

In the Matter of PARAGON RUBBER CO.-AMERICAN CHARACTER DOLL COMPANY and TOY & NOVELTY WORKERS ORGANIZING COMMITTEE OF THE C. I. O.

Case No. R-571

Rubber Doll Manufacturing Industry—Prior Election: held null and void; presence of high supervisory official as teller at election held inconsistent with a free choice of representatives; action of Board's representative in allowing high supervisory official to act as teller, over objections of union, held prejudicial to rights of union and employees—*Election Ordered*

SUPPLEMENTAL DECISION
AND
SECOND DIRECTION OF ELECTION

June 16, 1938

On March 17, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election¹ in the above-entitled case. The Direction of Election provided that an election by secret ballot be held within fifteen (15) days among all the production and maintenance employees of Paragon Rubber Corporation and American Character Doll Co., Inc. during the pay-roll period ending October 16, 1937, excluding supervisory employees, executive employees, clerical employees, salesmen, foremen and foreladies, assistant foremen and foreladies, truck drivers, engineers, firemen, machine shop employees and porters, and exclusive of those who have quit or been discharged for cause between that period and the date of election, to determine whether or not they desire to be represented by United Toy and Novelty Workers Local Industrial Union No. 643 for the purposes of collective bargaining.

Pursuant to the Direction, an election by secret ballot was conducted under the direction and supervision of the Regional Director for the First Region (Boston, Massachusetts) on March 29, 1938. On April 5, 1938, the said Regional Director, acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued and duly served upon the parties his Intermediate Report on the ballot.

¹ 6 N L R B 23

As to the balloting and its results the Regional Director reported the following:

Number of employees eligible to vote-----	156
Total number of ballots cast-----	115
Total number of blank ballots-----	0
Total number of void ballots-----	0
Total number of ballots cast for United Toy and Novelty Workers Local Industrial Union No. 643-----	56
Total number of ballots cast against United Toy and Novelty Workers Local Industrial Union No. 643-----	59
Total number of challenged ballots-----	8

Thereafter, the Union duly filed with the Regional Office its objections to the Intermediate Report and requested that the election be set aside and declared null and void. The objections allege, in substance, that M. Jaffee, factory manager of the companies, having the right to hire and fire employees, was allowed to act as teller at the election in spite of objection by the Union; that the said Jaffee engaged in activities against the Union, such as instructing drivers of company-driven automobiles to carry to the poll workers known to be antiunion and conversing with employees as they entered the voting booth; that the companies just prior to the election furnished an employee with a list of the names and addresses of all employees and caused him to send a letter urging the defeat of the Union and indicating that only those voting against the Union could return to work. A copy of the alleged letter was attached to the objections.

We find that the presence as a teller at the election of a high supervisory official such as Jaffee is inconsistent with a free choice of representatives and that the action of the Board's representatives in allowing Jaffee, over the objections of the Union, to act as teller was prejudicial to the rights of the Union and the employees. We therefore declare the election of March 29, 1938, to be null and void and shall direct that a new election be held.

In view of the above finding, it will not be necessary to investigate or make any determination relative to the other objections filed by the Union.

SECOND 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 part of the investigation ordered by the Board to ascertain representatives for the purposes of collective bargain-

ing with Paragon Rubber Corporation and American Character Doll Co., Inc., Easthampton, Massachusetts, a new election by secret ballot be conducted within fifteen (15) days from the date of this Direction, under the direction and supervision of the Regional Director for the First 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 all the production and maintenance employees of Paragon Rubber Corporation and American Character Doll Co., Inc. during the pay-roll period ending October 16, 1937, excluding supervisory employees, executive employees, clerical employees, salesmen, foremen and foreladies, assistant foremen and foreladies, truck drivers, engineers, firemen, machine shop employees and porters, and exclusive of those who have since quit or been discharged for cause, to determine whether or not they desire to be represented by United Toy and Novelty Workers Local Industrial Union No. 643 for the purposes of collective bargaining.

[SAME TITLE]

AMENDMENT TO SUPPLEMENTAL DECISION

AND

SECOND DIRECTION OF ELECTION

June 30, 1938

On March 17, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled case. The Direction of Election provided that an election by secret ballot be held within fifteen (15) days among all the production and maintenance employees of the Paragon Rubber Corporation and American Character Doll Co., Inc., excepting certain employees as set forth therein, to determine whether or not they desired to be represented by United Toy and Novelty Workers Local Industrial Union No. 643, for the purposes of collective bargaining.

Pursuant to the Direction, an election by secret ballot was conducted on March 29, 1938, under the direction and supervision of the Regional Director for the First Region (Boston, Massachusetts). On April 5, 1938, the said Regional Director issued and duly served upon the parties his Intermediate Report on the ballot. Thereafter, the Union filed objections to the Intermediate Report and requested that the election be set aside and declared null and void. The objections alleged that M. Jaffee, a factory manager of the companies, having the power to hire and discharge employees, was allowed to act as teller at the election in spite of objection by the Union; and that

the companies had by various means interfered with a free choice of representatives.

On June 16, 1938, the Board issued a Supplemental Decision and Second Direction of Election in which it declared the election of March 29, 1938, to be null and void and in which it directed that a new election be held within fifteen (15) days. The Board found that the presence as a teller at the election of a high supervisory official such as Jaffee was inconsistent with the free choice of representatives, and that the action of the Board's representatives in allowing Jaffee, over the objections of the Union, to act as teller was prejudicial to the rights of the Union and the employees. Under the circumstances, the Board deemed it not necessary to investigate or make any determination relative to the other objections filed by the Union.

On June 24, 1938, the Union requested that the second election be postponed, alleging in part that the Union had been "prejudiced by intimidation and coercion exercised by the companies against their employees on the basis of the last election returns and it will take at least a period of three weeks for the effects of such intimidation and coercion by the companies to disappear."

Under all the circumstances, the Board is of the opinion that the second election should be postponed indefinitely pending an investigation and determination by it as to whether or not a free choice of representatives is possible at this time among the employees of the companies.

The Board hereby amends the Supplemental Decision and Second Direction of Election of June 16, 1938, by striking therefrom the words "within fifteen (15) days from the date of this Direction" and substituting therefor the words "at such time as the Board in the future may direct."