

In the Matter of ALASKA SALMON INDUSTRY, INC., EMPLOYER *and*  
UNITED PACKINGHOUSE WORKERS OF AMERICA, LOCAL 77, CIO,  
PETITIONER

In the Matter of ALASKA SALMON INDUSTRY, INC., EMPLOYER *and*  
ALASKA FISH CANNERY WORKERS UNION OF THE PACIFIC COAST  
CHARTERED BY SEAFARERS INTERNATIONAL UNION, AFL, PETITIONER

*Cases Nos. 19-RC-453 and 19-RC-517.—Decided June 8, 1950*

### DECISION AND DIRECTION OF ELECTION

Upon separate petitions duly filed, a hearing in these consolidated cases was held before Patrick H. Walker, 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 this case, the Board finds:

1. The Employer is a nonprofit corporation composed of employer-members who operate salmon canneries in the Territory of Alaska. The Employer and those of its employer-members involved in this proceeding, are engaged in commerce within the meaning of the National Labor Relations Act.

2. The Petitioners, hereinafter called UPWA and SIU respectively, and the Food, Tobacco, Agricultural and Allied Workers Union of America (Independent), Cannery Workers and Farm Laborers Union, Local No. 7, hereinafter called FTA, are labor organizations claiming to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The following, which is substantially the same unit found appropriate in *Alaska Salmon Industry, Inc.*, 82 NLRB 1395, and which all parties to this proceeding agree is appropriate, constitutes a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All nonresident cannery workers<sup>1</sup> employed by the following employer-members of the Employer, P. E. Harris Co., Pacific American

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<sup>1</sup> For definiteness and certainty the term nonresident cannery workers as used above embraces all those engaged in the making of cans, boxes, and cartons, operating and feeding

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Fisheries, Peninsula Packers, Western Fisheries, San Juan Fishing & Packing, Alaska Packers Association, Kadiak Fisheries, Chignik Fisheries, Inc., Alaska Year Round Canneries, General Fish Co., Cook Inlet Packing Co., Seldovia Bay Packers, Emard Packing Company, Ellamar Packing Co., Cooper River Packing Co., Port Aslton Packing Co.—San Juan, New England Fish Co., L. G. Wingard Co., Red Salmon Co., Columbia River Packers, Superior Packing Co., Wards Cove Pkg. Co., Sabastian-Stuart, Libby, McNeill & Libby, Farwest Wrangell Co., Todd Packing Co., Nakat Packing Corp., New England Fish Co. from Orca, and Fidalgo Island Packing Co., but excluding machinists, carpenters, radio operators, office employees, doctors, nurses, winter watchmen, night watchman, company timekeepers, and cannery worker foremen and second foremen and all other supervisors as defined in the Act.

5. The FTA contends that no election should be held during the 1950 canning season for the following reasons: (1) The curtailment of the number of prospective employees in 1950 would make a representative vote impossible; (2) supervisory interference within the UPWA and SIU would make either organization incapable of serving as the collective bargaining representative of the employees; and (3) Section 9 (c) (3) of the Act precludes the Board from holding an election. We find no merit to the FTA's contentions.

With respect to FTA's first contention, it is true that the record shows that the Employer expects to hire 1,933 nonresident employees in 1950, whereas 2,670 were hired last year. However, it appears that this year's employment total more likely represents the anticipated annual employment norm than does last year's total. In any event, even assuming that this year's figure is a curtailment of the normal employee complement, such a figure represents a proportionately large enough group of employees to insure a representative vote.

Contrary to FTA's contention, there is nothing in the record to convince us that either UPWA or SIU would be incapable of serving as collective bargaining agent of the employees involved in this proceeding, should either organization be selected for that purpose in the election which we are directing herein. Moreover, the General Counsel has refused to issue complaints in Cases Nos. 19-CA-304

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of the following machines (but not the installation, upkeep, or maintenance) ; iron chinks, gang knives, butchers or cutters, filling machines (feeders and helpers), clinchers, reformers, slitters, can body machines, pasting machines, casing machines, stitching machines, and all other work that has been customary heretofore (which does not conflict with any work usually performed by members of the Machinists Union) in said canneries, and employees engaged as utility men, leadmen (department heads), cannery worker timekeepers, cannery worker cooks, packers, bull cooks, and culinary help.

and 19-CB-102 and 105 on charges filed by FTA after the close of the hearing in this matter, and the charge filed by FTA in Case No. 19-CA-301 has been resolved by a Board Order.<sup>2</sup>

The third contention of FTA concerns the effect upon this case of the 12-month provision of Section 9 (c) (3).<sup>3</sup> Pursuant to a Decision and Direction of Election issued on April 8, 1948, balloting among the employees in the bargaining unit found appropriate therein commenced on April 29, 1949, and ended on August 10, 1949. The FTA argues that the proper method for computing the 12-month period is by counting the interval between the date on which the balloting was finally concluded in the prior election and the date on which balloting is begun in a later election. We do not agree.

