

In the Matter of MARYLAND SANITARY MANUFACTURING CORPORATION
and UNITED STEELWORKERS OF AMERICA

Case No. 5-R-1403.—Decided December 21, 1943

Mr. Frank A. Kearney, of Phoebus, Va., and Mr. Walter C. Mylander, Jr., of Baltimore, Md., for the Company.

Messrs. Albert Atallah, Edwin B. Abbott, and Joseph Neal, of Baltimore, Md., for the Steelworkers.

Mr. Louis H. Wilderman, of Philadelphia, Pa., for the Molders.

Mr. C. P. Gibson, of Baltimore, Md., for the Machinists.

Mr. Joseph E. Gubbins, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petition duly filed by the United Steelworkers of America, affiliated with the C. I. O., herein called the Steelworkers, alleging that questions affecting commerce have arisen concerning the representation of employees of Maryland Sanitary Manufacturing Corporation, Baltimore, Maryland, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George L. Weasler, Trial Examiner. Said hearing was held at Baltimore, Maryland, on November 12, 1943. The Company, the Steelworkers, International Molders and Foundry Workers Union of North America, affiliated with the American Federation of Labor, herein called the Molders, and International Association of Machinists, affiliated with the American Federation of Labor, herein called the Machinists, 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 an opportunity to file briefs with the Board.

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

53 N. L. R. B., No. 265.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Maryland Sanitary Manufacturing Corporation is a Maryland corporation located at Baltimore, Maryland, where it is engaged in the manufacture of war products for the United States Government. During September 1943, the Company used raw materials valued in excess of \$80,000, approximately 63 percent of which was shipped to its Baltimore plant from points outside the State of Maryland. During the same period the Company manufactured finished products valued in excess of \$100,000, approximately 98 percent of which was shipped to points outside the State of Maryland. 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, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

International Molders and Foundry Workers Union of North America and International Association of Machinists are labor organizations, affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

By letter, dated September 28, 1943, the Steelworkers requested recognition from the Company as the exclusive bargaining representative of its production and maintenance employees; the Company refused to accord such recognition.

A statement prepared by the Trial Examiner, introduced in evidence at the hearing, indicates that each of the unions involved represents a substantial number of employees in the units hereinafter designated as appropriate.¹

¹The Trial Examiner's statement shows that the Steelworkers submitted 277 designations, all of which bear apparently genuine signatures, and 188 of which bear names of persons whose names are found on the Company's pay roll of October 17, 1943; there are 698 employees in the unit alleged to be appropriate by the Steelworkers. The statement further shows that the Molders submitted 126 designations, all of which bear apparently genuine signatures, and 83 of which bear names of persons whose names are found on the Company's pay roll of October 17, 1943; there are 583 employees in the unit alleged to be appropriate by the Molders. The statement also shows that the Machinists submitted 42 designations, all of which bear apparently genuine signatures, and 32 of which bear names of persons whose names are found on the Company's pay roll of October 17, 1943; there are 135 employees in the unit alleged to be appropriate by the Machinists

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 UNIT; THE DETERMINATION OF REPRESENTATIVES

The Steelworkers seeks a unit comprised of all the production and maintenance employees, excluding first aid employees, salaried and clerical employees, supervisors, foremen, and assistant foremen. The Company agrees with the Steelworkers as to the general industrial type of unit, but would include guards, and first aid and clerical employees in such unit. The Molders seeks a unit confined to the production employees of the foundry, while the Machinists desires a unit composed of all production and maintenance employees in the machine and shell shops; the Molders and the Machinists are in agreement with the Steelworkers with respect to the classifications it desires excluded. The record shows no history of collective bargaining with the Company.

The Company's operations are confined in the main to three separate divisions, a foundry, a machine, and a shell shop. The foundry operates as a distinct entity and is housed in a single building. The production employees of the foundry are engaged in molding, pouring metal, chipping and sawing, grinding and polishing, and various other duties associated with foundry work; all operations which are necessary for the completion of the finished product are performed in the foundry. The machine shop is a separate department of the foundry, but occupies a separate building which is situated approximately 100 feet from the foundry building. The functions of the machine shop employees have to do with general maintenance and those which are generally associated with machinists. The shell shop also operates as a distinct entity and is located in a single building situated approximately 200 feet from the foundry and machine shop buildings. The function of the shell shop is the manufacture of shell casings. The unfinished castings used in the manufacture of the shell casings are bought in the open market and shipped to the shell shop; the finished products are also shipped directly from the shell shop.

The production employees of the foundry consist, in the main, of molders, coremakers, furnace men, and apprentices. For the most part, they are identified with a well defined and skilled craft which has had a long history of bargaining on a craft basis. The nature of the work performed and skills required in the machine and shell shops are essentially different from that of the foundry. The production and maintenance employees in those shops are composed principally of tool makers, machinists, machine operators, and electricians. The production employees of the foundry do not work in any place other than the

foundry, although on occasion a small number of laborers employed in the foundry will do some work in the shell shop. The machine shop employees do general maintenance, electrical, tooling, and machine work for either the foundry or the shell shop, although they work for the foundry the greater portion of their time. The three divisions are under the coordinated supervision of a single general manager. Each division, however, has its own superintendents and foremen who are directly responsible to the plant manager.

