

In the Matter of INTERNATIONAL HARVESTER COMPANY, CANTON WORKS and UNITED FARM EQUIPMENT AND METAL WORKERS OF AMERICA, C. I. O.

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In the Matter of INTERNATIONAL HARVESTER COMPANY, CANTON WORKS and LOCAL 12633, DISTRICT 50, UNITED MINE WORKERS OF AMERICA

*Cases Nos. 13-R-1934, 13-R-1982 and 13-R-1984 respectively.—
Decided October 22, 1943*

Mr. Robert E. Dickman and Mr. C. C. Stewart, of Chicago, Ill., for the Company.

Meyers & Meyers, by Mr. Ben Meyers, of Chicago, Ill., for the C. I. O.

Mr. Oscar E. Carlstrom, of Aledo, Ill., Mr. John M. White, of Peoria, Ill., and Mr. Art Miller, of Canton, Ill., for District 50.

Mr. Walker Butler, of Chicago, Ill., for the Association.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon separate petitions duly filed by United Farm Equipment and Metal Workers of America, C. I. O., herein called the C. I. O., and Local 12633, District 50, United Mine Workers of America, herein called District 50, alleging that questions affecting commerce had arisen concerning the representation of employees of International Harvester Company, Canton Works, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Lester Asher, Trial Examiner. Said hearing was held at Canton, Illinois, on September 28, 1943. At the commencement of the hearing, the Trial Examiner

granted a motion of Canton Employees Association, independent, herein called the Association, to intervene. The Company, the C. I. O., District 50, and the Association, appeared and participated in the hearing, and all parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing counsel for the C. I. O. moved to deny a place on the ballot to District 50 in the election to be conducted among the employees in the clerical unit hereinafter found to be appropriate. The Trial Examiner reserved ruling. The motion is hereby denied for the reason stated in Section V *infra*. 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

International Harvester Company is a New Jersey corporation with its principal office in Chicago, Illinois. The Company operates plants in the States of Illinois, Wisconsin, Indiana, Ohio, New York, Tennessee, and California. We are concerned with its plant in Canton, Illinois, known as the Canton Works. The Company uses large quantities of raw materials at its Canton Works, a substantial amount of which is shipped to it from points outside the State of Illinois. During 1942, the Company manufactured products at its Canton Works valued in excess of \$1,000,000 a substantial portion of which was shipped to points outside the State of Illinois. The Company admits that with respect to its operations at the Canton Works it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Farm Equipment and Metal Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Local 12633, District 50, United Mine Workers of America, and District 50, United Mine Workers of America, are labor organizations, admitting to membership employees of the Company.

Canton Employees Association is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On June 10, 1943, the C. I. O. requested the Company to recognize it as the exclusive collective bargaining representative of the employees at the Canton Works. The Company refused this request until such time as the C. I. O. is certified by the Board.

On July 27, 1942, the Company and the Association entered into an exclusive bargaining contract. Said contract provides that it shall remain in full force and effect until July 27, 1943, "and thereafter until 30 days shall have elapsed following the giving of written notice by one party or the other of a desire for changes or termination." On September 12, 1942, a consent election was held among the employees at the Canton Works. The Company, the Association, District 50, and the C. I. O. were parties to the consent election agreement. On October 28, 1942, the Regional Director issued a Report on Consent Election finding that the Association had been designated as the exclusive bargaining representative by a majority of the employees. On February 11, 1943, the Company and the Association entered into a supplemental agreement to the contract of July 27, 1942. The supplemental agreement provides that the original contract "shall remain in full force and effect until the 27th day of July next following the close of hostilities in the war, in which the United States is now engaged, but in any case at least until July 27, 1943. It will also remain in force and effect upon such expiration date on a year to year basis until one party or the other desires changes or termination. Such desire shall be evidenced by written notice given at least thirty (30) days prior to the next anniversary date . . ." The Association contends that its contract constitutes a bar to a determination of representatives at this time. It should be noted that the contract is of indefinite duration since it is terminable on the 27th day of July next following the close of hostilities, and further that it has been in effect for more than 12 months.¹ It should also be noted that the C. I. O. made its claim upon the Company prior to June 27, 1943, the date upon which the contract would have apparently renewed itself for another year. Under all the circumstances we find that the contract does not constitute a bar to the instant proceeding.²

A statement of the Regional Director, introduced into evidence at hearing, indicates that the C. I. O. and District 50 each represents a substantial number of employees in the production and maintenance unit hereinafter found to be appropriate. It also indicates that the

¹ See *Matter of Solar Aircraft Company*, 48 N. L. R. B. 242

² See *Matter of The Trailer Company of America*, 51 N. L. R. B. 1106.

