

In the Matter of DUBONNET CORPORATION and CONGRESS OF INDUSTRIAL ORGANIZATIONS

*Case No. 4-R-1311.—Decided February 11, 1944*

*Mr. Milton B. Seasonwein, of New York City, for the Company.*

*Mr. George Bucher, of Philadelphia, Pa., for the Union.*

*Mr. William Strong, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Dubonnet Corporation,<sup>1</sup> Philadelphia, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene M. Purver, Trial Examiner. Said hearing was held at Philadelphia, Pennsylvania, on December 29, 1943. The Company and the Union appeared,<sup>2</sup> 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

Dubonnet Corporation, incorporated in the State of Pennsylvania, is owned and controlled by Schenley Import Corporation. Dubonnet

<sup>1</sup> The name of the Company is variously shown in the record as Dubonnet Wine Corporation and Dubonnet Corporation. The correct name is that used in this Decision and Direction of Election.

<sup>2</sup> Although Distillery, Rectifying and Wine Workers' International Union of America, A. F. L., was served with Notice of Hearing, it did not appear.

Corporation has a sales office in New York City, a plant in California, and a plant in Philadelphia, Pennsylvania. We are here concerned only with the Philadelphia plant, at which the Company is engaged in the preparation and bottling of wine. Almost all of the wine and other materials used at the Philadelphia plant are shipped into Pennsylvania from points outside that State. During its last fiscal year the Company produced about 86,000 cases of wine, valued in excess of \$800,000. The Company concedes that it is engaged in commerce within the meaning of the Act.

## II. THE ORGANIZATION INVOLVED

The Congress of Industrial Organizations is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On about December 1, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining agent of the Company's employees. The Company refused this request because of the existence at that time of an exclusive recognition collective contract between the Company and Distillery, Rectifying and Wine Workers' International Union of America, affiliated with the American Federation of Labor. The contract, in evidence, was executed on December 1, 1941, and remained effective until December 31, 1943. The Company has not renewed the contract because of the Union's majority representation claims. We find that the contract does not constitute a bar to a determination of representatives at this time.

A statement of the Regional Director for the Fourth Region, 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>3</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

We find, in substantial agreement with a stipulation of the parties, that all production and maintenance employees at the Philadelphia plant of the Company, excluding office and supervisory employees, direct representatives of management, foremen, foreladies, chemists, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of em-

<sup>3</sup> The Regional Director reported that the Union presented 34 authorization cards bearing apparently genuine signatures of which 32 were the names of persons whose names appear on the Company's pay roll of December 1, 1943. There are approximately 36 employees in the appropriate unit.

ployees, 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 of Election herein, subject to the limitations and additions set forth in the Direction.<sup>4</sup>

Distillery, Rectifying and Wine Workers' International Union of America, A. F. L., has had a contract covering the employees here involved, but did not appear at the hearing or express any desire to participate in an election. In view of its past contractual interest, we shall accord it a place on the ballot if it notifies the Regional Director within ten (10) days from the date of this Decision that it desires to participate in the election.

#### 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 3, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Dubonnet Corporation, 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 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 Congress of Industrial Organizations, for the purposes of collective bargaining.

<sup>4</sup> The Company temporarily laid off almost all of its employees shortly after December 1, 1943, due to temporary curtailment of operations. Consequently, the employees employed during the pay-roll period immediately preceding the date of the Direction of Election will be those named on the December 1, 1943, pay roll.