

In the Matter of NATIONAL PRODUCE COMPANY and UNITED CANNERY,
AGRICULTURAL, PACKING AND ALLIED WORKERS OF AMERICA, LOCAL
19, C. I. O.

Case No. 15-R-1239.—Decided December 21, 1944

Mr. James W. Wrape, of Memphis, Tenn., for the Company.
Mr. Joseph W. Hellinger, of Memphis, Tenn., for the Union.
Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Cannery, Agricultural, Packing and Allied Workers of America, Local 19, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of National Produce Company, Memphis, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Laurence H. Whitlow, Trial Examiner. Said hearing was held at Memphis, Tennessee, on November 17, 1944. The Company and the Union 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 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

National Produce Company is a Tennessee corporation operating a plant at Memphis, Tennessee, where it packs and grades eggs and kills, cleans, and packs poultry. The Company purchases products valued at about \$1,900,000 annually, 70 percent of which is shipped

to it from points outside the State of Tennessee. During the same period it sells goods valued at about \$2,950,000, 20 percent of which is shipped to points outside the State of Tennessee.

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

II. THE ORGANIZATION INVOLVED

United Cannery, Agricultural, Packing and Allied Workers of America, Local 19, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as exclusive collective bargaining representative of its employees until such time as the Union is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be 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

The Union urges that all employees of the Memphis plant of the Company, excluding supervisory and clerical employees, constitute an appropriate unit. The Company's operations at Memphis are divided into six departments, and the Company contends that the employees in each department should constitute separate bargaining units.

The Company's operations are divided into the refrigerating department, egg candling department, killing departments, receiving and feeding department, truck drivers, and engineering department. Although the head of each department keeps the time records of the employees in his department, all employees are hourly paid and carried on the same pay roll. Working conditions throughout all departments are comparable and the Union has organized the employees in each department. The record further discloses that the Company's Memphis plant operates as a single integrated enterprise. Under these circumstances, we find that a single unit is appropriate.

¹ The Field Examiner reported that the Union submitted 49 authorization cards. There are approximately 85 employees in the appropriate unit.

We find that all employees of the Memphis plant of the Company, excluding clerical employees 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.

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.

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 National Produce Company, Memphis, Tennessee, 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 Fifteenth 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 United Cannery, Agricultural, Packing and Allied Workers of America, Local 19, C. I. O., for the purposes of collective bargaining.