

In the Matter of ARMCO FINISHING CORPORATION, INC. and TEXTILE  
WORKERS ORGANIZING COMMITTEE

*Case No. R-696.—Decided May 21, 1938*

*Silk and Rayon Dyeing and Finishing Industry—Investigation of Representatives: controversy concerning representation of employees: majority status disputed by employer—Unit Appropriate for Collective Bargaining: piece-rate and hourly production employees, excluding supervisory and clerical employees, overseers, head dyers, head finishers, floor and shift bosses, and watchmen; no controversy as to—Election Ordered*

*Mr. Jacob Blum and Mr. Samuel M. Spencer, for the Board.*

*Cooper, Curley & Sanders, by Mr. Thomas D. Cooper and Mr. E. T. Sanders, of Burlington, N. C., for the Company.*

*Mr. Frank J. Ward, of Knoxville, Tenn., for the Textile Workers Organizing Committee.*

*Mr. Roman Beck, of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On December 15, 1937, Textile Workers Organizing Committee, herein called the T. W. O. C., filed with the Regional Director for the Fifth Region (Baltimore, Maryland) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Armco Finishing Corporation, Inc., Burlington, North Carolina, 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 February 18, 1938, the National Labor Relations Board, herein called 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, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On March 5, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and upon the T. W. O. C. Pursuant to the notice, a hearing was held on March

17, 1938, at Graham, North Carolina, before E. R. Stempel, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel; the T. W. O. C. was represented by its representative; and all 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. At the outset of the hearing the Company moved to dismiss the proceeding for want of jurisdiction. The Trial Examiner reserved decision on the motion and upon its renewal at the close of the hearing its determination was reserved for the Board. The motion is hereby denied. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner 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 BUSINESS OF THE COMPANY

Armco Finishing Corporation, Inc. is a North Carolina corporation engaged in the dyeing and finishing of acetate rayon and of silk fabrics. All its customers are in New York City. The customers direct the goods to be sent to the Company's plant in Burlington, North Carolina, by rail and truck. After these goods are dyed and finished about 90 per cent are transported at the customers' direction to States other than North Carolina. The materials used by the Company in the dyeing and finishing process consist of distilled water, paper, salt, dyestuffs, and chemicals. Most of these processing materials are purchased from local distributors. The materials are manufactured, in large part, in States other than North Carolina and sent to the Company's plant by means of rail and truck transportation selected by the vendors.

During 1937 the Company's gross revenue from the business done at its Burlington plant was in excess of \$300,000. During its peak season the Company employs about 200 workers. The Company has an interest in Burlington Dyeing and Finishing Company which has a selling organization in New York City. The latter solicits business for the Armco Company in New York City. A teletype system is used to transmit the orders so procured on behalf of the Company.

##### II. THE ORGANIZATION INVOLVED

Textile Workers Organizing Committee is a labor organization affiliated with the Committee for Industrial Organization, admitting

to its membership all piece-rate and hourly production employees of the Company, excluding supervisory and clerical employees, and watchmen.

### III. THE QUESTION CONCERNING REPRESENTATION

Prior to November 24, 1937, a representative of the T. W. O. C. conferred with the Company in an effort to secure recognition as the sole collective bargaining representative for the employees eligible to T. W. O. C. membership. The Company rejected these overtures on the ground that the T. W. O. C. did not represent a majority of such employees.

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

### IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring 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 T. W. O. C. contends that the hourly and piece-rate production employees of the Company, excluding supervisory and clerical employees, and watchmen, constitute a unit appropriate for collective bargaining. The Company did not dispute this. The T. W. O. C. representative testified in answer to the question, "Which employees are considered by you to be supervisors?" as follows:

The overseers or whatever they would call them, head dyers, finishers, the floor bosses and the shift bosses. I suppose that is about all.

The punctuation, which is that of the stenographer, would indicate that all finishers are deemed supervisory employees. It is common knowledge that finishers, other than head finishers, are ordinary workers. The T. W. O. C. ordinarily admits finishers to its membership, except those who have supervisory duties. It is reasonable to assume therefore that "head", purporting to modify only "dyers", was intended by the witness also to modify the word "finishers". Accordingly we will exclude only head finishers.

We find that the hourly and piece-rate production employees of the Company, excluding supervisory and clerical employees, overseers,

head dyers, head finishers, floor and shift bosses, and watchmen, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and collective bargaining and otherwise effectuate the policies of the Act.

#### VI. THE DETERMINATION OF REPRESENTATIVES

The T. W. O. C. claims to represent a majority of the employees of the Company within the appropriate unit, but has not submitted evidence to substantiate its claim, other than the testimony of its representative that its claim is founded upon signed membership cards. Its representative did not submit the membership cards for examination at the hearing. We find that an election by secret ballot is necessary to resolve the question concerning representation.

The T. W. O. C. suggested that December 15, 1937, the date of filing of the petition herein, be selected as the date for determining eligibility to vote. The Company offered no objection. Under the circumstances, we conclude that the persons eligible to vote are those employees of the Company within the appropriate unit who were employed during the pay-roll period immediately preceding December 15, 1937, including, in addition to those appearing on the pay roll as of that date, all regular employees within the appropriate unit who were then temporarily absent for illness or other cause, and excluding all who have since quit or been discharged for cause.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

#### CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Armco Finishing Corporation, Inc. at its plant in Burlington, North Carolina, within the meaning of Section 9 (c) and Section 2 (6) and (7), of the National Labor Relations Act.

2. The hourly and piece-rate production employees of the Company at its plant in Burlington, North Carolina, excluding supervisory and clerical employees, overseers, head dyers, head finishers, floor and shift bosses, and watchmen, 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 Rela-

tions 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 ordered by the Board to ascertain representatives for the purposes of collective bargaining with Armco Finishing Corporation, Inc., Burlington, North Carolina, an election by secret ballot shall be conducted within twenty (20) days from the date of this Direction, under the direction and supervision of the Regional Director for the Fifth 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, among the piece-rate and hourly production employees of Armco Finishing Corporation, Inc. at its Burlington, North Carolina, plant, who were employed by it during the pay-roll period immediately preceding December 15, 1937, and in addition all such employees who were temporarily absent for illness or other cause during that pay-roll period; but excluding those who have since quit or been discharged for cause and also excluding supervisory and clerical employees, overseers, head dyers, head finishers, floor and shift bosses, and watchmen, to determine whether or not they desire to be represented by Textile Workers Organizing Committee, affiliated with the Committee for Industrial Organization, for the purposes of collective bargaining.