

In the Matter of **DEFIANCE SCREW MACHINE PRODUCTS COMPANY** and  
**INTERNATIONAL ASSOCIATION OF MACHINISTS**

*Case No. 8-R-1215.—Decided September 17, 1943*

*Mr. L. F. Serrick*, of Defiance, Ohio, for the Company.

*Mr. A. P. Nobozny*, of Lorain, Ohio, for the I. A. M.

*Mr. Erwin L. Clemens*, of Defiance, Ohio, for the Association.

*Miss Viola James*, of counsel to the Board.

**DECISION**

**AND**

**DIRECTION OF ELECTION**

**STATEMENT OF THE CASE**

Upon petition duly filed by International Association of Machinists, herein called the I. A. M., alleging that a question affecting commerce had arisen concerning the representation of employees of Defiance Screw Machine Products Company, Defiance, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Defiance, Ohio, on September 1, 1943. The Company, the I. A. M., and Defiance Screw Machine Workmen's Association, herein called the Association, appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Company and the Association each filed a motion to dismiss the petition. The Trial Examiner reserved ruling on the motions for the Board. For the reasons appearing herein, the motions are hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

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

**FINDINGS OF FACT**

**I. THE BUSINESS OF THE COMPANY**

Defiance Screw Machine Products Company, an Ohio corporation, is engaged at its Defiance, Ohio, plant in the manufacture of screw ma-  
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chine products. During the fiscal year ending June 30, 1943, the Company used raw materials valued at approximately \$438,000, more than 50 percent of which was received from points outside the State of Ohio. During the same period, the Company's finished products totaled approximately \$2,800,000 in value, more than 50 percent of which was shipped to points outside the State of Ohio. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

International Association of Machinists and Defiance Screw Machine Workmen's Association are labor organizations, each admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On June 17, 1943, the I. A. M. notified the Company that it represented a majority of the Company's employees and requested a bargaining conference. On June 21, 1943, the Company replied by letter expressing doubt as to whether a majority of the employees had selected the I. A. M. as their representative.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the I. A. M. represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>1</sup>

As one of the grounds for their motions to dismiss, the Company and the Association contend that a bargaining agreement between them is a bar to the present proceedings. Since 1937 the Company has had annual bargaining contracts with the Association. The contract prior to the present one was executed on June 30, 1942, and was effective from July 1, 1942, until June 30, 1943. It embodied no automatic renewal provisions. The present contract was executed on June 22, 1943, and provides that it shall be effective from July 1, 1943, to June 30, 1944. Since the I. A. M. made its request for recognition prior to the execution of the present contract, it is clearly no bar.

The Company and the Association also contend that the I. A. M.'s petition should be dismissed on the ground that the Association has, since 1937, represented and still represents a majority of the employees. We are of the opinion that this is a matter which can best be resolved by an election by secret ballot.<sup>2</sup>

<sup>1</sup> The Field Examiner reported that the I. A. M. submitted 139 designations, 1 dated in May 1942, 78 dated in June 1942, 59 dated in June 1943, and 1 dated in July 1943, 138 of which bore apparently genuine original signatures; 101 of the 138 signatures are the names of persons on the Company's pay roll of July 10, 1943, which lists 263 persons in the alleged appropriate unit. The Association relies on its contract as proof of its interest in the proceedings.

<sup>2</sup> Cf. *Matter of Superior Coach Corporation*, 39 N. L. R. B. 926.

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

In substantial agreement with the parties, we find that all production and maintenance employees, excluding clerical employees, plant-protection employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

#### 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 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Defiance Screw Machine Products Company, Defiance, Ohio, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Eighth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause, to determine whether they desire to be represented by International Association of Machinists or by Defiance Screw Machine Workmen's Association, for the purposes of collective bargaining, or by neither.