

In the Matter of CROSBY STEAM GAGE & VALVE Co. and UNITED
STEELWORKERS OF AMERICA (C. I. O.)

Case No. 1-R-1574.—Decided October 25, 1943

Mr. Robert J. Holmes, of Boston, Mass., for the Company.
Grant and Angoff, by *Mr. Sidney S. Grant*, of Boston, Mass., for
the CIO.

Mr. John A. Lyons, of Boston, Mass., for the IAM.

Mr. David V. Easton, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Steelworkers of America; (C. I. O.), herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Crosby Steam Gage & Valve Co., Charlestown, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Samuel G. Zack, Trial Examiner. Said hearing was held on September 23 and 27, 1943. The Company, the CIO, and Local Lodge #264, International Association of Machinists,¹ herein called the IAM, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The IAM made a motion to dismiss the petition herein which the Trial Examiner reserved for the Board. For reasons hereinafter stated, this motion is denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

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

¹ We take notice of the fact that the IAM is now affiliated with the American Federation of Labor, and all papers in this proceeding are hereby ordered amended accordingly.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Crosby Steam Gage & Valve Co. is engaged in the manufacture of gages, valves, and recording instruments. During the fiscal year ending October 31, 1942, the Company purchased raw materials, consisting primarily of various types of steel and steel casting, copper tubing, and metal cases, valued at approximately \$1,000,000, of which more than 50 percent was received from points outside the State of Massachusetts. During the same period the sales of the Company amounted to approximately \$2,500,000, substantially all of which were destined for shipment to points outside the State of Massachusetts for use in connection with the war effort. We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America is a labor organization affiliated with the Congress of Industrial Organizations admitting to membership employees of the Company.

Local Lodge #264, International Association of Machinists, is a labor organization, affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The current contract between the Company and the IAM was executed on October 20, 1942, and provides for a 1-year term and for automatic renewal for a like term in the event neither contracting party serves notice of termination in writing at least sixty (60) days prior to any date of expiration. The CIO requested recognition as the bargaining representative of the Company's employees by a letter dated August 19, 1943. All parties agreed that this notice was received by the Company on August 20. The IAM, in effect, contends that the contract constitutes a bar. However, inasmuch as the notice of the CIO was timely made, we find that the contract does not constitute a bar to the proceeding herein.²

² *Matter of Service Wood Heel Company, Inc.*, 41 N. L. R. B. 45; *Matter of Pressed Steel Car Company*, 41 N. L. R. B. 1 and *Matter of General Motors Corporation*, 40 N. L. R. B. 1233.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.³

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

All parties agree that the production and maintenance employees of the Company, including assemblers, machinists, carpenters, electricians, millwrights, heat treaters, welders, elevator operators, delivery clerks, polishers, painters, lumpers, and tool crib attendants, but excluding foremen, assistant foremen, office clerks, firemen, pattern makers, molders, core makers, sand blasters, melters, snaggers, truck delivery clerks, engineers, draftsmen, watchmen, and stop record clerks should be included within the appropriate unit.⁴

An issue, however, exists with respect to inspectors, who are currently represented in a separate unit by the IAM under an oral agreement with the Company.⁵ The IAM seeks to include inspectors within the appropriate unit, whereas the Company contends that they are in effect, supervisory employees, and that they should continue to constitute a separate and distinct group. The CIO takes no position with regard to these employees. The record reveals that these employees are under the supervision of a chief inspector; that they

³ The Regional Director reported that the CIO submitted 271 membership cards, of which 238 bore the apparently genuine original signatures of persons appearing upon the Company's pay roll of August 30, 1943. Said pay roll contained the names of 673 employees in the appropriate unit. We find that the showing of the CIO is substantial, particularly since the contract between the Company and the IAM contains a maintenance-of-membership provision. See *Matter of Oregon Plywood Company*, 33 N. L. R. B. 1234.

The IAM relies upon its current contract with the Company, which expires October 20, 1943, for the establishment of its interest.

The IAM attacked the validity of the Regional Director's report and moved for dismissal of the petition herein on the ground, *inter alia*, that the afore-mentioned report did not indicate a substantial interest on the part of the CIO, in that names appearing on designations of the CIO were those of temporary or transient employees. The record reveals that the Company had borrowed employees from other companies because of an acute labor shortage. However, these persons were never considered employees of the Company, nor did their names appear upon its pay roll, and the pay roll used by the Regional Director in the course of his investigation contained only the names of persons whom the Company considered as the permanent employees. Accordingly, we are of the opinion that the contention of the IAM is without merit, and its motion to dismiss is denied. The Trial Examiner properly refused an offer of proof attacking the validity of the Regional Director's statement. See *Matter of Atlas Powder Company*, 43 N. L. R. B. 575; *Matter of Hill Stores, Inc.*, 39 N. L. R. B. 874.

⁴ This unit conforms generally with that provided for in the contract between the Company and the IAM.

⁵ The IAM was certified by the Regional Director as the bargaining representative of employees of the Company engaged as inspectors upon the basis of a cross-check. See Case No. 1-R-1267.

are classified in five different grades ranging from first inspector down to trainee inspector;⁶ that they are hourly paid; that each of them is assigned to a specifically defined area within the plant; and that, as their title implies, their duties are to inspect various products for inferior workmanship, flaws, or other defects while in the process of production. Although they mark defective work they have no disciplinary authority with respect to the employees in the plant, and beyond noting defects and reporting them to the foreman⁷ they exercise no supervision over the work of the employees, that although the continuous finding of inferior workmanship by them may affect the efficiency rating of the employee involved, the inspectors have no voice in determining or shaping the labor policy of the Company. We are of the opinion that, contrary to the contention of the Company, the inspectors do not constitute management in the eyes of rank and file employees as do truly supervisory employees, and we shall, therefore, include them within the unit.⁸

It appears from the record that the Company employs guards, but there is no indication therein whether or not these employees are militarized. If they are militarized, they are clearly excluded from the unit under our usual policy;⁹ if, however, they are non-militarized, we are nevertheless of the opinion that they should be excluded in view of the fact that they would normally fall within the same category as watchmen, whom all parties expressly agreed to exclude from the unit. We shall, therefore, exclude them.

We find that all production and maintenance employees of the Company, including assemblers, machinists, carpenters, electricians, millwrights, heat treaters, welders, elevator operators, delivery clerks, polishers, painters, lumpers, tool crib attendants, and inspectors, but excluding foremen, assistant foremen, chief inspector, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, office clerks, firemen, pattern makers, molders, core makers, sand blasters, melters, snaggers, truck delivery clerks, engineers, draftsmen, watchmen, guards, and stock record clerks, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

⁶ The record reveals, however, that at the present time the Company does not employ any trainee inspectors.

⁷ However, in the event they find that a machine is producing defective work, they can give orders to the employee working thereon to shut down the machine.

⁸ See *Matter of Gardner-Denver Company*, 44 N. L. R. B. 1192; *Matter of United Wall Paper Factories, Inc.*, 49 N. L. R. B. 1423; *Matter of Aviation, Inc., of Kansas City*, 44 N. L. R. B. 1372; *Matter of Union Parts Manufacturing Company, Inc.*, 41 N. L. R. B. 1173 and *Matter of Pierson Machine Company*, 43 N. L. R. B. 1169.

⁹ *Matter of Dravo Corporation*, 52 N. L. R. B. 322.

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 Crosby Steam Gage & Valve Co., Charlestown, Massachusetts, 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 First 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 those employees 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 United Steelworkers of America, affiliated with the Congress of Industrial Organizations, or by Local Lodge #264, International Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

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