

In the Matter of CROWN CORK & SEAL COMPANY, INC. and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, (UAW-CIO)

*Case No. 5-R-1374.—Decided November 18, 1943*

*Messrs. F. E. Frusting, John Nagle and Richard A. Clapp, all of Baltimore, Md., for the Company.*

*Mr. Paul A. Wagner, of Baltimore, Md., for the Union.*

*Mr. Robert Silagi, of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Crown Cork & Seal Company, Inc., Baltimore, Maryland, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before David H. Werther, Trial Examiner. Said hearing was held at Baltimore, Maryland, on November 2, 1943. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.

During the hearing the Company moved to dismiss the petition on the grounds, (1) that the Board lacked jurisdiction over the Company, and (2) that the unit sought by the Union is inappropriate. The Trial Examiner reserved ruling on the motion for the Board. For the reasons set forth hereinafter, the motion is hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an 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

Crown Cork & Seal Company, Inc., is a New York corporation maintaining its principal office and place of business in Baltimore, Maryland, where it owns and operates several plants. This proceeding is concerned solely with the Baltimore plant known as "Plane Assembly Division." At this plant the Company assembles plane wing parts which are then shipped to Glenn L. Martin Company, a manufacturer of airplanes, where they are attached to, and incorporated in planes which the latter company produces for the armed forces of the United States. Plane Assembly Division is totally engaged in war work.

During the past 12 months, raw materials consisting of aluminum, steel, and bronze parts having an approximate value of \$5,000,000 were shipped in trucks owned and operated by Glenn L. Martin Company from its warehouses in the State of Maryland to Plane Assembly Division. In excess of 50 percent of the raw materials used by Glenn L. Martin Company in fabricating such aluminum, steel, and bronze parts was shipped to that company from sources outside the State of Maryland. During the same period, wing parts manufactured in Plane Assembly Division, valued at about \$2,500,000 were delivered by Glenn L. Martin Company trucks to plants of said company in the State of Maryland. During that same period the Company purchased small tools and replacement machine parts for use in its Plane Assembly Division valued in excess of \$120,000, about 50 percent of which was shipped to the plant from sources outside the State of Maryland.

On these facts we find, contrary to the contention of the Company, that its operations with respect to the Plane Assembly Division affect commerce within the meaning of the National Labor Relations Act.<sup>1</sup>

## II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On July 21, 1943, the parties held a conference as a result of which the Company refuses to grant recognition to the Union as the exclu-

---

<sup>1</sup> See *N. L. R. B. v. Fainblatt*, 306 U. S. 601; also see *Matter of Simpson & Murdock Printing Co.*, 31 N. L. R. B. 609; *Matter of Aluminum Alloy Casting Company*, 32 N. L. R. B. 1276; *Matter of Ace Foundry, Limited*, 38 N. L. R. B. 392; *Matter of Knott & Garlius*, 44 N. L. R. B. 477.

sive bargaining representative of its employees in the Plane Assembly Division unless the Union is certified by the Board in an appropriate unit.

A statement of a Board Agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</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 Act.

#### IV. THE APPROPRIATE UNIT

Prior to 1942, the Company was engaged in the manufacture of various devices and machinery for the bottling industry. In the spring of that year the Company became a subcontractor assembling wing parts for the Glenn L. Martin Company, using for that purpose space previously utilized as cork sheds. At the hearing the Company moved to dismiss the petition for the reason that the Plane Assembly Division is not an appropriate unit for collective bargaining; however, it failed to adduce any evidence to demonstrate the validity of its contention. The record contains ample evidence to show that Plane Assembly Division is a separate division of the Company entirely devoted to subcontract work for Glenn L. Martin Company and unrelated to the Company's normal business. Under these circumstances, we find no merit in the Company's contention.

The Company agrees that, in the event the Board should find the employees of Plane Assembly Division to constitute an appropriate unit, then the employees in the classifications sought by the Union in its amended petition constitute the appropriate unit. Accordingly, we find that all production and maintenance employees in the Plane Assembly Division of the Company, including leaders,<sup>3</sup> riveters, assembly men, inspectors, re-workmen, keymen, helpers, instructors, finish mechanics, assorters, drill grinders, cafeteria workers, fitters, tool control attendants, drill press operators, air duct workers, trimmers, trainees, riv-nut workers, hydraulic machine operators, machine operators, small parts operators, machinists, spot welders, tool crib attendants, and storeroom workers, but excluding office and clerical employees,

---

<sup>2</sup> The Field Examiner reported that the Union submitted 386 authorization cards, all of which bore apparently genuine original signatures; that the names of 186 persons appearing on the cards were listed on the Company's pay roll of September 20, 1943, which contained the names of 642 employees in the appropriate unit; and that the cards were variously dated between March and September 1943.

<sup>3</sup> Leaders rank under foremen and subforemen. Each of them is in charge of a keyman, or skilled mechanic, and six to eight employees. Leaders have no authority to hire, promote, discharge, or discipline any employees. Although they may recommend discipline for employees, such recommendations bear no greater weight than similar recommendations from rank and file employees. Leaders devote 65 to 70 percent of their time to manual work and are admitted into membership by the Union.

guards, draftsmen, technical engineers, 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 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 of Election herein, subject to the limitations and additions set forth in the Direction. The Union requests that it appear on the ballot as UAW-CIO. 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 Crown Cork & Seal Company, Inc., Baltimore, Maryland, 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 Fifth 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 or not they desire to be represented by UAW-CIO, for the purposes of collective bargaining.