In the Matter of WIRE ROPE CORPORATION OF AMERICA, INC., *and* UNITED STEELWORKERS OF AMERICA, (C. I. O.)

Case No. 1-R-1593.—Decided October 28, 1943

Messrs. Arthur F. Haury and *J. P. Barclay*, of New Haven, Conn., for the Company.

Mr. Frank L. Trainor, of Worcester, Mass., and *Mr. Edward J. Hilland*, of New Haven, Conn., for the Union.

Mr. William R. Cameron, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon amended petition duly filed by United Steelworkers of America (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Wire Rope Corporation of America, Inc., New Haven, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert E. Greene, Trial Examiner. Said hearing was held at New Haven, Connecticut, on October 13, 1943. The Company and the Union 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 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

Wire Rope Corporation of America, Inc., a Connecticut corporation, having its principal place of business at New Haven, Connecticut, is engaged in the manufacture, sale, and distribution of wire rope. The Company purchases raw materials, consisting principally of steel, ap-

proximately 95 percent of which is obtained from points outside the State of Connecticut. During a calendar year the Company's finished products amount in value to more than $8,000,000, of which approximately 98 percent is shipped to points outside the State of Connecticut. The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

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

III. THE QUESTION CONCERNING REPRESENTATION

On August 20, 1943, the Union by letter notified the Company that it claimed to represent a majority of the Company's employees, and requested recognition as the sole collective bargaining representative. On August 24, 1943, the Company replied by letter, referring the Union to the Board for certification.

A statement of the Regional Director, introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.[1]

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

The Union and the Company agree that all production, maintenance and shipping, and receiving employees, but excluding executives, foremen, personnel supervisors, clerical and salaried employees, temporary construction employees, and guards, constitute an appropriate collective bargaining unit. A question arose at the hearing, however, with respect to the inclusion within the unit of certain employees classified on the Company's pay-roll list as temporary foremen. The Company seeks to include the temporary foremen, whereas the Union contends that they are supervisory employees and should therefore be excluded.

The record discloses that the classification of temporary foremen is one which exists in a majority of the Company's several departments; the exact duties of the employees so classified vary according

[1] The Regional Director reported that the Union submitted 168 membership cards, of which 66 were undated and the balance dated mostly in August 1943, of which 146 appeared to bear the genuine original signatures of persons whose names are on the Company's pay roll for the week of August 21, 1943, containing 478 names in the unit claimed to be appropriate.

to the department in which they are located. In general, however, they are older and more skilled employees who have been given a course in job-training in order that they may instruct new employees. The temporary foremen spend a considerable portion of their time at actual labor, the proportion of time so spent varying in the different departments. Most of them are paid at no higher rate than regular production employees. The designation of "temporary" indicates that their position is due to the present emergency and that it is expected they will, at some time in the future, be returned to strictly production work. Although designated as "foremen," they do not have authority to recommend hiring, promotion, or discipline, and it is not a part of their duties to report concerning the efficiency of those with whom they work. In view of all the circumstances we find that the temporary foremen are not supervisors within the meaning of our customary definition; we shall include them in the unit.

We find that all production, maintenance, and shipping and receiving employees of the Company, including temporary foremen, but excluding executives, foremen, personnel supervisors, clerical and salaried employees, temporary construction employees, guards, 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, 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 payroll 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 Wire Rope Corporation of America, Inc., New Haven, Connecticut, 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 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 or not they desire to be represented by United Steelworkers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.