

In the Matter of HAT CORPORATION OF AMERICA *and* UNITED HATTERS,
CAP AND MILLINERY WORKERS INTERNATIONAL UNION

Case No. R-268.—Decided October 27, 1937

Hat Industry—Investigation of Representatives: controversy concerning representation of employees: refusal by employer to recognize petitioning union as exclusive representative—*Unit Appropriate for Collective Bargaining:* production employees in trimming and finishing department; eligibility for membership in petitioning union; no controversy as to—*Representatives:* proof of choice: comparison of pay roll and union application cards designating union as bargaining agency—*Certification of Representatives:* upon proof of majority representation.

Mr. David A. Moscovitz for the Board.

Gleason, McLanahan, Merritt and Ingraham, by *Mr. Henry Clifton, Jr.*, of New York City, for the Company.

Mr. David I. Ashe, of New York City, for the Union.

Mr. S. G. Lippman, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On August 18, 1937, United Hatters, Cap and Millinery Workers International Union, herein called the Union, filed a petition with the Regional Director for the Second Region (New York City) alleging that a question affecting commerce had arisen concerning the representation of the "front shop" employees of the East Norwalk, Connecticut, plant of Hat Corporation of America,¹ herein called the Company, and requesting the National Labor Relations Board, herein called the Board, to conduct an investigation pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On September 4, 1937, the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director to conduct an investi-

¹ Erroneously referred to in the order of the Board directing an investigation as Hodshon and Berg. On the basis of an agreement of the parties at the hearing, the name of the Company appearing in the Board's order has been changed to Hat Corporation of America.

gation and to provide for an appropriate hearing. On September 7, 1937, the Regional Director issued a notice of hearing to be held at New York City, on September 8, 1937, copies of which were served upon the Company and upon the Union.

Pursuant to notice, a hearing was held at New York City on September 8, 1937, before H. R. Korey, the Trial Examiner duly designated by the Board. The Board, the Company, and the Union were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. No motions or exceptions to rulings of the Trial Examiner were made during the course of the hearing.

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

FINDINGS OF FACT

I. THE COMPANY AND ITS BUSINESS

Hat Corporation of America is a Delaware corporation, organized in 1932 for the purpose of manufacturing, selling, and distributing hats for men and women, and has its principal office and place of business in East Norwalk, Connecticut. The Company, through its wholly-owned subsidiaries, operates retail stores in New York City in which are sold hats manufactured by the Company and other wearing apparel for men and women. The hats manufactured by the Company are sold under the names, "Dobbs", "Cavanagh", "Knox", "Dunlap", "Byron", "Berg", "Knapp Felt", and others. In addition to the distribution through the retail stores operated by the afore-mentioned subsidiaries, the Company is engaged through the medium of wholly-owned subsidiaries in selling hats to wholesalers and retailers throughout the country.

The Company operates two plants located in East Norwalk, Connecticut, designated as plants No. 1 and No. 2, and has a branch office and a factory in New York City. The East Norwalk plant No. 2 employs 900 production employees, of whom 325 work in its "front shop", or Hodshon-Berg Department, with which department we are particularly concerned here. The plant as a whole is divided into two parts, the "back shop" where material is fabricated into a rough hat body, and the "front shop" where the hat is trimmed and finished. The "front shop" is divided into the following four major departments, devoted to the stages of manufacture indicated:

(a) The pouncing department—removing the surplus hair from the surface of the hat.

(b) The finishing department—further smoothing the surface of the hat; bringing out its color; giving it shape.

(c) The trimming department—attaching the band and lining to the hat.

(d) The flanging department—giving shape to the brim of the hat.

The Company uses the following raw materials in the manufacture of the fur felt hats which are processed in the “front shop” of plant No. 2: Fur skins from America, England, France, Russia, and Poland; shellac from India; sweat leather from Pennsylvania, New York, and Massachusetts; silk and cotton ribbons from Connecticut and New Jersey; silk and rayon materials from Pennsylvania; silk threads from Pennsylvania; cotton threads from Connecticut; dyes from New York and New Jersey; chip-board, paper, and cartons from Connecticut, New York, and New Jersey, and miscellaneous material from Connecticut and New York.

