

In the Matter of SMITH, WHITCOMB & COOK COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS, A. F. OF L.

*Case No. 1-R-1635.—Decided November 15, 1943*

*Finn & Monti*, by *Mr. John J. Finn*, of Barre, Vt., for the Company.  
*Mr. Thomas Ellefson*, of Albany, N. Y., for the Union.  
*Mr. Louis Cokin*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Association of Machinists, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Smith, Whitcomb & Cook Company, Barre, Vermont, 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 Barre, Vermont, on October 28, 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

Smith, Whitcomb & Cook Company is a Vermont corporation operating a plant at Barre, Vermont, where it is engaged in the sale, distribution, and manufacture of gray iron castings, stoneworking machinery, and polishing machines. During 1942 the Company purchased raw materials valued at about \$105,000, approximately 90

percent of which was shipped to it from points outside the State of Vermont. During the same period the Company manufactured products valued at about \$268,000, approximately 10 percent of which was shipped to points outside the State of Vermont. 4

## II. THE ORGANIZATION INVOLVED

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

During August 1943 the Union requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request until such time as the Union is certified by the Board.

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

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 National Labor Relations Act.

## IV. THE APPROPRIATE UNIT

We find, in substantial agreement with a stipulation of the parties, that all employees in the machine shop and foundry of the Company, excluding executive and clerical 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 find that the question concerning representation which has arisen can be resolved by means of an election by secret ballot. The Union urges that the pay roll of August 25, 1943, be used to determine eligibility to vote. Since no persuasive reason appears as to why we should depart from our usual practice, we shall direct that those eligible to vote shall be the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Di-

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<sup>1</sup> The Regional Director reported that the Union presented 17 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of October 15, 1943. There are 25 persons in the appropriate unit.

rection 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 Smith, Whitcomb & Cook Company, Barre, Vermont, 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 such 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 International Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining.