

In the Matter of STANDARD OIL COMPANY OF NEW JERSEY and AMERICAN RADIO TELEGRAPHISTS' ASSOCIATION, LOCAL NO. 2, C. I. O.

Case No. R-867.—Decided August 13, 1938

Water Transportation Industry—Investigation of Representatives: controversy concerning representation of employees. refusal by employer to recognize union as exclusive representative of employees until certification by Board—*Unit Appropriate for Collective Bargaining:* radio operators of all ships owned and operated by Company under American registry; no controversy as to—*Representatives:* proof of choice: comparison of signatures on union collective bargaining authorizations with signatures on pay-roll records of Company—*Certification of Representatives:* upon proof of majority representation.

Mr. Martin I. Rose, for the Board.

Mr. William A. Daugherty, of New York City, for the Company.

William L. Standard, by *Mr. Max Lustig*, of New York City, for the A. R. T. A.

Charlton Ogburn, by *Mr. Carol C. Johnson*, of New York City, for the C. T. U.

Mr. A. George Koplow, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On May 13, 1938, American Radio Telegraphists' Association, herein called the A. R. T. A., 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 Standard Oil Company of New Jersey, 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.¹ On June 10, 1938, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3,

¹ At the hearing the Trial Examiner granted the motion made by counsel for the A. R. T. A. to amend the petition by striking therefrom the words "Local No. 2."

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 June 22, 1938, the Regional Director issued a notice of hearing, and on June 24, 1938, a notice of postponement of hearing, copies of both of which were duly served upon the Company, the A. R. T. A., and Commercial Telegraphers Union, herein called the C. T. U., a labor organization claiming to represent employees directly affected by the investigation.

Pursuant to the notices, a hearing was held on June 28 and July 1, 1938, at New York City, before James G. Ewell, the Trial Examiner duly designated by the Board. The Board, the Company, the A. R. T. A., and the C. T. U. were represented by counsel 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. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Standard Oil Company of New Jersey, a wholly owned subsidiary of the Standard Oil Company, is a Delaware corporation engaged in the refining and marketing of petroleum and petroleum products. It owns and operates refineries for the refining of crude petroleum at Bayonne, Linden, and Jersey City, New Jersey; Baltimore, Maryland; and Charleston, South Carolina, in which it refines approximately 144,297 barrels of crude petroleum per day. The greater proportion of the production goes for distribution into other States than those in which the refineries are located. The crude petroleum is transported to these refineries from other States and foreign nations by ocean-going vessels.

The Company owns and operates 70 ships or ocean-going tank vessels, with a total tonnage of 572,543 gross tons, transporting approximately 125,000,000 barrels of petroleum and petroleum products annually. Ninety per cent of the voyages made by these vessels are for the purpose of transporting cargo for account of the Standard Oil Company of New Jersey or its affiliated or associated companies.

The majority of the voyages are between United States ports in the Gulf of Mexico and United States Atlantic Coast ports. At times some of these vessels transport cargo from Caribbean Sea loading ports to nearby inland ports, and they also trade between Caribbean Sea loading ports and United States, South American, northern European and Mediterranean ports. At times some of them are allocated to transport cargoes from California to United States east coast ports or northern European ports and from United States Gulf or South American loading ports to northern European ports.

The Company stipulated at the hearing that "There is no question but that the Company in the operation of these vessels is engaged in interstate commerce and foreign commerce, and the men involved in this proceeding, namely, radio operators, are engaged directly in interstate commerce." We find that Standard Oil Company of New Jersey is engaged in trade, traffic, transportation, and commerce among the several States and between the United States and foreign countries, and that the licensed radio operators employed by said Company are directly engaged in such trade, traffic, transportation, and commerce.

II. THE ORGANIZATIONS INVOLVED

American Radio Telegraphists' Association, the marine division of the American Communications Association, is a labor organization affiliated with the Committee for Industrial Organization. It admits to membership radio operators licensed by the Federal Communications Commission of the United States.

