

In the Matter of AMERICAN FRANCE LINE *et al.* (AMERICAN SCANTIC LINE, INC., AMERICAN SOUTH AFRICAN LINE, INC., AMERICAN STEAMSHIP COMPANY, AMERICAN SUGAR TRANSIT CORPORATION, AMERICAN WEST AFRICAN LINE, INC., ANCHOR LINE, LIMITED, ARGONAUT LINE, INC., THE ATLANTIC & CARIBBEAN STEAM NAVIGATION COMPANY, ATLANTIC GULF AND WEST INDIES STEAMSHIP LINES, THE ATLANTIC REFINING COMPANY, BALTIMORE & CAROLINA LINE, INC., BALTIMORE-INSULAR LINE, INC., BALTIMORE MAIL STEAMSHIP COMPANY, A. H. BULL STEAMSHIP COMPANY, CALMAR STEAMSHIP CORPORATION, CITIES SERVICE OIL COMPANY, COLONIAL NAVIGATION COMPANY, CONTINENTAL STEAMSHIP COMPANY, EASTERN STEAMSHIP LINES, INC., THE EXPORT STEAMSHIP CORPORATION, GRACE LINE, INC., GULF OIL CORPORATION, ISTHMIAN STEAMSHIP COMPANY, KELLOGG STEAMSHIP CORPORATION, LYKES BROTHERS RIPLEY STEAMSHIP COMPANY, INC., MERCHANTS & MINERS TRANSPORTATION COMPANY, MISSISSIPPI SHIPPING COMPANY, MOORE & MCCORMACK COMPANY, INC., MOOREMACK GULF LINES, INC., MUNSON STEAMSHIP COMPANY, NEWTEX STEAMSHIP CORPORATION, NEW YORK & CUBA MAIL STEAMSHIP COMPANY, THE NEW YORK & PORTO RICO STEAMSHIP COMPANY, ORE STEAMSHIP CORPORATION, PANAMA RAILROAD COMPANY STEAMSHIP LINE, PENNSYLVANIA SHIPPING COMPANY, PETROLEUM NAVIGATION COMPANY, THE PURE OIL COMPANY, RICHFIELD OIL COMPANY, SEAS SHIPPING COMPANY, INC., SEATRAN LINES, INC., SHEPARD STEAMSHIP COMPANY, SINCLAIR NAVIGATION COMPANY, SOCONY-VACUUM OIL COMPANY, SOUTH ATLANTIC STEAMSHIP COMPANY, SOUTHERN PACIFIC COMPANY, SOUTHERN STEAMSHIP COMPANY, SOUTHGATE NELSON COMPANY, STANDARD FRUIT & STEAMSHIP COMPANY, STANDARD OIL COMPANY OF NEW JERSEY, SUN OIL COMPANY, SWORD STEAMSHIP LINE, INC., TAMPA INTER-OCEAN STEAMSHIP COMPANY, TANKERS CORPORATION, TIDE-WATER ASSOCIATION OIL COMPANY, UNITED FRUIT COMPANY, WATERMAN STEAMSHIP CORPORATION) *and* INTERNATIONAL SEAMEN'S UNION OF AMERICA

Case No. R-157.—Decided July 16, 1937

Water Transportation Industry—Election Ordered: prior collective agreements no bar to holding; controversy concerning representation of employees—rival organizations; substantial doubt as to majority status—question affecting commerce: employees directly engaged in interstate commerce—*Unit Appro-*

priate for Collective Bargaining: eligibility for membership in both rival organizations; established labor organizations in industry; unlicensed personnel.

Mr. David A. Moscovitz for the Board.

Hunt, Hill & Betts, by *Mr. John W. Crandall*, of New York City, for American Diamond Lines.

Mr. Thomas A. Parfitt, of New York City, for American Tankers Corporation.

