

In the Matter of CLYDE COLLINS, INC *and* UNITED GAS, COKE & CHEMICAL WORKERS OF AMERICA, CIO

*Case No. 15-R-1638.—Decided June 18, 1946*

*Mr. Clarence Clifton*, of Memphis, Tenn., for the Company.

*Miss Helen McClurg*, of Memphis, Tenn., for the Union.

*Mr. Sydney S. Asher, Jr.*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Gas, Coke & Chemical Workers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Clyde Collins, Inc., Memphis, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Gerald A. Brown, Trial Examiner. The hearing was held at Memphis, Tennessee, on May 9, 1946. 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 opportunity to file briefs with the Board.

Following the hearing, the Company applied to the Board to have the case remanded to the Trial Examiner, and the hearing reopened.<sup>1</sup> The Company contends that, although it submitted a pay roll in evidence, which was open to the Union's inspection, no opportunity was given to the Company to determine if the Union had sufficient interest to justify the ordering of an election. Complaint is made particularly that the Trial Examiner denied the Company's request to examine the Union's card for authenticity, and further denied its request for information

<sup>1</sup> The Company's motion to correct the official transcript of the proceedings, as set forth in its brief, is hereby granted

about the strength of the Union's representation. We hold that the Trial Examiner's ruling were correct. For at least 10 years it has been the established policy of the Board in representation cases not to compel a union to produce its membership rolls for examination,<sup>2</sup> except where the union seeks certification without an election, which is not the case here. More recently, the Board has declined to require any information with respect to the strength of participating unions to be put into evidence prior to the holding of an election.<sup>3</sup> Accordingly, we hereby deny the Company's motion to reopen the hearing.<sup>4</sup>

Upon the entire record in the case, the Board makes the following:

## FINDINGS OF FACT

### I. THE BUSINESS OF THE COMPANY

Clyde Collins, Inc., is a Tennessee corporation, with a place of business in Memphis, Tennessee, where it is engaged in the preparation and sale of foods, flavors, drugs, cosmetics, and other products. During the 12 months immediately prior to the hearing, the Company purchased raw materials in excess of \$500,000, approximately 80 percent of which came from States other than the State of Tennessee. During the same period, the Company's sales exceeded \$1,000,000, in value, of which approximately 90 percent was shipped to customers outside the State of Tennessee.

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

### II. THE ORGANIZATION INVOLVED

United Gas, Coke & Chemical Workers of America 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 has refused to grant recognition to the Union as the exclusive bargaining representative of the Company's production and maintenance employees until the Union has been certified by the Board in an appropriate unit.

<sup>2</sup> *Matter of Gate City Cotton Mills*, 1 N. L. R. B. 57; *Matter of Samson Tire and Rubber Corporation*, 2 N. L. R. B. 148.

<sup>3</sup> *Matter of O. D. Jennings & Company*, 68 N. L. R. B. 516

<sup>4</sup> The Company also objected that the 7-day time limit for the filing of briefs was unreasonably short. However, since the Company was granted a 10-day extension upon request, this question is now moot.

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 conducts its operations in three buildings, all located within a radius of one block. Both the Company and the Union desire the workers of all three buildings to be included in a single unit. In substantial accordance with the agreement of the parties, and based upon the entire record, we find that all production and maintenance employees of Clyde Collins, Inc., Memphis, Tennessee, including truck drivers and receiving clerks, but excluding office employees, clerical employees, salesman, chemists, employees of the printing department, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in 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 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 Clyde Collins, Inc., 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 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 United Gas, Coke & Chemical Workers of America, CIO, for the purposes of collective bargaining.