

In the Matter of THE LOUIS G. FREEMAN COMPANY and DISTRICT 34,
INTERNATIONAL ASSOCIATION OF MACHINISTS, A. F. OF L.

Case No. 9-R-1527.—Decided August 26, 1944

Mr. James G. Manley, of Cincinnati, Ohio, for the Company.
Messrs. J. E. Chapman and Ray Hancock, of Cincinnati, Ohio, for
the IAM.

Mr. Wallace E. Royster, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by District 34, International Association of Machinists, A. F. of L., herein called the IAM, alleging that a question affecting commerce had arisen concerning the representation of employees of The Louis G. Freeman Company, Cincinnati, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis S. Penfield, Trial Examiner. Said hearing was held at Cincinnati, Ohio, on August 7, 1944. The Company and the IAM 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 rulings of the Trial Examiner 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

The Louis G. Freeman Company, an Ohio corporation, has its principal place of business in Cincinnati, Ohio, where it is engaged in the manufacture of shoemaking machinery and various material for the armed forces. The annual value of raw materials purchased exceeds \$200,000 of which approximately 50 percent is shipped to the

Company from points outside the State of Ohio. The annual value of its finished products exceeds \$750,000, of which 75 percent is shipped to points outside the State of Ohio.

The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

District 34, International Association of Machinists, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The parties stipulated that in June 1944, the IAM requested recognition as the exclusive bargaining representative of the Company's employees and that the Company has declined to extend such recognition without Board certification.

A statement of the Field Examiner introduced in evidence at the hearing indicates that the IAM represents a substantial number of the Company's employees.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

The parties have agreed on a bargaining unit excluding, among others, shipping and receiving clerks. Such clerks spend their entire time in the factory recording the receipt and shipment of goods. Much of their duty is manual labor, loading and unloading products. Although the work of the shipping and receiving clerks is of such a nature as to permit their inclusion in a unit of production and maintenance employees, they are under separate supervision and we shall respect the agreement of the parties to exclude them.

In accordance, therefore, with the agreement of the parties, we find that all production and maintenance employees of the Company, excluding shipping and receiving clerks, employees in the engineering department, clerical employees, salesmen, outside service employees, watchmen, porters, inspectors, 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.

¹ The Field Examiner stated that the IAM submitted 40 signed membership cards bearing dates in May and June 1944. There are 57 employees in the appropriate unit.

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.²

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Louis G. Freeman Company, Cincinnati, Ohio, 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 Ninth 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 District 34, International Association of Machinists, A. F. of L., for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.

² The IAM contends that Clarence Vierling on occasion exercises supervisory authority and hence should be excluded from the bargaining unit. Vierling is classified as a drill press operator and as such is within the appropriate unit. The evidence concerning his supervisory authority is not conclusive. If his authority is that of a supervisory employee as described herein, he is ineligible to participate in the election.