

In the Matter of ELBERTON OIL MILLS and UNITED PACKINGHOUSE  
WORKERS OF AMERICA, C. I. O.

*Case No. 10-R-1338.—Decided December 16, 1944*

*Messrs. Raymonde Stapleton and John T. Dennis, of Elberton, Ga.,  
for the Company.*

*Messrs. G. R. Hathaway and Tom R. Jones, of Atlanta, Ga., for the  
Union.*

*Mr. Erwin A. Peterson, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Packinghouse Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of the Elberton Oil Mills, Elberton, Georgia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Albert D. Maynard, Trial Examiner. Said hearing was held at Elberton, Georgia, on December 6, 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

Elberton Oil Mills, a Georgia corporation with its principal office and place of business at Elberton, Georgia, is engaged in the ginning of raw cotton, in the manufacture, sale, and distribution of cottonseed oil, cottonseed meal, cottonseed linters, cottonseed hulls, soy bean oil,

and soy bean meal. During the period from August 1, 1943, to July 31, 1944, the Company purchased approximately 8,000 tons of cottonseed valued at approximately \$480,000, and 3,400 tons of soy beans valued at approximately \$75,000. Approximately 50 percent of the cottonseed and 100 percent of the soy beans were purchased from points outside the State of Georgia. During the same period, the Company's sales of finished products exceeded \$700,000 in value, approximately 50 percent of which was shipped to points outside the State of Georgia.

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

## II. THE ORGANIZATION INVOLVED

United Packinghouse 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

The parties stipulated that on or about October 23, 1944, the Company received a letter from the Union requesting recognition as the statutory bargaining agent of the Company's employees. The Company declined to recognize the Union unless and until the Union is certified by the Board.

A statement of a Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</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

The Company's operations are seasonal. The season extends from about September 1 to February or March, depending upon the amount of raw products available. Approximately 65 percent of the Company's employees return each year for reemployment with the Company. The Union alleges in its petition, and, there being no objection from the Company, we find, that all production and maintenance<sup>2</sup> employees of the Company at its Elberton, Georgia, plant,<sup>3</sup> excluding

<sup>1</sup> The Field Examiner reported that the Union presented 33 application-for-membership cards. There are approximately 70 employees in the appropriate unit.

<sup>2</sup> Including the janitor, whose duties are in addition to keeping the office clean, working in the shipping department, chauffeuring, and being a general errand boy.

<sup>3</sup> Described in the amended petition as "the Company's plant (oil mill) at Elberton, Georgia." As we interpret the parties' position, they intend that the unit shall include the non-supervisory production and maintenance employees in the cotton gin department, approximately five in number, as well as the employees in the oil mill department and yard.

all office employees and 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 payroll 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 Elberton Oil Mills, Elberton, Georgia, 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 said payroll 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 United Packinghouse Workers of America, C. I. O., for the purposes of collective bargaining.