

In the Matter of SOLOMON MANUFACTURING COMPANY and INDEPENDENT COTTON WORKERS' UNION

*Case No. R-267.—Decided October 27, 1937*

*Ladies Dress Manufacturing Industry—Investigation of Representatives:* controversy concerning representation of employees: rival organizations; refusal by employer to recognize either organization as exclusive representative—*Unit Appropriate for Collective Bargaining:* production employees; no controversy as to—*Election Ordered:* employees as of date of strike eligible to vote.

*Mr. Christopher W. Hoey* for the Board.

*Taylor, Mayer & Shifrin*, by *Mr. Emil Mayer* and *Mr. Louis Shifrin*, of St. Louis, Mo., for the Company.

*Mr. William A. Allen*, of St. Louis, Mo., for the Independent Union.

*Mr. Joseph A. Lennon* and *Mr. Bryan Purteet*, of St. Louis, Mo., for International Ladies' Garment Workers' Union.

*Mr. Warren L. Sharfman*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On May 18, 1937, Independent Cotton Workers' Union, herein called the Independent Union, filed with the Regional Director for the Fourteenth Region (St. Louis, Missouri) a petition alleging that a question affecting commerce had arisen concerning the representation of employees engaged as operators, pressers, folders, cutters, designers, and packers by the Solomon Manufacturing Company, St. Louis, Missouri, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 28, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered the Regional Director to conduct an investigation and provide for an appropriate hearing. Thereafter, until August 27, 1937, no action was taken pending the determination of the question whether a complaint should be issued upon the formal charges

filed on June 5, 1937, by International Ladies' Garment Workers' Union, herein called the I. L. G. W. U., against the Company, alleging a violation of Section 8 (1) and (2) of the Act.<sup>1</sup> On August 27, 1937, the Acting Regional Director notified the I. L. G. W. U. of his refusal to issue a complaint in the afore-mentioned case, and issued a notice of hearing to be held at St. Louis, Missouri, on September 2, 1937.

Pursuant to the notice, duly served, a hearing was held in St. Louis, Missouri, on September 2, 1937, before Alvin J. Rockwell, the Trial Examiner duly designated by the Board. At the hearing the I. L. G. W. U. filed a motion to intervene, which was granted by the Trial Examiner without objection. The Board, the Company, the Independent Union, and the I. L. G. W. U. were represented by counsel at the hearing, and all were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issue. Objections to the introduction of evidence were made during the course of the hearing by counsel for the parties. The Board has reviewed the rulings of the Trial Examiner on motions and objections and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

#### FINDINGS OF FACT

##### I. THE COMPANY AND ITS BUSINESS

The Company is a domestic corporation engaged in the manufacture of ladies' cotton dresses in St. Louis, Missouri. The dresses are manufactured to retail at one dollar and are sold principally to chain stores. Ninety per cent of the sales, amounting to \$240,000 during the past year, and one hundred per cent of the purchases, amounting to \$100,000 during the past year, were made outside the State of Missouri.

All of the parties to the proceeding stipulated that the Company is within the jurisdiction of the Board.

##### II. THE ORGANIZATIONS INVOLVED

###### A. *The Independent Union*

Independent Cotton Workers' Union is an unaffiliated labor organization whose membership is limited to persons employed by companies engaged in the manufacture of cotton dresses in the St. Louis metropolitan area. It was organized in April 1937 by employees of the Company.

<sup>1</sup> Case No. XIV-C-67.

*B. The I. L. G. W. U.*

International Ladies' Garment Workers' Union is a labor organization, international in scope, composed of 270,000 workers in the ladies' garment industry. It is affiliated with the Committee for Industrial Organization. Locals 181 and 182 in St. Louis, Missouri, have jurisdiction over the employees of the Company, depending upon the exact nature of the work they perform. The two locals filed a single motion to intervene, appeared by the same counsel, made no distinction as to their membership, and sought certification jointly. We shall treat them as a single organization, leaving it to them to arrange between themselves any question which may arise as to the method of joint representation in case they are certified.