Normally the Alaska salmon season extends from June 1 to September 18. However, the dates on which the season begins in various fishing areas differ, and those areas which open earlier close earlier. Each of the employers involved in this case generally restricts its operations to a single area. Thus a given employer's period of operations will depend upon the fishing season in the area of its operations. Some employers commence operations late in May, while others do not begin until mid-August. For this reason the earlier election was spread over a period of 4 months ending on August 10, 1949. Unless balloting in the instant proceeding is begun before August 10, 1950, an election during the 1950 season would be impracticable because many of the employers involved herein would have ceased their operations for the season before that date. To adopt the rule urged by FTA, therefore, would mean that the employees herein would be restricted to an election every 2 years. We do not think that such a result was contemplated by Section 9 (c) (3) of the Act.

Section 9 (c) (3) proscribes a second election within 12 months after "a valid election shall have been held." It is our opinion that a valid election has not been held until the balloting has been completed. The record shows that the balloting in the 1949 election was completed on August 10, 1949. In the instant case the balloting will not be completed in the entire unit until after August 10, 1950. Therefore the election which we are directing herein will not have been held until more than 1 year after the previous election. We therefore conclude and find that Section 9 (c) (3) does not proscribe holding the election which we hereinafter direct.

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<sup>2</sup> Issued June 8, 1950.

<sup>3</sup> Section 9 (c) (3) provides in part:

"No election shall be directed in any bargaining unit or any subdivision within which, in the preceding twelve-month period, a valid election shall have been held."

#### 6. The determination of representatives :

FTA contends that eligibility should be based on employment during the 1949 as well as the 1950 season. We do not agree. In the previous election in 1949, eligibility was determined on the basis of employment at the time of the election. The record indicates that upon the arrival of the cannery workers in Seattle, Washington, and Portland, Oregon, before the opening of the salmon fishing season, they are signed on by the individual member companies of the Employer. Each employee is issued a health card which he must present to a doctor furnished by the Employer to obtain a physical examination. On passing this examination his health card is stamped and the worker then reports to the company office to sign the payroll. The worker is considered a company employee only after he has passed his physical examination. In these circumstances, all workers who have passed the required physical examination shall be eligible to vote prior to their departure from Seattle or Portland in the election hereinafter directed. In those instances of employee departure from Seattle or Portland before the commencement of balloting, such employees shall vote upon their return to the Continental United States upon completion of their respective employers' 1950 fishing season. We shall vest in the Regional Director discretion to determine the exact time, places, and procedure for holding the election.

#### DIRECTION OF ELECTION <sup>4</sup>

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Alaska Salmon Industry, Inc., an election by secret ballot shall be conducted beginning as soon as practicable after the date of this Direction, in conformity with the instructions set forth in paragraph numbered 6, above, under the direction and supervision of the Regional Director for the Nineteenth Region, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations, among the employees in the unit found appropriate in paragraph numbered 4, above, to determine whether they desire to be represented for the purpose of collective bargaining by Alaska Fish Cannery Workers Union of the Pacific Coast, chartered by Seafarers International Union, AFL; or by United Packinghouse Workers of America, Local 77, CIO; or by Food, Tobacco, Agricultural and Allied Workers Union of America (Independent), Cannery Workers and Farm Laborers Union, Local 7; or by none.

<sup>4</sup> Any participant in the election directed herein may, upon request to and approval thereof by the Regional Director, have its name removed from the ballot.

MEMBER MURDOCK, dissenting:

In my view, insofar as the Direction of Election herein contemplates and authorizes the Regional Director to proceed with balloting during the period from the issuance of the Decision to August 10, 1950, it does so in specific violation of Section 9 (c) (3) of the Act. Section 9 (c) (3) prohibits the holding of a second election in any unit "within which, in the preceding twelve-month period, a valid election shall have been held." My majority colleagues are wholly right when they say "a valid election has not been held until the balloting has been completed." As the last election was not completed until August 10, 1949, by starting a new election now we are clearly holding one in a unit within which one has been held "in the preceding twelve-month period," contrary to the plain language of Section 9 (c) (3).