

In the Matter of THE HAGERSTOWN SHOE & LEGGING COMPANY and
CONGRESS OF INDUSTRIAL ORGANIZATIONS

Case No. 5-R-1467.—Decided February 14, 1944

Lane, Bushong & Byron, by Messrs. David W. Byron and E. Stewart Bushong, of Hagerstown, Md., for the Company.

Mr. Frank J. Bender, of Baltimore, Md., and Mr. Victor Hirshfield, of Hagerstown, Md., for the Union.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by the Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Hagerstown Shoe & Legging Company, Hagerstown, Maryland, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert A. Levett, Trial Examiner. Said hearing was held at Hagerstown, Maryland, on January 14, 1944. 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. 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

The Hagerstown Shoe & Legging Company, a Maryland corporation, operating 2 factories at Hagerstown, Maryland, is engaged in the manufacturing of shoes and slippers. During the 6 months preceding December 31, 1943, the Company used raw materials valued

at about \$1,000,000, approximately 95 percent of which was shipped from points outside the State of Maryland, and produced finished products valued at about \$1,500,000, approximately 98 percent of which was shipped to points outside the State of Maryland.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations 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

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of the Company's employees until the Union has been 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.¹

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 of the Company at both its factories at Hagerstown, including non-militarized watchmen, janitors, boilertenders, truck drivers, inspectors, shipping clerks, and stockroom clerks, but excluding salesmen, pattern makers, clerical employees, foremen, foreladies and all other 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

¹ The Field Examiner reported that the Union submitted 365 membership application cards, all of which bore apparently genuine original signatures; that the names of 346 persons appearing on the cards were listed on the Company's pay roll of December 16, 1943, which contained the names of 599 employees in the appropriate unit.

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

DIRECTION OF ELECTION

By virtue 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 The Hagerstown Shoe & Legging Company, Hagerstown, 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 the Congress of Industrial Organizations, for the purposes of collective bargaining.