Mr. Ira A. Campbell, of New York City, for American Scantic Line, Inc., American South African Line, Inc., American Sugar Transit Corporation, American West African Line, Inc., Argonaut Line, Inc., The Atlantic & Caribbean Steam Navigation Company, Atlantic Gulf and West Indies Steamship Lines, Baltimore-Insular Line, Inc., Baltimore Mail Steamship Company, A. H. Bull Steamship Company, Calmar Steamship Corporation, Clyde Mallory Lines, Colonial Navigation Company, Continental Steamship Company, Grace Line, Inc., Isthmian Steamship Company, Lykes Brothers Ripley Steamship Company, Inc., Merchants & Miners Transportation Company, Moore & McCormack Company, Inc., Mooremack Gulf Lines, Inc., Munson Steamship Company, New York & Cuba Mail Steamship Company, The New York & Porto Rico Steamship Company, Ore Steamship Corporation, Pennsylvania Shipping Company, Sinclair Navigation Company, South Atlantic Steamship Company, Southern Steamship Company, Standard Oil Company of N. J., Sword Steamship Line, Inc., Tampa Inter-Ocean Steamship Company, Tidewater Association Oil Company, United Fruit Company.

Mr. Kenneth B. Halstead, of New York City, also appearing for Isthmian Steamship Company.

Mr. David S. Jackson and *Mr. Daniel C. Colesworthy*, of New York City, for American Steamship Company.

Mr. Harry Rosenblum, of Philadelphia, Pa., for The Atlantic Refining Company.

Mr. T. Thorwald Jensen, of New York City, for Cities Service Oil Company.

Mr. J. Alfred Coates, of New York City, for Eastern Steamship Lines, Inc.

Col. Kenneth Gardner and *Mr. J. Ward O'Neill*, of New York City, for The Export Steamship Corporation.

Mr. Jeremiah J. O'Connor for Gulf Oil Corporation.

Mr. R. A. Murphy, of New York City, for Kellogg Steamship Corporation.

Mr. Denis A. Moloney for Newtex Steamship Corporation.

Mr. W. R. Pfizer, of New York City, for Panama Railroad Company Steamship Line.

Mr. Joseph V. Blake for The Pure Oil Company and Sabine Transportation Company, Inc.

Mr. James P. Deane, of New York City, for Richfield Oil Company.

Mr. Frank V. Barns, of New York City, for Seas Shipping Company, Inc.

Mr. Graham M. Brush, of New York City, for Seatrain Lines, Inc.

Mr. Otis W. Shepard, of New York City, for Shepard Steamship Company.

Mr. Austin T. Foster, of New York City, for Socony-Vacuum Oil Company.

Mr. C. L. Minor for Southern Pacific Company.

Mr. J. B. Moffett and *Mr. Layton M. Schock*, of Philadelphia, Pa., for Sun Oil Company.

Barber, Matters, Gay & Vander Clute, by *Mr. Benn Barber*, of New York City, for Waterman Steamship Corporation, and also appearing specially for Anchor Line, Ltd.

Phillips, Mahoney & Fielding, by *Mr. W. G. Goldman*, of New York City, for I. S. U.

Mr. William L. Standard, *Mr. S. M. Blinken*, and *Mr. Hyman N. Glückstein*, of New York City, for N. M. U.

Mr. Edward D. McLaughlin, of Chester, Pa., for Sun Marine Employees Association.

Mary Lemon Schleifer and *Mr. Henry W. Lehmann*, of counsel to the Board.

DECISION

STATEMENT OF CASE

On June 11, 1937, International Seamen's Union of America, herein called I. S. U., pursuant to permission granted by the National Labor Relations Board, herein called the Board, filed petitions with the Board alleging that questions affecting commerce had arisen concerning the representation of the unlicensed personnel employed, respectively, by the following companies: American France Line, American Caribbean Line, American Diamond Lines, American Export Lines, American Foreign Steamship Corporation, American Republics Line, American Scantic Line, Inc., American Steamship Company, American South African Line, Inc., American Sugar Transit Corporation, American Tankers Corporation, American West African Line, Inc., Anchor Line, Limited, Argonaut Line, Inc., The Atlantic & Caribbean Steam Navigation Company, Atlantic Gulf and West Indies Steamship Lines, The Atlantic Refining Company, Baltimore & Carolina Line, Inc., Baltimore-Insular Line, Inc.,