It was estimated by Nathan T. Tibbals, vice president and works manager of the Company, that at least 90 per cent of the above materials come from outside the State of Connecticut, transported by truck, railroad freight and express, and that the cost of such raw materials amounted to approximately \$150,000 a year. He testified further that about 90 per cent of the finished products passing through the “front shop” amounting to approximately \$1,000,000 a year, are distributed to States other than the State of Connecticut, by rail, truck, and ship.

II. THE ORGANIZATION INVOLVED

United Hatters, Cap and Millinery Workers International Union is a labor organization admitting into membership all employees of the Company engaged in “front shop” operation. The Union divides its members into two locals, Local No. 32 admitting to membership male employees, and Local No. 33 admitting to membership female employees. The two locals are represented by a joint bargaining committee and the same business agent. For the purposes of this proceeding they will be treated as a single organization.

III. THE APPROPRIATE UNIT

The Union maintains that all the production employees of the “front shop” of plant No. 2 eligible for membership therein constitute a unit appropriate for collective bargaining. The Company raises no objection to the bargaining unit claimed by the Union and has indicated its willingness to bargain collectively with the Union as the sole bargaining agent if the Board determines the Union has been designated as representative by a majority of the employees in the unit.

Therefore, in order to insure to employees of the Company the full benefit of their rights to self-organization and collective bargaining,

and otherwise to effectuate the policies of the Act, we find that the production employees of the "front shop" of the Company's plant No. 2 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.

IV. THE QUESTION CONCERNING REPRESENTATION

About March 1937, the Union began a campaign for membership among the employees of the "front shop", and at the time of the filing of the petition, the Union claimed to represent a substantial number of employees of the "front shop". Commencing July 21, 1937, and continuing until August 20, 1937, there were conferences between the Union and the Company in which, in substance, the Union requested recognition as the bargaining agent for the employees of the "front shop". The Company refused to grant any recognition until the Board should certify the Union as the representative of the Company's employees in that department. The Union now claims to represent a vast majority of the Company's employees in the appropriate unit. There is no other labor organization claiming membership among the Company's employees. The present refusal of the Company to recognize the Union tends to create resentment and dissatisfaction among the employees and members of the Union.

We find that a question has arisen concerning the representation of the employees of the Company in the appropriate unit.

V. THE EFFECT OF THE QUESTION OF REPRESENTATION ON COMMERCE

We find that the question of representation which has thus 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 disputes burdening and obstructing commerce and the free flow of commerce.

VI. THE EXCLUSIVE BARGAINING AGENCY

It was stipulated by the parties that the pay roll of August 20, 1937, might be used as the basis of determining the question of representation. Subsequently 301 union application cards were admitted into evidence subject to a check with the pay roll. The application cards contained statements authorizing the Union to represent the undersigned for the purposes of collective bargaining as to wages, hours of employment, and other working conditions. Counsel for all of the parties herein, after checking the application cards with the pay roll, stipulated that the Union had a membership of

at least 252 of the total of 325 of the production employees of the "front shop".

We, therefore, conclude that no secret ballot is necessary, and we will certify the Union as the exclusive bargaining agency of all the employees in the appropriate unit.

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 Hat Corporation of America, within the meaning of Section 9 (c), and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

2. All production employees employed by Hat Corporation of America in the "front shop" of the Company's plant No. 2 in East Norwalk, Connecticut, constitute a unit appropriate for collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. United Hatters, Cap and Millinery Workers International Union, Locals No. 32 and No. 33, having been jointly selected for the purposes of collective bargaining by the majority of the employees in the aforesaid unit, are, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative of all the employees in such unit for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

CERTIFICATION OF REPRESENTATIVES

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, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that United Hatters, Cap and Millinery Workers International Union, Locals No. 32 and No. 33, have been jointly designated and selected by a majority of the production employees of the "front shop" of plant No. 2 of Hat Corporation of America, in East Norwalk, Connecticut, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, United Hatters, Cap and Millinery Workers International Union, Locals No. 32 and No. 33, jointly, are the exclusive representatives of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.