The common ownership, coordinated management, and integration of the foundry, machine and shell shops as part of a single business enterprise, and the location of the three divisions in the same geographic area, are considerations tending to support the contentions of the Company and the Steelworkers for a single over-all unit. On the other hand, the physical separation of the three divisions, the dissimilarity in work and skill required of the employees therein, the inappreciable interchange of employees between the three divisions, and the fact that the foundry and shell shop are operated as distinct business units, are considerations tending to support the position of the Molders and the Machinists that separate units for employees in the foundry² and in the machine and shell shops, respectively, should be appropriate. In this latter regard, we note also that the jurisdiction of the Molders is confined to production employees of the foundry while that of the Machinists extends to the remaining production and maintenance employees. Under these circumstances, and in the absence of any history of collective bargaining on behalf of employees of the Company, we are of the opinion that the employees of the foundry and the employees of the machine and shell shops could function either as separate units or as a single bargaining unit. We find, therefore, that our determination of the unit issue herein should depend in part on the expressed desires of the employees involved herein. Accordingly, we shall make no final determination of the unit at this time but shall defer such determination pending the results of the elections hereinafter directed.

There remains for consideration several categories whose inclusion or exclusion from the unit is in dispute. As hereinbefore stated, the Company urges the inclusion of guards, first aid and clerical employees in the unit found to be appropriate by the Board, whereas the Unions desire their exclusion. The record reveals that all guards employed by the Company are armed, uniformed, and members of the auxiliary police. We shall, in accordance with our customary policy, exclude guards from the unit.³ Since the functions and interests of clerical employees differ from those of the ordinary produc-

² See *Matter of Draper Corporation*, 45 N L R B 107; *Matter of Viking Pump Company*, 49 N L R B 682

³ See *Matter of Dravo Corporation*, 52 N L R B 322.

tion and maintenance employees, we shall exclude clerical employees from the unit.⁴ We shall also exclude first aid employees from the unit since it appears that their duties and interests, likewise, are dissimilar to those of production and maintenance employees.⁵

The parties are in agreement that leadmen should be included in the appropriate unit. The record shows that the employees in question actually perform the same type of duties as do the employees under their direction, and that they do not possess sufficient authority to effect changes in the status of those employees. We find that leadmen are not supervisory employees within the meaning of our usual definition; we shall include them in the unit.

We shall direct that separate elections by secret ballot be held among employees of the Company within each of the groups listed below who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein,⁶ subject to the limitations and additions set forth in the Direction. There shall be excluded from each of such voting groups, in addition to others specifically mentioned herein, all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action. The respective voting groups shall be as follows:

(1) All production employees in the Company's foundry, including leadmen, but excluding guards, first aid and clerical employees, to determine whether they desire to be represented by United Steelworkers of America, affiliated with the C. I. O., or by International Molders and Foundry Workers Union of North America, affiliated with the A. F. L., or by neither.

(2) All production and maintenance employees in the Company's machine and shell shops, including leadmen, but excluding guards, first aid and clerical employees, to determine whether they desire to be represented by United Steelworkers of America, affiliated with the C. I. O., or by International Association of Machinists, affiliated with the A. F. L., or by neither.

As stated above, there will be no final determination of the appropriate unit or units pending the results of the elections. If the employees of both groups choose the Steelworkers they will constitute a single appropriate unit; if not, each of the groups that selects a bargaining representative, will separately constitute an appropriate unit.

⁴ See *Chicago Bridge and Iron Company*, 53 N. L. R. B. 1374.

⁵ See footnote 4, *supra*.

⁶ The Steelworkers requests the Board to have eligibility to vote determined by the pay-roll period immediately preceding November 5, 1943, the date of the Notice of Hearing, on the grounds that there has been a considerable turnover of employees during the past 60 days and that presently the pay roll is expanding. We are of the opinion that the purposes of the Act will best be effectuated by adhering to our usual practice.

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Maryland Sanitary Manufacturing Corporation, Baltimore, Maryland, separate 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 Fifth 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 following groups of employees of the Company 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 elections:

(a) All production employees in the Company's foundry, including leadmen, but excluding guards, first aid 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, to determine whether they desire to be represented by United Steelworkers of America, affiliated with the C. I. O., or by International Molders and Foundry Workers Union of North America, affiliated with the A. F. L., for the purposes of collective bargaining, or by neither; and

(b) All production and maintenance employees in the Company's machine and shell shops, including leadmen, but excluding guards, first aid 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, to determine whether they desire to be represented by United Steelworkers of America, affiliated with the C. I. O., or by International Association of Machinists, affiliated with the A. F. L., for the purposes of collective bargaining, or by neither.