

In the Matter of VERMONT STRUCTURAL STEEL CORP. and UNITED
STEELWORKERS OF AMERICA, C. I. O.

Case No. 1-R-1649.—Decided December 6, 1943

Mr. F. W. Moore, of Burlington, Vt., for the Company.

Mr. James F. Hanley, of West Rutland, Vt., 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 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 Vermont Structural Steel Corp., Burlington, Vermont, 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 at Burlington, Vermont, on November 17, 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

Vermont Structural Steel Corp., is a Vermont corporation with its principal place of business at Burlington, Vermont, where it is engaged in the fabrication of steel. During the 6-month period ending September 30, 1943, the Company purchased raw materials valued at about \$46,600, about 95 percent of which was shipped to it from points

outside the State of Vermont. During the same period, the Company sold products valued at about \$116,000, about 20 percent of which was shipped to points outside the State of Vermont.

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 October 15, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company did not reply to this request.

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.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 National Labor Relations Act.

IV. THE APPROPRIATE UNIT

We find, in substantial agreement with the parties, that all production and maintenance employees of the Company, including the watchmen, but excluding clerical employees, executives, 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 means of 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.

The Company employs three school boys who work about 20 hours per week. They are not hired for any specific task but perform regular production and maintenance duties. The Union urges that they be

¹The Regional Director reported that the Union presented 23 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of October 28, 1943. There are approximately 32 employees in the appropriate unit.

deemed ineligible to vote while the Company contends that they should be eligible. Employees who do sufficient work to give them an interest in the conditions of employment also have a sufficient interest in the outcome to entitle them to vote in an election. We, therefore, find that the school boys employed by the Company should be eligible to vote in the election.

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Vermont Structural Steel Corp., Burlington, 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 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, C. I. O., for the purposes of collective bargaining.

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