docks at Los Angeles, California, for the purpose of patrolling the docks and guarding freight loaded and unloaded from vessels engaged in interstate and foreign commerce.

³ Although not represented at the hearing, this Company answered a questionnaire prepared by the Regional Attorney for the Board, and sent a letter containing relevant information, for introduction in evidence.

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

II. THE UNION

Port Watchmen, Local No. 137, a local of the Building Service Employees' International Union, is a labor organization affiliated with the American Federation of Labor. It was organized and received a charter from the Building Service Employees' International Union on May 15, 1936. This charter was subsequently withdrawn and a second charter issued on August 24, 1936, which altered the name of the local from Port Watchmen Local No. 137 to Building Service Employees Local No. 137.⁴ The Union has jurisdiction over all workers engaged in building service activities not under the jurisdiction of other locals of the International, and has a membership of approximately 167 watchmen.

III. QUESTION CONCERNING REPRESENTATION

The Union has on frequent occasions attempted to bargain collectively with the Companies for the purpose of arriving at an agreement covering the wages and conditions of employment of the employees who were members of the Union. On or about June 4, 1936, it sent a letter to the Los Angeles Steamship Association as the representative of the Companies, but was notified that this organization was not authorized to deal in labor matters. The Union then attempted unsuccessfully to negotiate with the Waterfront Employers Association of Southern California, hereinafter referred to as the Association. The initial requests to the Association by the Union for a conference, extending over a period from June 9 to early in August, 1936, were refused on the ground that the Association was in the process of organization and was not ready to bargain. The secretary-treasurer of the Association, E. Nichols, then specified a date on which the Association would be ready to negotiate. On that date, however, he notified the Union that several of the officers of the Association were away on their summer vacations, and that he would arrange a conference on their return. The Union thereupon filed charges with the Board, alleging that the Companies had refused to bargain collectively with the Union as the representative of their employees. These charges were later withdrawn, and petitions similar to those filed herein were filed in their place. These petitions

⁴ The Union has retained the designation of Port Watchmen, Local No. 137, in the proceedings herein. This designation will be retained in the Decision, inasmuch as it describes the nature of the work of the employees involved.

were also withdrawn because of the general maritime strike on the Pacific coast.

On December 12, 1936, the Union again undertook to enter into negotiations with the Association. Nichols replied that he would endeavor to place the matter before the board of directors of the Association at its next meeting on December 18. Finally, on February 24, 1937, after further inquiry from the Union, and after the filing of the petitions in these cases, Nichols notified the Union that, in the opinion of the board of directors, the Association could not enter into negotiations with the Union until it was determined which employees desired to be represented by the Union for the purposes of collective bargaining. On February 25, the Union replied that it wished to bargain on behalf of the steady watchmen employed by the Companies which were members of the Association,⁵ and that it represented 85 per cent of such watchmen in the Los Angeles Harbor. However, the efforts of the Union were of no avail, and on March 5, after further correspondence, the Union received word from Nichols that negotiations would have to be conducted individually with each steamship line rather than through a committee appointed by the Association.

During the period above described, the Union also attempted to negotiate with several of the individual Companies,⁶ but was led in each instance to believe that such matters were dealt with through the Association. When questioned at the hearing as to whether they would now negotiate with the Union, many of the Companies testified they would do so if it were demonstrated through an election that a majority of the watchmen in their employ had designated the Union as their representative for that purpose.

There was evidence at the hearing that the long delay in the negotiations between the Union and the Companies has been the cause of unrest among the employees who are members of the Union. On March 18, 1937, at a meeting of the Union, a motion was made and unanimously passed that a strike vote should be taken on March 25. The taking of the strike vote was delayed because of the expressed willingness of certain of the Companies to bargain collectively,⁷ and was never accomplished.

⁵ The following companies named in the petitions are members of the Association: Banning Consolidated Stevedoring Company, American-Hawaiian Steamship Company, Hammond Shipping Company Ltd. and W R Grace & Company. The following companies are not members of the Association: Williams Dimond & Company, Pacific Port Service Corporation, and Pinkerton National Detective Agency and Patrol Service. There was no evidence as to the membership of the remaining companies.

⁶ These included the Luckenbach Steamship Company Inc, Marine Terminal Corporation, Williams Dimond & Company, and Outer Harbor Dock & Wharf Company, and also Dollar Steamship Lines, Inc, which is not here involved.

⁷ These include many of the Companies in whose cases the petitions have been withdrawn by the Union.