Commercial Telegraphers Union is a labor organization affiliated with the American Federation of Labor. It likewise admits to membership radio operators licensed by the Federal Communications Commission of the United States.

III. THE QUESTION CONCERNING REPRESENTATION

The A. R. T. A. alleges in its petition for investigation and certification that "The Standard Oil Company of New Jersey will not sign an exclusive bargaining agreement with A. R. T. A. until A. R. T. A. is certified by the National Labor Relations Board." At the hearing, counsel for the Company stated that the Company will refuse to bargain with the A. R. T. A. as the exclusive bargaining agency until it shall be certified by the Board. Both the A. R. T. A. and the C. T. U. claimed at the hearing that they have been authorized by employees within the appropriate unit to represent them for the purpose of collective bargaining.

We find that a question has arisen concerning the representation of the licensed radio operators employed by Standard Oil Company of

New Jersey. The question which has arisen concerning representation tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

IV. THE APPROPRIATE UNIT

At the hearing, counsel for the A. R. T. A. and the C. T. U. stipulated that all the radio operators of all the ships owned and operated by Standard Oil Company of New Jersey under American registry constitute an appropriate unit.² Evidence also establishes, and the parties agree, that men who may not be assigned to a ship on a specified date but instead may be in the "relieving staff," "standby," "leave of absence," and "vacation" categories are considered regular employees of the Company and should be included within the appropriate unit. We see no reason in the instant case to depart from the desires of the parties.

We find that the radio operators of all the ships owned and operated by the Standard Oil Company of New Jersey under American registry 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 self-organization and to collective bargaining, and otherwise effectuate the policies of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

Counsel for the A. R. T. A., the C. T. U., and the Company stipulated at the hearing that the pay-roll list of June 27, 1938, submitted in evidence by the Company, should be used to determine eligibility of employees for the purposes of an election or certification. This list contains the names of 80 persons in the appropriate unit.

The A. R. T. A. submitted 50 signed collective bargaining authorizations, most of them further supported by duplicate dues cards, duplicate membership records, and signed applications for membership. Original signatures of employees on the employment records of the Company were available at the hearing and were compared by counsel for the C. T. U. with the signatures on the authorizations. Seven of the signatures were objected to by counsel for the C. T. U., who expressed some doubt as to their genuineness. The Company submitted in evidence photostatic copies of original signatures of six of these seven employees taken from the employment records of the Company, for the purpose of future comparison by the Board with those on the authorizations. It is unnecessary to make such a comparison, however, because even without these contested signatures

² The Company also operates some ships under foreign registry, controlling the contents and destination of such ships but not hiring or paying the employees working thereon. Such employees are not involved in this proceeding.

the A. R. T. A. introduced signed collective bargaining authorizations of a majority in the appropriate unit without serious objection by any of the parties.

Counsel for the C. T. U. objected to a number of the collective bargaining authorizations because the employees signing them were revealed to be members of other locals of the A. R. T. A. than Local No. 2. We find this objection to be without merit. It may be noted that the authorizations themselves, although they bear the words "Local No. 2" in the heading, empower the A. R. T. A. generally, to act as collective bargaining representative.

The C. T. U. introduced a signed application for membership of only one employee in the appropriate unit. The C. T. U. also offered to prove that the Company had exercised pressure upon the employees to induce them to join the A. R. T. A. or to authorize it to represent them. Although opportunity was given to introduce evidence of specific interference by the Company with the freedom of choice of its employees, no credible evidence thereon was presented.

We find that the A. R. T. A. has been designated and selectêd by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is therefore the exclusive representative of all the employees in such unit for the purposes of collective bargaining and we will so certify.

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 the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The radio operators of all the ships owned and operated by the Company under American registry constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. American Radio Telegraphists' Association is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

CERTIFICATION OF REPRESENTATIVES

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

IT IS HEREBY CERTIFIED that American Radio Telegraphists' Association has been designated and selected by a majority of the radio operators of all the ships owned and operated by the Standard Oil Company of New Jersey, New York City, under American registry, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, American Radio Telegraphists' Association is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

o