Baltimore Mail Steamship Company, Baltimore Steam Packet Company, Barbour Steamship Lines, Inc., A. H. Bull Steamship Company, Calmar Steamship Corporation, Cities Service Oil Company, Clyde Mallory Line, Colonial Navigation Company, Continental Steamship Company, Cosmopolitan Shipping Company, Eastern Steamship Lines, Inc., The Export Steamship Corporation, Grace Line, Inc., Gulf Oil Corporation, Isthmian Steamship Company, Kellogg Steamship Corporation, Lykes Brothers Ripley Steamship Company, Inc., Merchants & Miners Transportation Company, Mississippi Shipping Company, Moore & McCormack Company, Inc., Mooremack Gulf Lines, Inc., Munson Steamship Company, Newtex Steamship Corporation, New York & Cuba Mail Steamship Company, The New York & Porto Rico Steamship Company, Ocean Steamship Company of Savannah, Old Dominion Steamship Line, Ore Steamship Corporation, Panama Railroad Company Steamship Line, Pennsylvania Shipping Company, The Pure Oil Company, Porto Rico Line, Petroleum Navigation Company, Richfield Oil Company, Red "D" Line of Steamships, Sabin Towing Company, Savannah Line, Seas Shipping Company, Inc., Seatrain Lines, Inc., Shepard Steamship Company, Sinclair Navigation Company, Socony-Vacuum Oil Company, South Atlantic Steamship Company, Southern Pacific Company, Southern Steamship Company, Southgate Nelson Company,¹ Standard Fruit & Steamship Company, Standard Oil Company of New Jersey, Standard Navigation Company, Sun Oil Company, Sword Steamship Line, Inc., Tampa Inter-Ocean Steamship Company, Tankers Corporation, The Texas Company, Tidewater Association Oil Company, United Fruit Company, and Waterman Steamship Corporation. The petitions requested the Board to investigate and to certify representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On June 11, 1937, the Board, acting pursuant to Article III, Section 10 (c) (2) of National Labor Relations Board Rules and Regulations—Series 1, as amended, directed that the cases be consolidated for the purposes of a hearing, and, acting pursuant to Article III, Section 3 of said Rules and Regulations, ordered investigations to be conducted and an appropriate hearing to be provided for upon due notice.

Pursuant to notice of hearing duly issued by the Board and served on all the parties, a hearing was held in New York City on June 21, 1937, before Robert M. Gates, the Trial Examiner duly designated by the Board. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing, it was

¹ Erroneously called American Hampton Roads Line in the petition.

stated that American Caribbean Line, American Export Lines, American France Line, Barbour Steamship Lines, Inc., Old Dominion Steamship Line, Porto Rico Line, Red "D" Line of Steamships, and Savannah Line, are all trade names of lines operated by other companies concerning which petitions had been filed at the same time. The petitions filed concerning the American Caribbean Line, American Export Lines, American France Line, Barbour Steamship Lines, Inc., Old Dominion Steamship Line, Porto Rico Line, Red "D" Line of Steamships, and Savannah Line will, therefore, not be further considered.

It also appeared that Petroleum Navigation Company had not been served with notice of hearing, and that no one representing this company appeared at the hearing. The petition concerning this company, will, therefore, be dismissed.

The motion of counsel for American Diamond Lines that the petition concerning this company be dismissed, on the grounds that this is a line operated by Black Diamond Steamship Corporation and that elections are being held in this line pursuant to a prior direction of the Board,² was granted.

During the course of the hearing Sun Oil Company moved that the case concerning it be severed from the other companies and the Sun Marine Employees Association filed a petition to intervene. The Trial Examiner reserved decision on both motions. The motion for severance is hereby denied; the petition to intervene is hereby granted.

Many objections to the introduction of evidence were made by representatives of various parties. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

The Board, after examination of the record, feels that further investigation is necessary before rendering a decision on the petitions filed concerning American Foreign Steamship Corporation, American Republics Line, American Tankers Corporation, Baltimore Steam Packet Company, Clyde Mallory Lines, Cosmopolitan Shipping Company, Ocean Steamship Company of Savannah, Sabin Towing Company, Standard Navigation Company, and The Texas Company. The following decision deals only with the petitions filed concerning the companies listed in the caption.

