

In the Matter of A. W. FRANKLIN MANUFACTURING CORPORATION AND FRANKLIN AIRLOOP CORPORATION, EMPLOYER *and* UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, CIO, PETITIONER

In the Matter of A. W. FRANKLIN MANUFACTURING CORPORATION AND FRANKLIN AIRLOOP CORPORATION, EMPLOYER *and* LOCAL UNION No. 3, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL, PETITIONER

*Cases Nos. 2-R-6724 and 2-R-6733, respectively.—Decided September 30, 1946*

*Messrs. David K. Shappiro and Mark G. Lauter, of New York City, for Franklin and Airloop.*

*Mr. Frank Schneider, by Miss Mildred Roth, of New York City, for the United.*

*Mr. Harold Stern, of New York City, for the IBEW.*

*Mrs. Augusta Spaulding, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

Upon separate petitions duly filed, a consolidated hearing in these cases was held at New York City, on August 16, 1946, before Jack Davis, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error, and are hereby affirmed.

Upon the entire record in these cases, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

A. W. Franklin Manufacturing Corporation, herein called Franklin, and Franklin Airloop Corporation, herein called Airloop,<sup>1</sup> are separate corporate entities, each engaged in the making of radio parts. Their principal office is in a building at New York City, on two floors of which Franklin conducts manufacturing operations. During 1945, Franklin shipped to its plant in New York City raw materials, con-

<sup>1</sup> The petitions were amended at the hearing to show the correct names of the Employer.

sisting principally of brass and bakelite, valued at approximately \$300,000, approximately 60 percent of which was shipped to the plant from outside the State of New York. During the same period, Franklin finished at its New York City plant products valued at approximately \$1,000,000, of which 70 percent was shipped outside the State of New York. Franklin also operates a plant at Hoboken, New Jersey, which is not directly concerned in this proceeding.

In June 1946 Franklin and Airloop began the production of radio parts at a plant at Long Island City, New York. Between June 1946 and August 1946 Franklin and Airloop purchased for their manufacturing operations at this plant raw materials valued at about \$14,000, the greater part of which was brought to the plant from points outside the State of New York. During this period, the two corporations finished radio parts at this plant valued at approximately \$70,000, of which 60 percent was shipped to points outside the State of New York.

Franklin and Airloop admit, and we find, that they and each of them is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio & Machine Workers of America, the petitioner in Case No. 2-R-6724, herein called the United, is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

Local Union No. 3, International Brotherhood of Electrical Workers, the petitioner in Case No. 2-R-6733, herein called the IBEW, is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

#### III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the United or the IBEW as the exclusive bargaining representative of employees of the Employer until either petitioner has been certified by the Board in an appropriate unit.

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

The United contends that production and maintenance employees of Franklin and Airloop at the New York City *and* Long Island City plants constitute a single appropriate bargaining unit. The IBEW contends that production and maintenance employees of Franklin and Airloop at the Long Island City plant constitute a separate appro-

appropriate bargaining unit. Franklin and Airloop take no position respecting the unit or units of their employees appropriate for bargaining purposes.

Franklin is a New York corporation, approximately 11 years old, its president is Albert W. Franklin, and its vice president and treasurer, Jack Poster. These two men, their wives, and members of their families constitute the six stockholders of the corporation which has its offices and principal manufacturing operations upon two floors<sup>2</sup> of a building at 175 Varick Street, New York City, herein called the New York City plant. The building was formerly leased but since January 1, 1946, is rented on a month-to-month basis. Upon these premises is a tool and die shop and a fabricating department for metal and bakelite stampings. As of July 30, 1946, there were approximately 175 production and maintenance employees engaged in manufacturing operations at this plant.

