Under all the circumstances, it appears that these officers possessed at least apparent authority to bind the union. In these circumstances, we do not look behind this apparent authority, and find that the supplemental agreement became effective upon its execution.[5]

As to the Petitioner's second contention regarding lack of knowledge of the amendment by the employees, we find that as the supplemental agreement was in writing and signed by the Employer and the Intervenor, acting as the collective bargaining representative of the employees, there was no need, so far as the contract bar issue is concerned, that the employees be directly advised of the amendment.[6]

We therefore find that the current contract between the Association and the Intervenor is and was, at the time of the filing of the petition, entirely lawful on its face. As the contract has a substantial period yet to run, we find that it is a bar to this proceeding. Accordingly, we shall dismiss the petition.

Order

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

[5] See *Avco Manufacturing Corporation*, 97 NLRB 645; *Alaska Salmon Industry, Inc.*, 89 NLRB 1379.

[6] See *Canada Dry Ginger Ale, Incorporated*, 97 NLRB 597, and cases cited therein.

AMERICAN CAN COMPANY *and* LOCAL 79, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL, PETITIONER. *Case No. 10–RC–1694. April 15, 1952*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Morgan C. Stanford, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Murdock].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organizations involved claim to represent certain employees of the Employer.

3. The Intervenor, United Steelworkers of America, CIO, contends that its contract of March 17, 1951, covering the production

and maintenance employees at the Employer's Tampa, Florida, plant, bars this proceeding. However, the employees sought in this proceeding work at the Employer's warehouse in Auburndale, Florida. Moreover, the contract was executed before the Auburndale warehouse operation began and does not purport to cover the Auburndale employees. Thus, the contract cannot bar a present determination of representatives.[1] Accordingly, we find that 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 Petitioner seeks a unit of all employees employed in the Employer's Auburndale, Florida, warehouse, with the customary exclusions. The Intervenor asserts that there is no basis for a separate unit of Auburndale employees, and urges that they be added to the existing production, maintenance, and warehouse unit at the Employer's Tampa plant. The Employer takes no position with regard to the unit.

The Auburndale warehouse began operations in November 1951. None of the employees in this warehouse was previously employed at Tampa, and none had participated in the consent election held there almost a year earlier. The Auburndale warehouse is located about 50 miles from Tampa. It handles large numbers of cans, most of which are produced at Tampa. It sells the cans directly to major citrus processors in and near Auburndale. Although most of the cans handled at the warehouse are manufactured in the Employer's Tampa plant, it is in no sense a storage or overflow warehouse for Tampa's excess inventory. All cans sent to Auburndale are shipped to it against purchase orders executed by local canners and filed in Tampa.

Employees in the Auburndale warehouse are hired by the warehouse foreman, who has complete authority as to all hiring, discharges, and layoffs. There is virtually complete autonomy as to working hours and most other working conditions. There is no employee interchange between Tampa and Auburndale. The summer slack period results in mere seasonal reduction in the Tampa work force, but is expected to result in a complete shut-down at Auburndale. From these facts, it appears that the Auburndale employees are sufficiently distinguishable from the Tampa employees to constitute a separate unit, if they so desire.

On the other hand, these employees are subject to the Employer's general personnel policies, receive the same wages, and have the same functions to perform as employees in similar classifications at Tampa. In addition, the Auburndale and Tampa operations are integrated, as the warehouse is largely an extension of the Tampa plant's marketing

[1] *Reynolds Metals Company*, 82 NLRB 1414.

facilities. Therefore, we find that the Auburndale employees may, if they wish, join the existing unit of Tampa employees currently represented by the Intervenor.[2]

Accordingly, we shall make no final unit determination at this time, but shall first ascertain the desire of the Auburndale employees as expressed in the election to be directed herein, in the following voting group:

All employees at the Employer's Auburndale, Florida, warehouse, excluding office-clerical employees, professional and administrative employees, guards, and all supervisors as defined in the Act.

If a majority vote for the Petitioner, they will be taken to have indicated their desire to constitute a separate appropriate unit, and the Regional Director conducting the election directed herein is instructed to issue a certification of representatives to the Petitioner for the unit described in paragraph numbered 4, which the Board, under such circumstances, finds to be appropriate for purposes of collective bargaining. If a majority vote for the Intervenor, the organization may bargain for such employees as part of the Tampa production, maintenance, and warehouse unit that it now represents, and the Regional Director will issue a certificate of results of election to such effect.

[Text of Direction of Election omitted from publication in this volume.]

[2] *Thatcher Glass Manufacturing Company*, 97 NLRB 238.

FITZPATRICK AND WELLER, INC. *and* UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFL, PETITIONER. *Case No. 3–RC–814. April 15, 1952*

Supplemental Decision and Direction

On February 25, 1952, pursuant to a Decision and Direction of Election issued by the Board,[1] an election by secret ballot was conducted under the direction and supervision of the Regional Director for the Third Region among the employees in the appropriate unit. Upon completion of the election, a tally of ballots was issued and duly served upon the parties, which showed that of the 94 ballots cast, 47 were for and 26 against the Petitioner, 20 were challenged, and 1 was void.

On February 29, 1952, the Employer filed timely objections to election. Thereafter, the Regional Director conducted an investigation and, on March 21, 1952, issued and duly served upon the parties

[1] Not reported in printed volumes of Board decisions.