In the Matter of MARTIN DYEING & FINISHING COMPANY *and* TEXTILE WORKERS UNION OF AMERICA, C. I. O.

Case No. 4–R–1205.—Decided October 22, 1943

Mr. A. R. McAllister, Jr., of Bridgeton, N. J., for the Company.
Mr. M. H. Goldstein, of Philadelphia, Pa., for C. I. O.
Mr. William F. Kelly, of Philadelphia, Pa., for the A. F. of L.
Mr. Joseph W. Kulkis, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Textile Workers Union of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Martin Dyeing & Finishing Company, Bridgeton, New Jersey, 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 Bridgeton, New Jersey, on October 4, 1943. The Company, the C. I. O., and the United Textile Workers of America, A. F. of L., herein called the A. F. L., appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing on the issues, and to file briefs with the Board. The A. F. L.'s motion to dismiss the petition was reserved to the Board by the Trial Examiner. For reasons hereinafter set forth, the motion is hereby denied.

The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Martin Dyeing & Finishing Company, a New Jersey corporation, owns and operates a dyeing and finishing plant at Bridgeton, New Jersey, where it is engaged in the business of dyeing and finishing piece

goods for the account of others. During the year 1942, the Company purchased goods for use at its Bridgeton plant, valued in excess of $500,000, of which over 95 percent was shipped to said plant from points outside the State of New Jersey. During the same period the Company's shipments were in excess of $500,000, of which over 75 percent was shipped to points outside of New Jersey. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Textile Workers Union of America, affiliated with the Congress of Industrial Organizations, and United Textile Workers of America, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On July 21, 1943, the A. F. L. and the Company executed a closed-shop contract. However, on July 20, 1943, the Company had received a letter from the C. I. O., dated July 19, 1943, advising that the C. I. O. represented the Company's employees and urging the Company not to proceed with a bargaining agreement with any other union. The Company refuses to accord the C. I. O. such recognition unless and until the C. I. O. is certified by the Board.[1]

A statement of the Regional Director, introduced into evidence at hearing, indicates that the C. I. O. represents a substantial number of employees in the unit hereinafter found to be appropriate.[2]

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 Act.

IV. THE APPROPRIATE UNIT

We find, substantially in accordance with a stipulation of the parties, that all employees in the employ of the Company more than 10 days, excluding officers of the Company, foremen, assistant foremen, head dyers, assistant head dyers, and all other supervisory em-

[1] The A. F. L moved to dismiss the petition generally on the ground that the past labor relations history should preclude an election, and more particularly that the existing contract constituted a bar to the existence of a representation question. We find this contention to be without merit. A contract is not a bar to the existence of a representation question where it was not executed until after a rival labor organization had notified the Company of its claim to representation. (See *Eicor, Inc.*, 46 N L. R B. 1035; *Joseph P. Cattie & Bros., Inc*, 47 N. L. R. B 81; *Leonard-Burke Co*, 51 N. L. R. B. 1424.)

[2] The Regional Director reported that the C.I O. submitted 146 authorization cards, 132 bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of July 25, 1943, which contains the names of 455 persons in the alleged appropriate unit.

ployees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees, or effectively recommend such action, employees of the main office, guards and watchmen, 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 an election among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

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 Martin Dyeing & Finishing Company, Bridgeton, New Jersey, 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 those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Textile Workers Union of America, C. I. O., by United Textile Workers of America, A. F. of L., for the purposes of collective bargaining, or by neither.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.