

ARA Services, Inc. and Service Employees International Union, Local 82, AFL-CIO, Petitioner. Case 5-RC-8277

April 30, 1973

DECISION AND DIRECTION OF ELECTION

**BY CHAIRMAN MILLER AND MEMBERS JENKINS
AND KENNEDY**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer William I. Shooer. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, by direction of the Regional Director for Region 5, this case was transferred to the National Labor Relations Board for decision. Thereafter, the Employer filed a brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. The rulings are hereby affirmed.

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

1. The Employer is a Delaware corporation with its principal office located in Philadelphia,¹ Pennsylvania. It provides food services at various institutions throughout the United States with gross revenues in excess of \$500,000 annually. Only the services provided at the National Lutheran Home for the Aged in the District of Columbia are involved herein. At such place it receives goods from outside the District of Columbia in excess of \$5,000 annually.

The Employer contends that the Board should decline to assert jurisdiction herein in view of the close

and intimate relationship between Employer and the National Lutheran Home for the Aged which it contends is a church owned, operated, and controlled institution which operates the home on a nonprofit and noncommercial basis in connection with and in furtherance of its broad basic religious objectives. We have recently considered this contention in *The National Lutheran Home for the Aged*.² We there decided that the Home was not an institution over which we would refuse to assert jurisdiction. As the only reason for refusing to assert jurisdiction over the Employer is its relationship to the home, we find that it will effectuate the purposes of the Act to assert jurisdiction over the Employer's operations at the home.³

2. The labor organization involved claims to represent certain employees of the Employer.

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

4. The parties have stipulated, and we find, that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time food service employees employed by the Employer at the National Lutheran Home for the Aged, Washington, D.C., including cooks, food service workers, kitchen employees, store room employees, cafeteria employees, general food service truck drivers, and lead employees but excluding office clerical employees, professional employees, guards and supervisors as defined in the Act.

[Direction of Election and *Excelsior* footnote omitted from publication.]

¹ The Employer moved that the record transcript be corrected in certain respects. In the absence of objections, the motion is granted.

² 203 NLRB No. 71.

³ The Board asserts jurisdiction on a plenary basis within the District of Columbia. *M.S. Ginn & Company*, 114 NLRB 112; *The Westchester Corporation*, 124 NLRB 194; *Herbert Harvey, Inc.*, 159 NLRB 254.