## III. THE QUESTION CONCERNING REPRESENTATION

On March 19, 1937, the I. L. G. W. U. sent a letter to the Company suggesting a conference concerning the grievances of the Company's employees before they issued a strike order. On May 10, 1937, the Independent Union wrote to the Company claiming to represent a majority of the Company's employees and demanding that the Company recognize it as the exclusive bargaining agent for the shop. The Company replied to this letter on May 11, 1937, stating that they had received a letter from the I. L. G. W. U., and that until they could determine which organization represented a majority of their employees they could not recognize any organization. Thereafter, the Independent Union filed the present petition.

We find that a question has arisen concerning the representation of employees of the Company. This question can best be resolved by the holding of an election by secret ballot to determine which of the unions, if either, the employees in question desire to represent them.

## IV. THE EFFECT OF THE QUESTION OF REPRESENTATION ON COMMERCE

We find that the question concerning representation which has arisen, in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

## V. THE APPROPRIATE UNIT

The Company normally employs about 75 persons, although at times during 1936 it employed as few as five persons and as many as 114. After an evasive reply by the Company to the letter of March 19, 1937, from the I. L. G. W. U., which had requested a con-

ference concerning grievances, the I. L. G. W. U. called a strike at the Company plant on March 23, 1937. For the eight weeks preceding the strike the number of employees during any one week varied between 64 and 77. The pay roll for the week before the strike was called included the names of 74 employees. From April to the middle of August the Company employed between 18 and 22 persons. Thereafter, up to the time of the hearing, the Company had only one office worker in its employ.<sup>2</sup> Of the 74 persons employed during the week preceding the strike, 67 were engaged in production at a piece or hourly rate, two were office employees, two were supervisory employees, and there were order-fillers with some clerical duties. The parties stipulated, and we find that, in order to insure to the Company's employees the full benefit of their right to self-organization and collective bargaining, and otherwise to effectuate the policies of the Act, the production employees, exclusive of office employees, supervisory employees, and order-fillers, constitute a unit appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.<sup>3</sup>

#### VI. CONDUCT OF ELECTION

The last period of normal employment by the Company being the week preceding the strike, we find that the question concerning representation can be most effectively settled if the employees in the appropriate unit who were employed by the Company during the week ending March 20, 1937, are allowed to vote in the election by secret ballot.

The parties shall appear upon the ballot as "Independent Cotton Workers' Union" and "International Ladies' Garment Workers' Union, Locals 181 and 182", and the employees shall also be given opportunity to express their desire not to be represented by either of these unions.

#### CONCLUSIONS OF LAW

Upon the basis of the above findings of fact, the Board makes the following conclusions of law:

1. A question affecting commerce has arisen concerning the representation of employees of Solomon Manufacturing Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All production employees employed by the Solomon Manufacturing Company, except office employees, supervisory employees, and

<sup>2</sup> See Board's Exhibits 3a and 3b, and Intervenor's Exhibit 1

<sup>3</sup> The Company refused to stipulate as to Florence Batts, herein considered a supervisory employee, but stated that it had no objection to such stipulation.

order-fillers, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

#### DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

DIRECTED that, as a part of the investigation authorized by the Board to ascertain representatives for collective bargaining with the Solomon Manufacturing Company, St. Louis, Missouri, an election by secret ballot shall be conducted within ten days from the date of this Direction of Election, under the direction and supervision of the Acting Regional Director for the Fourteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9 of said Rules and Regulations—Series 1, as amended, among all the production employees, exclusive of office employees, supervisory employees, and order-fillers, who were employed by the Solomon Manufacturing Company during the week ending March 20, 1937, to determine whether they desire to be represented by Independent Cotton Workers' Union or by International Ladies' Garment Workers' Union, Locals 181 and 182, for the purposes of collective bargaining, or by neither.