

In the Matter of **McINTIRE, MAGEE & BROWN COMPANY** and **AMERICAN  
FEDERATION OF LABOR**

*Case No. 4-R-1221.—Decided October 15, 1943*

*Mr. Samuel A. Klein*, of Philadelphia, Pa., for the Company.

*Mr. Thomas Mallon* and *Mr. LeRoy Peacock*, of Philadelphia, Pa.,  
for the Union.

*Mr. Louis Cokin*, of counsel to the Board.

**DECISION  
AND  
DIRECTION OF ELECTION**

**STATEMENT OF THE CASE**

Upon petition duly filed by American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of McIntire, Magee & Brown Company, Philadelphia, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert H. Kleeb, Trial Examiner. Said hearing was held at Philadelphia, Pennsylvania, on September 29, 1943. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

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

**FINDINGS OF FACT**

**I. THE BUSINESS OF THE COMPANY**

McIntire, Magee & Brown Company is a Pennsylvania corporation operating a plant at Philadelphia, Pennsylvania, where it is engaged in the manufacture of optical goods. During 1942 the Company purchased raw materials valued at about \$74,500, approximately 90 per cent of which was shipped to it from points outside the State of

Pennsylvania. During the same period the Company sold products valued at about \$192,375, approximately 5 percent of which was shipped to points outside the State of Pennsylvania.

## II. THE ORGANIZATION INVOLVED

American Federation of Labor is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

During August 1943 the Union requested exclusive recognition as collective bargaining representative of the Company's employees. The Company refused this request.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>1</sup>

We find that 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.

## IV. THE APPROPRIATE UNIT

The Union urges that all production employees of the Company, excluding maintenance, clerical, and supervisory employees, constitute an appropriate unit. The Company took no position with respect to the unit. The record indicates that the employees claimed by the Union constitute a well-defined homogeneous group.

We find that all production employees of the Company excluding maintenance and clerical employees and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

## V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction

<sup>1</sup>The Regional Director reported that the Union presented 20 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of September 15, 1943. There are approximately 35 employees in the appropriate unit.

of Election herein, subject to the limitations and additions set forth in the Direction.

The Union requests that it appear on the ballot as "Optical Workers, Federal Labor Union No. 22005 (A. F. of L.)." The request is hereby granted.

#### 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 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with McIntire, Magee & Brown Company, Philadelphia, Pennsylvania, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Fourth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause, to determine whether or not they desire to be represented by Optical Workers, Federal Labor Union No. 22005 (A. F. of L.), for the purposes of collective bargaining.