In 1944, Franklin opened a plant at Hoboken, New Jersey, where it is presently conducting molding and assembly operations for radio parts. As of July 30, 1946, there were approximately 45 employees at the Hoboken plant.<sup>3</sup>

About August 1945 some experimental work was started at the New York City plant to develop a built-in radio antenna. Airloop was formed as a separate business corporation to handle the manufacture and sale of the new project. The two officers of Franklin serve as the two officers of Airloop and control all stock in the latter corporation.<sup>4</sup>

In June 1946 Franklin purchased a 4-story building at Long Island City, New York, about 30 minutes' travel distance from the New York City plant. The first floor of the building is rented to an outside concern. The fourth floor was rented by Franklin to Airloop for the latter's manufacturing operations. Franklin occupies the two other floors for its production work. Employees and equipment were transferred to the Long Island City plant from the New York City plant. The record does not disclose how many employees may have been shifted from the pay roll of Franklin to the pay roll of Airloop or the amount of equipment transferred from one corporation to the other. Delays in receiving and installing equipment at the new plant and work stoppages due to labor disputes caused some reshifting from one plant to the other. Production employees at both plants are, for the most part, semi-skilled operators and assemblers. There are some tool

<sup>2</sup> The floor area includes 13,000 square feet on the sixth floor and 6,000 square feet on the eighth floor.

<sup>3</sup> As a result of a consent election conducted in August 1946, employees at the Hoboken plant are presently represented by the United and bargain with their Employer as a plant group.

<sup>4</sup> There are only four stockholders in Airloop. Jack Poster and Albert W. Franklin own stock as individuals, and Albert W. Franklin holds other stock as trustee for his children.

and die makers at the New York City plant who work on dies for both corporations. As of July 30, 1946, there were at the Long Island City plant approximately 20 employees of Airloop and approximately 70 employees of Franklin. These employees, listed on separate pay rolls, are paid in cash. When no work is available for one corporation, they are hired to do available work in the production departments of the other corporation. Employees of Franklin and Airloop at the Long Island City plant use a common cloak and rest room facilities.

The two officers, Albert W. Franklin and Jack Poster, control the management of both corporations. Under them is an executive superintendent, Joseph Vananzi, who directs the manufacturing operations of Franklin and Airloop at New York City, Hoboken, and Long Island City. Direct supervision of all production work is delegated by Vananzi to four foremen, one each at the New York City and Hoboken plants, and two at the Long Island City plant for the work performed for Franklin and Airloop, respectively. These foremen have authority to hire and discharge employees for operations under their respective supervision. All labor and production policies, however, emanate from Vananzi and the corporate officers. Employees at both plants have been the subject of organization by both petitioning labor unions, who claim substantial representation among them.

In view of the common ownership and control of production operations and of labor policies, we find that Franklin and Airloop constitute a single employer within the meaning of Section 2 (2) of the Act.<sup>5</sup> We further find that production and maintenance employees of Franklin and Airloop at the New York City and Long Island City plants constitute a single appropriate unit for bargaining purposes.

The petitioning unions agree, and we find, that the chauffeur at the New York plant, who drives<sup>6</sup> a station wagon for messenger service from one plant to the other, and shipping clerks, inspectors, porters, and matrons should be included in the bargaining unit. They further agree, and we find, that draftsmen at the New York City plant and clerical and supervisory employees<sup>6</sup> at both plants should be excluded from the bargaining unit. They disagree as to the watchman at the New York City plant. The United would include, and the IBEW would exclude, the watchman. The watchman is stationed at the employees' entrance to watch the time clock and to see that employees check in and out of the plant properly and that strangers do not enter the plant without authorization. The watchman has no other duties. We will include the watchman in the bargaining unit.<sup>7</sup>

<sup>5</sup> *Matter of Arnolt Motor Company, et al.*, 68 N. L. R. B. 868.

<sup>6</sup> The foremen at both plants are supervisory employees. The assistant forelady at the New York City plant has no supervisory duties, but functions as an inspector. As an inspector, the assistant forelady is deemed included in the bargaining unit.

<sup>7</sup> *Matter of Hannah Pickett Mills Company*, 69 N. L. R. B. 413.

We find that production and maintenance employees of Franklin and Airloop at the New York City and Long Island City plants, including the chauffeur, shipping clerks, inspectors, porters, matrons, and watchmen, but excluding draftsmen, 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.

#### DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with A. W. Franklin Manufacturing Corporation and Franklin Airloop Corporation, New York City and Long Island City, New York, 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 Second Region, acting in this matter as agent for the National Labor Relations Board, and subject to Sections 203.55 and 203.56, of National Labor Relations Board Rules and Regulations—Series 4, 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 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 they desire to be represented by United Electrical, Radio & Machine Workers of America, CIO, or by Local Union No. 3, International Brotherhood of Electrical Workers, AFL, for the purposes of collective bargaining, or by **neither**.