The Union claims to represent a majority of the watchmen employed by all of the Companies with the exception of the Pinkerton National Detective Agency and Patrol Service. Of the 65 or 70 watchmen employed by this Company, the Union claims to represent only five, and has testified that it makes no claim in respect to the representation of the remainder. Under the circumstances, we find that no question exists in regard to the representation of the watchmen employed by the Pinkerton National Detective Agency and Patrol Service, and will accordingly dismiss the petition as to it.

We find that a question has arisen concerning the representation of the watchmen employed by the remainder of the Companies which tends to lead to labor disputes burdening and obstructing commerce and transportation among the several States and between the several States and foreign countries, and the free flow of such commerce and transportation. An election by secret ballot is a suitable method of resolving the controversy in these cases.

IV. THE APPROPRIATE UNIT

Three types of watchmen are employed in guarding the property of the Companies:

1. Steady watchmen employed directly by the Company whose property they protect, and generally paid on a monthly basis. Their work chiefly consists of safeguarding the cargo resting in sheds and warehouses at the docks, watching for fires, and guarding against trespassers.

2. Extra, steady watchmen employed directly by the Company, but working only part time. In most cases they have worked for the same employer for a number of years and are subject to call whenever needed.

3. Extra watchmen not employed directly by the Company, but generally furnished through an agency such as the Pinkerton National Detective Agency and Patrol Service. They work on a shift or hourly basis, and rotate among the docks, watching gangways, cargo holds, etc., while ships are at dock.

The Union claims that the steady and extra, steady watchmen employed by each of the Companies constitute an appropriate unit for the purposes of collective bargaining. The Companies have not contested this claim. The two types of employees designated by the Union are clearly distinguishable from the extra watchmen by reason of differences in their duties, tenure, and manner of employment. Furthermore, this distinction is well recognized in the industry, and most of the Companies in whose cases the petitions have been withdrawn have consented to negotiate with the Union on behalf of the steady and extra, steady watchmen in accordance with the Union's request.

We find, therefore, in order to insure to the employees the full benefit of their right to self-organization and to collective bargaining and otherwise to effectuate the policies of the Act, that the steady and extra, steady watchmen employed by each of the Companies, with the exception of the Pinkerton National Detective Agency and Patrol Service, 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.⁸

THE ELECTION

Since the election must be held among the employees of each Company, it will be left to the discretion of the Regional Director to determine the day on which each of these elections shall be held within the period designated by the Board. In the case of each Company, all watchmen within the unit above described who were employed by the companies at any time between March 15, 1937, and the date of the Direction in this matter are 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 steady and extra, steady watchmen employed by each of the Companies herein involved, with the exception of the Pinkerton National Detective Agency and Patrol Service, 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 steady and extra, steady watchmen employed, respectively, by Williams Dimond & Company, Banning Consolidated Stevedoring Company, American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., Swayne & Hoyt, Ltd., McCormick Steamship Company, Hammond Shipping Company, Ltd., W. R. Grace & Company, Outer Harbor Dock & Wharf Company, Inner Harbor Terminal Company, and Pacific Port Service Corporation, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7), of the National Labor Relations Act.

⁸ In *Matter of Luckenbach Steamship Company, Inc. et al.*, Case No. R-41, decided August 31, 1936 (*supra*, p. 181), under somewhat different circumstances, we found the appropriate unit to comprise not only the watchmen, but also a group of miscellaneous dock workers, including baggagemen and porters, storemen, gearmen, linemen, sliders, janitors and sweepers, and others. These types of employees were not involved in the present proceedings.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY DIRECTED, as part of the investigations 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 Twenty-first 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 steady and extra, steady watchmen employed, respectively, by Williams Dimond & Company, Banning Consolidated Stevedoring Company, American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., Swayne & Hoyt, Ltd., McCormick Steamship Company, Hammond Shipping Company, Ltd., W. R. Grace & Company, Outer Harbor Dock & Wharf Company, Inner Harbor Terminal Company, and Pacific Port Service Corporation, to determine whether they wish to be represented by Port Watchmen, Local No. 137, for the purposes of collective bargaining; and

IT IS HEREBY ORDERED that the petition concerning the Pinkerton National Detective Agency and Patrol Service be, and hereby is, dismissed.

