

In the Matter of DELAWARE ASSOCIATION, INCORPORATED¹ and
AMERICAN FEDERATION OF LABOR

Case No. 10-R-1335.—Decided November 16, 1944

Messrs. Alfred L. McCarthy and Lewis R. King, of Miami, Fla., for the Company.

Mr. Al Kent, of Miami, Fla. for the Union.

Mr. Jack Mantel, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF CASE

Upon a petition duly filed by American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Delaware Association, Incorporated, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George S. Slyer, Trial Examiner. Said hearing was held at Miami, Florida, on October 26, 1944. The Company and the Union appeared and participated.² 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

Delaware Association, Incorporated, is engaged in the manufacture of optical elements for precision instruments, primarily binoculars, at its plant in Miami, Florida. The raw materials used by the Com-

¹ The name of the Company was designated as Delaware Association in the petition and formal papers, all of which were corrected by amendment at the hearing.

² Transport Workers Union of America, CIO, was duly served with notice of the hearing, but did not participate therein.

pany are owned by the United States Government, all of which are shipped to the Company's plant from points outside the State of Florida. The average monthly receipts of raw materials approximate 850 pounds, valued at approximately \$5 per pound. The finished products of the Company lose approximately 40 percent in weight through processing, but are increased in value by more than three times the worth of the raw materials. All of the finished products are shipped to a point outside the State of Florida.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

American Federation of Labor 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 its 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.³

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 accord with a stipulation of the parties, that all employees of the Company, including group leaders and stockroom clerk, but excluding officials, superintendents, foremen, subforemen, office and clerical employees, outside grounds-keepers, power plant engineer, 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 em-

³ The Board agent reported that the Union submitted 95 authorization cards, all of which bore apparently genuine original signatures; that the names of 90 persons appearing on the cards were listed on the Company's pay roll of October 9, 1944, which contained the names of 157 employees in the appropriate unit.

ployees 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 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Delaware Association, Incorporated, Miami, Florida, 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 Tenth 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 the 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 American Federation of Labor, for the purposes of collective bargaining.