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

² *Matter of International Mercantile Marine Company, Luckenbach Steamship Company, Inc., Black Diamond Steamship Corporation, and National Maritime Union of America.* Cases Nos R-144, R-145, and R-146, Decision and Direction of Election issued June 11, 1937, 2 N. L. R. B. 971

FINDINGS OF FACT

I. BUSINESS OF THE COMPANIES

American Scantic Line, Inc., American South African Line, Inc., American Steamship Company, American Sugar Transit Corporation, American West African Line, Inc., Argonaut Line, Inc., The Atlantic & Caribbean Steam Navigation Company, The Atlantic Refining Company, Baltimore-Insular Line, Inc., Baltimore Mail Steamship Company, A. H. Bull Steamship Company, Calmar Steamship Corporation, Cities Service Oil Company, Colonial Navigation Company, Continental Steamship Company, Eastern Steamship Lines, Inc., The Export Steamship Corporation, Grace Line, Inc., Gulf Oil Corporation, Isthmian Steamship Company, Kellogg Steamship Corporation, Lykes Brothers Ripley Steamship Company, Inc., Merchants & Miners Transportation Company, Mississippi Shipping Company, Moore & McCormack Company, Inc., Mooremack Gulf Lines, Inc., Munson Steamship Company, Newtex Steamship Corporation, New York & Cuba Mail Steamship Company, The New York & Porto Rico Steamship Company, Ore Steamship Corporation, Panama Railroad Company Steamship Line, Pennsylvania Shipping Company, The Pure Oil Company, Richfield Oil Company, Seas Shipping Company, Inc., Seatrain Lines, Inc., Shepard Steamship Company, Sinclair Navigation Company, Socony-Vacuum Oil Company, South Atlantic Steamship Company, Southern Pacific Company, Southern Steamship Company, Southgate Nelson Company, Standard Fruit & Steamship Company, Standard Oil Company of New Jersey, Sun Oil Company, Sword Steamship Line, Inc., Tampa Inter-Ocean Steamship Company, Tidewater Association Oil Company, United Fruit Company, and Waterman Steamship Corporation, herein called the Companies, are engaged in operating vessels³ in interstate and/or foreign commerce.

Anchor Line, Limited, is engaged only in the operation of vessels under British registry.

Atlantic Gulf and West Indies Steamship Lines is the owner of but one vessel, which at the present time is under charter to New York & Cuba Mail Steamship Company.

Baltimore & Carolina Line, Inc., is, at the present time, inactive and operating no vessels.

Tankers Corporation is not engaged in operating any steamship line or, at the present time, any vessels of American registry.

We find that the Companies are engaged in traffic, transportation, and commerce among the several States and/or between the United

³ The word "vessel" is intended, throughout this Decision, to include barges and tugs even when operated in harbors only.

States and foreign countries, and that the men engaged in the operation of the vessels of the Companies are directly engaged in such traffic, transportation, and commerce.

II. THE UNIONS INVOLVED

I. S. U. is a labor organization affiliated with the American Federation of Labor. It admits to membership all seamen in deck, engine, and stewards' departments who are not required by the United States Bureau of Marine Inspection and Navigation to hold licenses.

National Maritime Union of America, herein called N. M. U., is a labor organization which was formed on May 8, 1937. It is an independent organization not affiliated with any other labor organization. Its membership consists of the same classes of persons which are eligible to membership in I. S. U.

III. QUESTION CONCERNING REPRESENTATION

In the petitions which were filed, and again at the hearing, I. S. U. claimed that a majority of the unlicensed personnel employed by the Companies desire I. S. U. to represent them. N. M. U. denies that this is so, but alleges on the contrary that a majority of these employees desire N. M. U. to represent them. Most of the Companies, through their representatives at the hearing, admitted the existence of a controversy between these two unions, and expressed a desire that the Board resolve the controversy by holding elections.

We find that questions have arisen concerning the representation of the unlicensed personnel employed by each of the Companies, respectively, and that such questions tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

The questions which have arisen concerning the representation of the unlicensed personnel employed on vessels operated by the Companies can best be resolved by the holding of elections by secret ballot to determine which of these organizations the employees involved desire to represent them.

IV. THE APPROPRIATE UNIT

Both I. S. U. and N. M. U. contend that the entire personnel in the deck, engine, and stewards' departments who are not required to hold licenses by the United States Bureau of Marine Inspection and Navigation constitute, in the case of each of the Companies, a unit appropriate for the purposes of collective bargaining.