[SAME TITLE]

AMENDMENT OF DIRECTION OF ELECTION

June 12, 1937

The Board having found, on May 24, 1937, that a question affecting commerce had arisen concerning the representation of the steady and extra, steady watchmen employed, respectively, by Williams Dimond & Company, Banning Consolidated Stevedoring Company, American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., Swayne & Hoyt, Ltd., McCormick Steamship Company, Hammond Shipping Company, Ltd., W. R. Grace & Company, Outer Harbor Dock & Wharf Company, Inner Harbor Terminal Company, and Pacific Port Service Corporation, and

It now appearing that Williams Dimond & Company has entered

into an agreement with Port Watchmen, Local No. 137, as the exclusive representative of the steady and extra, steady watchmen in its employ, it is hereby

DIRECTED that the Direction of Election issued by the Board on May 24, 1937, be, and hereby is, amended by striking therefrom the name of Williams Dimond & Company; and it is hereby further

DIRECTED that in all other respects the Decision and Direction of Election issued by the Board on May 24, 1937, shall remain in full force and effect.

IT IS HEREBY ORDERED that the petition concerning Williams Dimond & Company, be, and hereby is, dismissed.

[SAME TITLE]

CERTIFICATION OF REPRESENTATIVES

July 14, 1937

On February 15, March 9, and March 15, 1937, Port Watchmen, Local No. 137, hereinafter referred to as the Union, filed petitions with the Regional Director for the Twenty-first Region (Los Angeles, California), alleging that questions affecting commerce had arisen concerning the representation of the watchmen employed by Williams Dimond & Company, Banning Consolidated Stevedoring Company, American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., Swayne & Hoyt, Ltd., McCormick Steamship Company, Hammond Shipping Company, Ltd., W. R. Grace & Company, Outer Harbor Dock & Wharf Company, Inner Harbor Terminal Company, Pacific Port Service Corporation, and Pinkerton National Detective Agency & Patrol Service, hereinafter referred to collectively as the Companies, all located in Los Angeles, San Pedro, or Wilmington, California, and requesting investigations and certifications of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, hereinafter referred to as the Act.¹ On March 11 and March 16, 1937, respectively, the National Labor Relations Board, hereinafter referred to as the Board, duly authorized the Regional Director for the Twenty-first Region to conduct investigations and provide for ap-

¹ Petitions concerning the following companies were also filed: Panama Pacific Line, Norton Lilly & Company, Interocean Steamship Corporation, Dollar Steamship Lines, Inc., General Steamship Corporation, Matson Navigation Company, Kerckhoff & Cuzner Lumber Company, Hammond Lumber Company, Consolidated Lumber Company, Patten-Bhnn Lumber Company, John E. Marshall, Inc., Gripper & Haglund Lumber Company, Barber Steamship Lines, Inc., Dodwell & Company, Ltd., Furness Pacific, Ltd., Marine Terminals Corporation, P. F. Soto Shipping Company, Ltd., Sudden Christensen, American Lumber & Treating Company, and E. K. Wood Lumber Company. These petitions were all withdrawn by the Union prior to or at the hearing, with the exception of the petition in the case of Matson Navigation Company, which was withdrawn subsequent to the hearing, on April 13, 1937.

propriate hearings in connection therewith. By order of the Board, all of the above named cases were consolidated for the purpose of hearing. Pursuant to notice duly served on all the parties, a hearing was held on April 1, 2, and 5, 1937 at Los Angeles, California before Maurice Howard, the Trial Examiner duly designated by the Board.

On May 24, 1937, the Board issued a Decision and Direction of Election in which it directed that elections be held among the steady and extra steady watchmen employed, respectively, by Williams Dimond & Company, Banning Consolidated Stevedoring Company, American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., Swayne & Hoyt, Ltd., McCormick Steamship Company, Hammond Shipping Company, Ltd., W. R. Grace & Company, Outer Harbor Dock & Wharf Company, Inner Harbor Terminal Company, and Pacific Port Service Corporation, to determine whether they wish to be represented by Port Watchmen, Local No. 137, for the purposes of collective bargaining.² On June 12, 1937, the Board issued an Amendment of Direction of Election, in which it ordered that the petition concerning Williams Dimond & Company be dismissed.

On June 30, 1937 the Regional Director for the Twenty-first Region, acting pursuant to Article III, Section 9 of National Labor Relations Board Rules and Regulations—Series 1, as amended, filed Intermediate Reports on the elections held pursuant to the Amendment of Direction of Election, and certified that the results of balloting were as follows:

BANNING CONSOLIDATED STEVEDORING COMPANY

1. Total number eligible to vote.....	10
2. Total number ballots cast.....	9
3. Total number blank ballots.....	0
4. Total number void ballots.....	0
5. Total number ballots for Union.....	9
6. Total number ballots against Union.....	0

AMERICAN-HAWAIIAN STEAMSHIP COMPANY

1. Total number eligible to vote.....	14
2. Total number ballots cast.....	10
3. Total number blank ballots.....	0
4. Total number void ballots.....	0
5. Total number ballots for Union.....	9
6. Total number ballots against Union.....	1

² The petitions concerning the Pinkerton National Detective Agency and Patrol Service were dismissed.

