

In the Matter of STEPHEN RANSOM, INC. and INDUSTRIAL UNION OF
MARINE AND SHIPBUILDING WORKERS OF AMERICA, LOCAL No. 13

Case No. R-530.—Decided February 28, 1938

Ship Maintenance and Repair Industry—Investigation of Representatives: controversy concerning representation of employees: rival organizations; refusal of employer to recognize petitioning union as exclusive bargaining representative; prior strike—*Unit Appropriate for Collective Bargaining:* all employees, exclusive of timekeepers, office and clerical employees, janitors and janitresses, draftsmen and engineering department employees, watchmen, and salaried persons in executive or supervisory positions who do not work with tools—*Election Ordered*

Mr. Richard Hickey, for the Board.

Mr. Arthur J. Hoffman, of New York City, for the Company.

Mr. Hyman N. Glickstein, of New York City, for the Union.

Mr. R. N. Johnson, *Mr. Abraham Fisch*, and *Mr. David E. Kleinman*, all of New York City, for the I. L. A.

Mr. D. R. Dimick, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On September 22, 1937, Industrial Union of Marine and Shipbuilding Workers of America, Local No. 13, herein called the Union, filed with the Regional Director for the Second Region (New York City) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Stephen Ransom, Inc., New York City, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On October 25, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On December 7, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon

the Union, upon the International Longshoremen's Association, and upon the Marine Workers Metal Trades District Council. Subsequently, International Longshoremen's Association, Local No. 1474, herein called the I. L. A., a labor organization claiming to represent employees directly affected by the investigation, received notice of the hearing. Pursuant to the notice, a hearing was held on December 15, 1937, at New York City, before H. R. Korey, the Trial Examiner duly designated by the Board. The Board, the Union, and the I. L. A. were represented by counsel, and the Company was represented by its president. All participated in the hearing. The Marine Workers Metal Trades District Council, which was served with notice of the hearing, did not appear or participate in the proceeding. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. After a few preliminary matters were discussed the hearing, upon consent of the parties, was adjourned until December 20, 1937. During the course of the hearing on December 20, 1937, a motion was made by the Union to amend the petition so that the bargaining unit claimed to be appropriate by the petitioner would include "all workers . . . with the exception of salaried persons in executive or supervisory positions who do not work with tools, timekeepers, office and clerical employees, janitors and janitresses, draftsmen and engineering department employees." The motion was granted, and the ruling of the Trial Examiner thereon is hereby affirmed. No other motions or objections to the admission of any evidence were made at the hearing.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Stephen Ransom, Inc., is a corporation organized under the laws of the State of New York in 1921, having its plant and office located in New York City. The Company is engaged in the business of repairing ships. It repairs mainly vessels which are docked at steamship company piers in the New York harbor, and a small percentage on the New Jersey shore. Approximately 78 per cent of the vessels so repaired by the Company are ocean-going, 20 per cent coastal, and 2 per cent New York harbor craft. Steel plate, iron pipe, brass pipe, lead pipe, bolts, rivets, and steel shapes constitute the principal raw materials used by the Company in its business. Although only approximately 5 per cent of the raw materials are purchased by the Company outside of the State of New York,¹ about 75

¹ Board Exhibit No. 4.

per cent of the raw materials used in the Company's business, which are purchased through a local jobber, are shipped from States other than New York and foreign countries. The amount of money expended by the Company for such raw materials during the past year was approximately \$60,000.00. The gross business of the Company for the year 1937 is estimated at \$200,000.00.

II. THE ORGANIZATIONS INVOLVED

Industrial Union of Marine and Shipbuilding Workers of America, Local No. 13, is a labor organization affiliated with the Committee for Industrial Organization. The record is silent as to the classes of the Company's employees eligible for membership in this organization.

International Longshoremen's Association, Local No. 1474,² is a labor organization affiliated with the American Federation of Labor. The record is silent as to the classes of the Company's employees eligible for membership in this organization.

III. THE QUESTION CONCERNING REPRESENTATION

On June 14, 1937, a strike was declared at the Company's plant, which continued until it was terminated by the Union on August 18, 1937. Throughout the period of the strike business at the plant was suspended. The Union contended the strike was called as a result of the refusal of the Company to bargain collectively with the Union. The Company contended, however, that no negotiations or demands were made by the Union prior to the time the strike was called. During the course of the strike and following its termination on August 18, 1937, the Union made a number of efforts to secure recognition and to bargain collectively with the Company, but in each instance such efforts were unsuccessful. The Company refused to recognize the Union as the exclusive bargaining representative of its employees at all times since the strike and up to and including the date of the hearing.