The Board believes that there are certain employees not required to hold licenses who, for various reasons, should not be included in this unit. These employees are wireless and radio operators who

hold licenses issued by the Federal Communications Commission; chief electricians on board electrically driven boats who, according to testimony received at the hearing, are required to be highly trained and who occupy positions, at salaries, comparable with those of licensed first assistant engineers; and junior engineers who hold licenses, who are eligible for membership in unions comprised of licensed personnel, which unions have in the past acted as their representative for purposes of collective bargaining.

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, we find that the unlicensed personnel employed in the deck, engine, and stewards' departments, except wireless and radio operators, chief electricians on electrically driven ships, and junior engineers who hold licenses, of each of the Companies, respectively, 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.

V. THE EXISTING CONTRACTS

I. S. U. and N. M. U. each have contracts with various companies included in this case. By filing these petitions we believe I. S. U. has waived its rights to assert the existence of these contracts as a bar to elections. Similarly, the filing of petitions by N. M. U. in *Matter of International Mercantile Marine et al.* and *National Maritime Union of America*⁴, precludes any assertion of rights under contracts which it has made with any of these companies.

The record also shows that several of the other Companies are operating under contracts either made directly with their employees or with other representatives of their employees. We believe that under the present condition of unrest in the maritime industry along the Atlantic and Gulf Coasts, the existence of such contracts should not preclude the holding of elections.

VI. THE SUN OIL COMPANY

The petition for intervention filed by Sun Marine Employees Association, herein called the Association, states that in a recent election held among the employees of the Sun Oil Company, a majority of the employees chose the Association as their representative for collective bargaining. Since such a labor organization exists among the employees of this company we will direct that the Association be put on the ballot used in the election among the employees of the Sun Oil Company.

⁴ *Supra*, footnote 2.

VII. CONDUCT OF ELECTIONS

We will direct these elections to be held as soon as possible under the direction and supervision of the Regional Director for the Second Region, who shall determine in her discretion the exact time, place, and procedure for posting notices of election and for balloting on each ship, provided, however, that each vessel will be posted with a notice of election, a sample ballot, a list of employees eligible to vote, and a notice of the time and place where balloting will be conducted, at some port of call in the United States prior to the port where balloting is conducted, or, in the event the ship is to be posted and voted in the same port without an intervening trip, at least 48 hours before balloting is conducted.

Those eligible to vote will be unlicensed personnel in the deck, engine, and stewards' departments, except wireless and radio operators, chief electricians on electrically driven ships, and junior engineers who hold licenses, who are employed on the ship when it is posted and who are still employed in one of these capacities at the time balloting takes place, provided, however, that if any such person be transferred from one ship to another ship of the same company during the time the election among the employees of that company is being held, he shall be entitled to vote but once.

FURTHER ACTION IN THIS CASE

The Board contemplates that other questions which are not finally disposed of by this Decision may arise in the conduct of these elections. When such questions arise, and are referred to the Board by the Regional Director as requiring further action, the Board reserves the right to take such further action, including the rendering of additional or amended decisions, as the facts require.

CONCLUSIONS OF LAW

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

1. Questions affecting commerce have arisen concerning the representation of the unlicensed personnel employed in the deck, engine, and stewards' departments of the vessels operated by the Companies, respectively, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

2. The unlicensed personnel employed in the deck, engine, and stewards' departments, except wireless and radio operators, chief electricians on electrically driven ships, and junior engineers who hold licenses, on vessels operated by each of the Companies, respec-