LUCKENBACH STEAMSHIP COMPANY, INC.

1. Total number eligible to vote.....	9
2. Total number ballots cast.....	9
3. Total number blank ballots.....	0
4. Total number void ballots.....	0
5. Total number ballots for Union.....	9
6. Total number ballots against Union.....	0

SWAYNE & HOYT, LTD.

1. Total number eligible to vote.....	4
2. Total number ballots cast.....	4
3. Total number blank ballots.....	0
4. Total number void ballots.....	0
5. Total number ballots for Union.....	3
6. Total number ballots against Union.....	1

M'CORMICK STEAMSHIP COMPANY

1. Total number eligible to vote.....	8
2. Total number ballots cast.....	6
3. Total number blank ballots.....	0
4. Total number void ballots.....	0
5. Total number ballots for Union.....	6
6. Total number ballots against Union.....	0

HAMMOND SHIPPING COMPANY, LTD.

1. Total number eligible to vote.....	3
2. Total number ballots cast.....	1
3. Total number blank ballots.....	0
4. Total number void ballots.....	0
5. Total number ballots for Union.....	1
6. Total number ballots against Union.....	0

W. R. GRACE & COMPANY

1. Total number eligible to vote.....	2
2. Total number ballots cast.....	2
3. Total number blank ballots.....	0
4. Total number void ballots.....	0
5. Total number ballots for Union.....	1
6. Total number ballots against Union.....	1

OUTER HARBOR DOCK & WHARF COMPANY

1. Total number eligible to vote.....	3
2. Total number ballots cast.....	3
3. Total number blank ballots.....	0
4. Total number void ballots.....	0
5. Total number ballots for Union.....	3
6. Total number ballots against Union.....	0

INNER HARBOR TERMINAL COMPANY

1. Total number eligible to vote.....	2
2. Total number ballots cast.....	2
3. Total number blank ballots.....	0
4. Total number void ballots.....	0
5. Total number ballots for Union.....	2
6. Total number ballots against Union.....	0

PACIFIC PORT SERVICE CORPORATION

1. Total number eligible to vote.....	5
2. Total number ballots cast.....	5
3. Total number blank ballots.....	0
4. Total number void ballots.....	0
5. Total number ballots for Union.....	5
6. Total number ballots against Union.....	0

No exceptions to the conduct of the election or to the Intermediate Report have been filed by any of the parties.

In Banning Consolidated Stevedoring Company, American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., Swayne & Hoyt, Ltd., McCormick Steamship Company, Outer Harbor Dock & Wharf Company, Inner Harbor Terminal Company, and Pacific Port Service Corporation, the Union having been chosen by a majority of those who voted, as well as a majority of those eligible to vote, is, by virtue of Section 9 (a) of the Act, the exclusive representative of the steady and extra steady watchmen employed by these companies, and we will so certify. In Hammond Shipping Company, Ltd., although three persons were eligible to vote, only one vote was cast. Since the one vote which was cast was for the Union, we will certify the Union on the principle established in prior decisions that the majority of the employees referred to in the Act is a majority of those participating in the election.³

In W. R. Grace & Company, the Union received only one of the two votes cast, and no certification is, therefore, possible.

CERTIFICATION OF REPRESENTATIVES

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,

³ *Matter of R. C. A. Manufacturing Company, Inc and United Electrical & Radio Workers of America*, Case No. R-39, Certification of Representatives issued November 7, 1936 (*supra*, p 168).

IT IS HEREBY CERTIFIED that Port Watchmen, Local No. 137, has been selected by a majority of the steady and extra steady watchmen employed, respectively, by Banning Consolidated Stevedoring Company, American-Hawaiian Steamship Company, Luckenbach Steamship Company, Inc., Swayne & Hoyt, Ltd., McCormick Steamship Company, Hammond Shipping Company, Ltd., Outer Harbor Dock & Wharf Company, Inner Harbor Terminal Company, and Pacific Port Service Corporation, 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, Port Watchmen, Local No. 137, is the exclusive representative of the steady and extra steady watchmen employed by each of said companies, respectively, for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

The petition to certify representatives of the steady and extra steady watchmen employed by W. R. Grace & Company is hereby denied.