Prior to June 14, 1937, the I. L. A. did not claim any of the Company's employees, but subsequent to the termination of the strike a substantial number of the employees of the Company joined the I. L. A. and on that basis the I. L. A. endeavored, during the months of September and October, to bargain with the Company. However, such attempts on the part of the I. L. A. to enter into collective bargaining negotiations, as the exclusive bargaining representative of

²It does not clearly appear from the record whether International Longshoremen's Association, Local No. 1474, is the full and complete name of the labor organization, or whether this union should be designated as the General Maintenance Workers, International Longshoremen's Association, Local No. 1474. The latter name will be used to designate the correct name of the organization.

the Company's employees, met with no success. At the time of the hearing the I. L. A. disputed the claim that the Union represented a majority of the employees of the Company. The Company refused to recognize the I. L. A. as the collective bargaining representative of its employees.

We find that a question has arisen concerning representation of employees of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNIT

At the hearing the Union, the I. L. A., and the Company agreed that the unit appropriate for purposes of collective bargaining should consist of all employees of the Company, exclusive of timekeepers, office and clerical employees, janitors and janitresses, draftsmen and engineering department employees, and salaried persons in executive or supervisory positions who do not work with tools. Upon oral motion made by the Union the petition was amended so as to designate such employees as constituting the unit claimed appropriate by the petitioner. No objection was made by the I. L. A. or the Company to the amendment of the petition.

It is to be noted in the original petition watchmen are also excluded from the unit claimed appropriate. No mention is made of watchmen in the amended petition or in the appropriate unit as agreed upon by the parties. On the basis of the discrepancy existing in the two petitions, and since the duties, qualifications, and responsibilities of watchmen differ so materially from those of other employees, we conclude watchmen should also be excluded from the appropriate unit. We see no reason for altering the unit agreed upon by the parties, and shall, therefore, adopt it.

We find that all of the employees of the Company, excluding timekeepers, office and clerical employees, janitors and janitresses, draftsmen and engineering department employees, watchmen, and salaried persons in executive or supervisory positions who do not work with tools, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees

of the Company the full benefit of their right to collective bargaining and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

On December 17, 1937, at the New York offices of the National Labor Relations Board, a check of the pay rolls of the Company and of the Union's cards was conducted by Arthur J. Hoffman, president of the Company, and Charles George, organizer for the Union. The following tabulated results were certified by the Company and by the Union:³

For pay roll week ending—	Total number of employees ¹	Number of employees belonging to the Union
June 9.....	76	38
June 16.....	74	40
September 22.....	62	33
December 15.....	46	31

¹ Exclusive of men working for the Company on a salary basis.

It appears from the record the representative for the I. L. A. was not present at the National Labor Relations Board's offices when the check of the pay rolls was conducted, and that no attempt was made to verify or in any way check the genuineness of the signatures of the employees of the Company appearing on the Union cards.⁴ Although there is no affirmative statement or direct testimony showing that all of the employees of the Company, whose names appear on the cards, are employees within the unit which we have found to be appropriate for the purpose of collective bargaining, the implication is clear from the record that such employees do fall within the appropriate unit.

In addition to the employees whose names were considered when the pay-roll count was made, the Union, by reason of the amended petition, also claims ten employees who work for the Company and who are paid on a salary basis.

The I. L. A. claims 52 employees of the Company who became members of the I. L. A. during the months of August and September. The record is silent with respect to whether or not the employees of the Company, who are members of the I. L. A., are employees within the unit found to be appropriate.

It is clear, therefore, that there is not a sufficient basis for the Board, without an election, to certify either the Union or the I. L. A. as the exclusive bargaining representative of the employees of the Company in the appropriate unit.

³ Board Exhibit No. 5.

⁴ The record does not indicate whether the Union cards were in fact membership cards or merely applications for membership in the Union.

During the hearing the Union and the I. L. A. entered into a stipulation, in which the Company acquiesced, that all of the workers coming within the bargaining unit and whose names appear either on the pay roll of June 9, 1937, or on the pay roll of December 15, 1937, should be permitted to vote.

We find that the question which has arisen concerning the representation of employees of the Company can best be resolved by the holding of an election by secret ballot. Those eligible to vote in such election shall be employees in the appropriate unit, who were on either the Company's pay roll of June 9, 1937, or December 15, 1937.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Stephen Ransom, Inc., New York City, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All employees of the Company, excluding timekeepers, office and clerical employees, janitors and janitresses, draftsmen and engineering department employees, watchmen, and salaried persons in executive or supervisory positions who do not work with tools, 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 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 hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with Stephen Ransom, Inc., New York City, an election by secret ballot shall be conducted within fifteen (15) days from the date of this Direction, under the direction and supervision of the Regional Director for the Second Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, among all the employees of Stephen Ransom, Inc., whose names appear either on the Company pay roll of June 9, 1937, or on the Company pay roll of December 15, 1937, excluding timekeepers, office and clerical employees, janitors and janitresses, draftsmen and engineering department employees,

watchmen, and salaried persons in executive or supervisory positions who do not work with tools, to determine whether they desire to be represented by Industrial Union of Marine and Shipbuilding Workers of America, Local No. 13, affiliated with the Committee for Industrial Organization, or by General Maintenance Workers, International Longshoremen's Association, Local 1474, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

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