tively, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) 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 investigations authorized by the Board to ascertain representatives for the purposes of collective bargaining, 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 hereinabove for the conduct of such elections, 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, among the unlicensed personnel employed in the deck, engine, and stewards' departments, except wireless and radio operators, chief electricians on electrically driven ships, and junior engineers who hold licenses, on the vessels operated out of Atlantic and Gulf ports by American Scantic Line, Inc., American South African Line, Inc., American Steamship Company, American Sugar Transit Corporation, American West African Line, Inc., Argonaut Line, Inc., The Atlantic & Caribbean Steam Navigation Company, The Atlantic Refining Company, Baltimore-Insular Line, Inc., Baltimore Mail Steamship Company, A. H. Bull Steamship Company,⁵ Calmar Steamship Corporation, Cities Service Oil Company, Colonial Navigation Company, Continental Steamship Company, Eastern Steamship Lines, Inc., The Export Steamship Corporation, Grace Line, Inc., Gulf Oil Corporation, Isthmian Steamship Company, Kellogg Steamship Corporation, Lykes Brothers Ripley Steamship Company, Inc., Merchants & Miners Transportation Company, Mississippi Shipping Company, Moore & McCormack Company, Inc., Mooremack Gulf Lines, Inc., Munson Steamship Company, Newtex Steamship Corporation, New York & Cuba Mail Steamship Company, The New York & Porto Rico Steamship Company, Ore Steamship Corporation, Panama Railroad Company Steamship Line, Pennsylvania Shipping Company, The Pure Oil Company, Richfield Oil Company, Seas Shipping Company, Inc., Seatrain Lines, Inc., Shepard Steamship

⁵ With the exception of *S. S. Oatherine*.

Company, Sinclair Navigation Company, Socony-Vacuum Oil Company, South Atlantic Steamship Company, Southern Pacific Company, Southern Steamship Company, Southgate Nelson Company, Standard Fruit & Steamship Company, Standard Oil Company of New Jersey, Sword Steamship Line, Inc., Tampa Inter-Ocean Steamship Company, Tidewater Association Oil Company, United Fruit Company, and Waterman Steamship Corporation, respectively, to determine whether they desire to be represented by International Seamen's Union of America or by National Maritime Union of America, for the purposes of collective bargaining, and among the unlicensed personnel employed in the deck, engine, and stewards' departments, except wireless and radio operators, chief electricians on electrically driven ships, and junior engineers who hold licenses, on the vessels operated out of Atlantic and Gulf ports by Sun Oil Company, to determine whether they desire to be represented by International Seamen's Union of America, National Maritime Union of America, or Sun Marine Employees Association, for the purposes of collective bargaining.

The petitions concerning Anchor Line, Limited, Atlantic Gulf and West Indies Steamship Lines, Baltimore & Carolina Line, Inc., Petroleum Navigation Company, and Tankers Corporation, are hereby dismissed.

[SAME TITLE]

AMENDMENT TO DECISION

AND

SUPPLEMENTAL DECISION

August 16, 1937

Petitions having been filed on June 11, 1937, by International Seamen's Union of America, herein called I. S. U., concerning the representation of the unlicensed personnel employed on the vessels operated by the above listed companies, herein collectively called the Companies, and a hearing having been held in New York City on June 21, 1937, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Elections on July 16, 1937. The Direction of Elections directed that elections be held among the unlicensed personnel employed by each of the Companies to determine whether they wished to be represented by I. S. U. or by National Maritime Union of America, herein called N. M. U., except in the Sun Oil Company where the employees were to determine whether they wished to be represented by I. S. U., N. M. U., or the Sun Marine Employees Association.

On July 28, 1937, a petition was filed in behalf of the steamship companies represented at the hearing by Ira A. Campbell, as counsel, which requested the Board to amend its Decision by providing for a blank space on the ballot so that voters might designate representatives other than the two named labor organizations. On August 3, 11, and 12, 1937, respectively, similar petitions were filed on behalf of Seas Shipping Company, Inc., Socony-Vacuum Oil Company, and Southern Steamship Company. On August 7, 1937, N. M. U. filed an answer to the petitions, objecting to such an amendment.

We believe there is no merit in the contention of the petitioners. If any other labor organizations exist among the employees involved, such organizations should have petitioned to intervene in the case. Labor organizations which desire to compete with others in an election should be required to follow a regular procedure. Furthermore, the known organizations should be given an opportunity to show, if such in fact is the case, that such organizations are not entitled to a place on the ballot because they exist in violation of Section 8, subdivision (2) of the National Labor Relations Act, 49 Stat. 449. For these reasons, we believe we are warranted in refusing any recognition to labor organizations which are not parties to the proceeding. We, therefore, deny this request of the petitioners.

The Board of its own motion, however, believes that the Decision should be amended so as to provide an additional space on the ballot in which a voter may indicate that he does not desire either of the designated unions to represent him. We hereby amend our decision of July 16, 1937, to require that such a space be included on the ballot.