C. I. O. and the Association each represents a substantial number of employees in the clerical unit hereinafter found to be appropriate.³

We find that questions affecting commerce have 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 UNITS

We find, in substantial agreement with a stipulation of the parties, that all production and maintenance employees at the Canton Works of the Company, excluding plant-protection department employees, salaried employees, factory clerical employees, office clerical employees, indentured apprentices, student executives, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

The C. I. O. urges that all office and clerical employees at the Canton Works, excluding supervisors, all employees in the industrial relations department, all employees in the methods and rates department except typists, all employees of the engineering department (experimental and product design), cashiers, cashiers' clerks, secretaries to the superintendent, auditor, works engineer, chief engineer (experimental and product design), production manager, storekeeper, and head of the methods and rates department, and employees in the plant-protection department, constitute a separate appropriate unit. The only controversy with respect to the clerical unit concerns assistant supervisors and full-time telephone and teletype operators.

The Company employs 7 persons classified as assistant supervisors. The C. I. O. would include them in the unit while District 50, the Company, and the Association would exclude them. The assistant supervisors review and check the work of from 2 to 20 employees and have the authority to recommend the hire, discharge, and discipline of their subordinates. We find that the assistant supervisors

³ The Regional Director reported that the C. I. O. presented 592 application membership cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of August 14, 1943. He further reported that District 50 presented 451 membership application cards bearing apparently genuine signatures of persons whose names appear on that pay roll. There are approximately 1,531 employees in the production and maintenance unit. The Association did not present any evidence of membership among the employees in the production and maintenance unit but relies upon its contract as evidence of its interest among such employees. The Regional Director also reported that the C. I. O., the Association, and District 50, presented 99, 103, and 7 membership application cards, respectively, bearing apparently genuine signatures of persons whose names appear on the Company's office and clerical pay roll of August 14, 1943. There are approximately 180 employees in the clerical unit.

are supervisory employees, and as such we shall exclude them from the unit.

The Company employs one telephone operator who operates its switchboard and in addition one employee who operates a teletype machine. The Company contends that the telephone operator and the teletype operator should be excluded from the unit because they may acquire knowledge respecting confidential affairs of the Company. We find no merit in this contention. It does not appear that the teletype operator and the telephone operator in the normal course of their duties have obtained information of a sufficiently confidential character relating to labor policy to warrant their exclusion. We shall, therefore, include the telephone and teletype operators within the appropriate unit.⁴

We find that all office and clerical employees at the Canton Works of the Company, including the full-time telephone operator and the full-time teletype operator, but excluding all employees in the industrial relations department, all employees in the methods and rates department except typists, all employees in the engineering department (experimental and product design), cashiers, cashiers' clerks, secretaries to the superintendent, auditor, works engineer, chief engineer (experimental and product design), production manager, storekeeper and head of the methods and rates department, employees in the plant-protection department, assistant supervisors, and any other 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 questions concerning representation which have arisen be resolved by means of elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

The C. I. O. contends that District 50 should not be accorded a place on the ballot in the election to be conducted among the office and clerical employees because of its small showing of representation among such employees. However, inasmuch as an election is to be conducted and District 50 has made some showing of membership, we shall accord it a place on the ballot.⁵

The C. I. O., the Association, and District 50, request that they

⁴ *Matter of Chrysler Corporation (Marysville Plant)*, 36 N. L. R. B. 157.

⁵ *Matter of Pullman-Standard Car Manufacturing Company*, 43 N. L. R. B. 971.

appear, respectively, on the ballots as "Farm Equipment-C. I. O.," "Canton Employees Association, Independent," and "District 50, Local 12633, U. M. W. of A." All the requests are hereby granted.

DIRECTION OF ELECTIONS

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 International Harvester Company, Canton, Illinois, elections 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 Thirteenth 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:

1. The employees in the production and maintenance 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, and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Farm Equipment-C. I. O., or by Canton Employees Association, Independent, or by District 50, Local 12633, U. M. W. of A., for the purposes of collective bargaining, or by none of said organizations.

2. The employees in the office and clerical 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 and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Farm Equipment-C. I. O., or by Canton Employees Association, Independent, or by District 50, U. M. W. of A., for the purposes of collective bargaining, or by none of said organizations.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Elections.