

records foremen, the ground instructor in the aircraft maintenance department, and supervisors as defined in the act.¹²

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

¹² Although the unit found appropriate is larger than that requested by the Petitioner, it appears that the Petitioner has an adequate showing of interest in this unit and; accordingly, we shall provide that an election be held among the employees therein. However, if the Petitioner does not desire to participate in such an election at this time, we shall permit it to withdraw its petition upon notice to the Regional Director within 10 days after issuance of the Decision and Direction of Election herein.

LUCE & COMPANY S. EN C. and SINDICATO DE CHOFERES Y MECANICOS DE PUERTO RICO Y RAMOS ANNEXOS, INC.,¹ PETITIONER. *Case No. 24-RC-294. April 7, 1952*

Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Philip Licari, 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 Styles and Peterson].

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

1. The Employer is engaged in commerce within the meaning of the Act.²
2. The Employer operates a number of sugar cane plantations in Puerto Rico. In the course of its operations, the Employer utilizes various items of machinery, such as trucks, tractors, winches, and other types of heavy equipment. The Petitioner seeks a unit of all employees engaged in transportation and in the maintenance of transportation equipment at the Employer's Puerto Rican plantations, including chauffeurs, assistant chauffeurs, operators of heavy equip-

¹ The name of the Petitioner appears as amended at the hearing.

² The Employer, a partnership which operates sugar cane plantations in various parts of Puerto Rico, contends that the Act is not applicable to such operations, on the ground that Puerto Rico is no longer a Territory of the United States. The Employer bases this contention on the provisions of Public Law 600, 81st Cong., 2nd Sess., approved July 3, 1950, which in substance establishes a procedure for the adoption of a constitution by the people of Puerto Rico. Upon the approval of such a constitution by the Congress of the United States, certain provisions of the Act of March 2, 1917, as amended, governing the relationships between the United States and Puerto Rico, shall be deemed repealed, until that time, all the provisions of that Act are to remain in effect. The new constitution of Puerto Rico has not yet been approved by the Congress of the United States. Accordingly, we find the Employer's contention to be without merit.

ment, mechanics, and assistant mechanics. These employees may be divided into two categories: (1) field employees, including the chauffeurs, assistant chauffeurs, and operators of heavy equipment, and (2) shop employees, including the mechanics and assistant mechanics. The field employees operate, or assist in the operation of, the trucks, tractors, and other field machinery; they perform their duties wholly within the confines of the Employer's plantations. Such duties involve operations necessary to the planting, cultivating, and harvesting of the crop, and include preparing the seed bed, transporting seed and fertilizer within the plantations, planting the seed, applying herbicides, cultivating, and harvesting. Their duties also include transporting the harvested cane to railroad sidings located within the plantations, and loading the cane on railroad cars. The shop employees work in two repair shops which the Employer operates in the town of Aguirre, where these employees service, maintain, and repair the machinery used by the field employees. The Employer is not engaged in any other enterprise.

The Employer contends, *inter alia*, that the employees sought by the Petitioner are all agricultural laborers, and are therefore not employees within the meaning of Section 2 (3) of the Act. Section 3 (f) of the Fair Labor Standards Act, to which the Board is required to refer for the definition of agriculture,³ defines the term as follows:

(f) "Agriculture" includes farming in all its branches and among other things includes the cultivation and tillage of the soil . . . the production, cultivation, growing, and harvesting of any agricultural . . . commodities . . . and any practices . . . performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or market or to carriers for transportation to market.

It is apparent that the field employees, in performing duties necessary to the planting, cultivating, and harvesting of the crop, including the transporting of seed and fertilizer within the plantations, are engaged solely in occupations which clearly fall within the above-quoted definition of agriculture.⁴ Their duties of transporting the harvested cane to railroad sidings located within the plantations and loading the cane onto railroad cars, being performed by the Employer on its own plantations, and not in conjunction with any other enterprise, are incidental to the Employer's farming operations; accord-

³ As in previous years, a rider to the Board's current Appropriation Act (Public Law 134, 82nd Cong., 1st Sess., August 31, 1951) requires the Board to define agriculture as defined in Section 3 (f) of the Fair Labor Standards Act for the purpose of determining who are "agricultural laborers" within the meaning of Section 2 (3).

⁴ *Waialua Agr. Co., Ltd. v. Maneja et al.*, 97 F. Supp. 198, 219-220 (D. C., Hawaii); *Seattle Wholesale Florists Association*, 92 NLRB 1186, 1189, and cases cited therein.

ingly, such duties also fall within that definition.⁵ We find, therefore, that the field employees are agricultural laborers within the meaning of the Act.

Although the shop employees, in the performance of their duties at the shops, do not work on a farm, the record nevertheless establishes that they service, maintain, and repair only the machinery used by the Employer in its farming operations, and that such machinery is used only in such operations. Under these circumstances, we find that the duties of the shop employees involve a practice performed by the Employer as an incident to its farming operations, and that such duties also fall within the definition of agriculture.⁶ We find, therefore, that the shop employees are also agricultural laborers within the meaning of the Act.

As we have found that all the employees sought by the Petitioner are agricultural laborers, we find that no 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. Accordingly, we shall dismiss the petition.

Order

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

⁵ *Vives et al. v. Serrales*, 145 F. 2d 552 (C. A. 1); *Waialua Agr. Co., Ltd. v. Maneja et al.*, *supra*; *Roberts Fig Company*, 88 NLRB 1150, 1152; *L. Macey, Inc.*, 78 NLRB 525, 526.

⁶ In a letter to the Solicitor of the Board, dated October 4, 1949 (WHM 35 : 370-371), the Assistant Solicitor of the United States Department of Labor expressed the opinion that repair shop employees who repaired machinery and equipment used on a farm and off the farm appeared to be engaged in some work which was incidental to the farming operations. See also Wage and Hour Div., Interpretative Bulletin-No. 14, par. 12.

CHRYSLER CORPORATION, MICHAUD ORDNANCE PLANT and INTERNATIONAL UNION OF UNITED AUTOMOBILE, AIRCRAFT, AGRICULTURAL & IMPLEMENT WORKERS OF AMERICA, CIO (UAW-CIO), PETITIONER.
Case No. 15-RC-637. April 7, 1952

Decision and Direction of Elections

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Charles R. Kyle, 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 Murdock and Styles].