The petitions filed by some of the Companies also requested the Board to amend its Decision, by excluding employees on tugs and barges operated by the Companies. The Board has considered this request but feels that no reason appears why these employees should be excluded. This portion of the petitions is hereby denied.

On August 16, 1937, N. M. U. filed a charge with the Regional Director for the Fourth Region (Philadelphia, Pennsylvania) alleging that the Sun Oil Company, Marcus Hook, Pennsylvania, had committed unfair labor practices, within the meaning of Section 8, subdivision (2) of the National Labor Relations Act, by dominating and interfering with the formation and administration of a labor organization known as Sun Marine Employees Association and by contributing financial and other support to it. In our Decision of July 16, 1937, we directed that Sun Marine Employees Association be placed on the ballot used in the Sun Oil Company. Since it cannot be determined until after a hearing held on these charges,

whether or not Sun Marine Employees Association is entitled to a place on the ballot, we hereby order that the election to be held among the employees of the Sun Oil Company be postponed until such time as the Board issues a decision determining whether or not the Sun Oil Company is dominating and interfering with Sun Marine Employees Association and contributing financial and other support to it.

Complaints have been made to the Board and its agents that various steamship companies have granted passes to representatives of one union while denying them to the other, or that even though passes have been denied to representatives of both unions, that certain representatives have been allowed to board vessels because employees of the Company, favorable to the union which they represent, have admitted them without passes. Both of these practices constitute an interference with the elections which we have directed to be held. We, therefore, take this opportunity of serving notice on the Companies that no such preference should be shown to either one of the unions involved, in the ways above described or in any other way.

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

[SAME TITLE]

DECISION

ON

PETITIONER'S MOTION FOR FURTHER HEARING AND STAY OF ELECTIONS PENDING SUCH FURTHER HEARING

September 11, 1937

Petitions having been filed on June 11, 1937, by International Seamen's Union of America, herein called I. S. U., concerning the representation of the unlicensed personnel employed on the vessels operated by the above-listed companies, herein collectively called the Companies; and a hearing having been held in New York City on June 21, 1937, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Elections on July 16, 1937. The Direction of Elections directed that elections be held among the unlicensed personnel employed by each of the Companies to determine whether they wished to be represented by I. S. U. or by National Maritime Union of America, herein called N. M. U., except in the Sun Oil Company where the employees were to determine whether they wished to be represented by I. S. U., N. M. U., or the Sun Marine Employees Association.

On August 16, 1937, the Board issued an Amendment to Decision and Supplemental Decision which denied certain petitions, filed in behalf of the Companies, requesting the Board to amend its decision, and which ordered that the election to be held among the employees of the Sun Oil Company, one of the companies party to the proceeding, be postponed until such time as the Board issue a decision determining whether or not the Sun Oil Company is dominating and interfering with Sun Marine Employees Association and contributing financial and other support to it. The Board, however, amended its decision of July 16, 1937, to require that additional space be provided on the ballots in which a voter might indicate that he does not desire either of the designated unions to represent him.

On September 8, 1937, the I. S. U. petitioned the Board for a further hearing and for a stay of the elections pending such further hearing. The petition alleges that a current reorganization of the I. S. U. is not complete and that involved in such reorganization is a possible change in the name of the I. S. U. It is further alleged that, unless the elections are stayed, the I. S. U. will not have the opportunity to place its changed name upon the ballot, and that this would be to its disadvantage.

On September 10, 1937, the I. S. U. was given opportunity to present oral arguments on its petition to the Board. The N. M. U., as the other union whose name the Board's decision directs shall be placed on the ballot, was also given opportunity to participate in the oral argument.

The Board, after giving careful consideration to the arguments presented, and finding no sufficient reason for a further hearing, denies the motion for further hearing.

Any delay, not convincingly shown to be necessary, in the holding of these elections will serve to continue unduly the unsettled conditions which now prevail upon the waterfront. At present, none of the unions is in a position to act as the exclusive representative of the unlicensed personnel of the Companies in bargaining with the Companies. Until there has been a determination as to which organization, if either, a majority of the men desire as their representative for the purposes of collective bargaining, the Companies and their unlicensed personnel cannot benefit from the orderly processes of collective bargaining which it is the purpose of the Act to procure. The unavoidable delay incident to elections of such magnitude, and the preparation therefor, is great, and should not be augmented, especially in the light of the present unsettled state of labor relations on the waterfront, without cogent reasons therefor. We can see nothing in the fact of the pending reorganization of the I. S. U., or otherwise stated in the motion, which would warrant the postponement of the elections except for a short period of time.

The I. S. U. should be given the opportunity, if it so desires, in view of the reorganization under way, now in the hands of a committee consisting of William Green, president of the American Federation of Labor, Joseph P. Ryan, president of the International Longshoremen's Association, and Holt Ross, of the American Federation of Labor, to furnish the Board with another name to be placed on the ballot in the elections instead of International Seamen's Union of America, and time therefor should be granted. In order to afford such opportunity, the elections will not be conducted before one week from this date. If the Board receives notification of the changed name within seven days from the date of this decision, such changed name will appear on the ballot in lieu of International Seamen's Union of America; and if such name to be substituted is not received within said period of time, the name International Seamen's Union of America on the ballot will be changed to read International Seamen's Union of America, or its successor affiliated with the American Federation of Labor, so that the voters may clearly know the true situation. To the same end, the name National Maritime Union of America on the ballot will be changed to read National Maritime Union of America affiliated with the Committee for Industrial Organization. The Direction of Elections is hereby amended to include these changes.

In the Amendment to Decision and Supplemental Decision dated August 16, 1937, the Board served notice on the Companies that no preference should be shown to either one of the unions involved, in connection with the granting of passes to representatives of the unions involved, or in any other way. During the arguments on the present motion, now ruled upon, the question of passes was again brought to the attention of the Board. It was stated to the Board by counsel for the I. S. U. that the organizing activities being engaged in among the seamen by both the I. S. U. members or agents and the International Longshoremen's Association, hereinafter called the I. L. A., members or agents, were non-competitive as between said two labor organizations but, on the contrary, enured, jointly, to the benefit of the I. S. U. in its present or reorganized form as the latter may be determined by the American Federation of Labor, of which both the I. S. U. and the I. L. A. are members. In other words, it was stated that there would be but one authorized organization among the unlicensed personnel affiliated with the American Federation of Labor. For this reason it now appears clearly to the Board, notwithstanding any arrangements heretofore suggested or approved, that the Companies, in order to avoid discrimination in connection with its participation in activities leading up to and surrounding the conduct of the elections, must

refrain from the granting of an unequal number of passes to representatives of the I. S. U. and I. L. A. jointly and in the aggregate, on the one hand, and N. M. U. on the other hand; that is, no greater total number of passes should be issued to representatives who purport to be soliciting the adherence of the unlicensed personnel with any unions affiliated with the American Federation of Labor than to those soliciting the adherence of unlicensed personnel with the National Maritime Union of the Committee for Industrial Organization. We deem this essential to the fair conduct of the elections. Likewise, any arrangement under which representatives of one of the rival unions are permitted on board ship without passes, and representatives of the other rival union are denied passes and admittance must not be made. Any such arrangement is plainly a device of the employer to assist affiliation of the unlicensed personnel with one union and to discourage it with another. In order to prevent such discriminatory tactics it is necessary that employers should issue passes promptly to both sides, and in equal numbers, as above set forth, or else that passes and admittance to the ships be denied to agents or representatives of both rival unions.

The motion refers to the fact that elections have not yet been directed among the employees of ten named steamship lines, among which, it is stated, I. S. U. has strong membership. As to the strength of membership of I. S. U. among these lines the Board has no knowledge. The records made in the hearings thus far held are not sufficient under the statute to authorize the directions of elections as to these lines at this time; but this affords no sufficient reason for postponing elections among the large number of lines as to which directions of elections have been made. It is not unreasonable to assume that while the elections are being conducted, taking no doubt several months before completion, elections among other lines may be directed from time to time in accordance with the statutory procedure.

The objection, contained in the motion, to the direction heretofore made that the elections be held under the direction and supervision of the Regional Director for the Second Region, is not well taken. It is the judgment of the Board that this is the most feasible method for coordinating the volume of detail incident to the elections. The services and facilities of regional offices in other regions and ports will be utilized to the extent found desirable.

CHAIRMAN MADDEN took no part in the consideration of the above Decision.