

In the Matter of POPE MACHINE COMPANY and UNITED BROTHERHOOD
OF WELDORS, CUTTERS AND HELPERS OF AMERICA, LOCAL 9

Case 19-R-1038.—Decided January 4, 1944

Mr. L. W. Sistig, of Seattle, Wash., for the Company.
Mr. Merle A. Masteller, of Tacoma, Wash., for the Weldors.
Mr. L. Presley Gill, of Seattle, Wash., for the IAM.
Mr. Glenn L. Moller, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Brotherhood of Weldors, Cutters and Helpers of America, Local 9, herein called the Weldors, alleging that a question affecting commerce had arisen concerning the representation of employees of Pope Machine Company, Seattle, Washington, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John E. Hedrick, Trial Examiner. Said hearing was held at Seattle, Washington, on September 18, 1943. The Company, the Weldors, and International Association of Machinists, Local 79, AFL, 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 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Pope Machine Company is a co-partnership doing business in and under the laws of the State of Washington. Its office and only plant are located in Seattle, Washington. The Company is engaged in

the business of manufacturing plate and in bending and straightening rolls. Most of its work is done pursuant to subcontracts with various other manufacturers. Most of the work done by the Company consists of machine work, welding, cutting, burning and engineering. The principal raw materials used by the Company consist of steel, steel plate, iron, brass and steel castings, and other ordinary raw materials commonly used in machine shops. During the period June 1, 1942, to June 1, 1943, the Company purchased raw materials valued at approximately \$250,000, of which raw materials about 20 percent was shipped to the Company's Seattle plant from points outside the State of Washington. During the same period, the Company manufactured and sold products valued at approximately \$310,000, about 90 percent of which was shipped from the Company's Seattle plant to points outside the State of Washington.

The Company admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Brotherhood of Weldors, Cutters and Helpers of America, Local 9, is an unaffiliated labor organization admitting to membership employees of the Company.

Machinists Union Local 79, International Association of Machinists, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Weldors as the exclusive bargaining representation of the welders in the Company's employ until the Weldors has been certified by the Board in an appropriate unit.

A statement of an attorney for the Board, introduced into evidence at the hearing, indicates that the Weldors represents a substantial number of employees in the unit claimed by it 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 DETERMINATION OF REPRESENTATIVES

The Weldors contends that all welders, cutters and their respective helpers, excluding supervisory employees, constitute an appropriate

¹The attorney for the Board reported that the Weldors submitted three cards bearing apparently genuine original signatures of persons listed on the Company's pay roll of April 6, 1943, which contained the names of four employees in the alleged appropriate unit. At the hearing the evidence indicated that there were only two welders then in the Company's employ. The IAM relied upon its contract with the Company as evidence of its interest.

unit. The IAM contends that a separate unit of welders is inappropriate and that the appropriate unit should include all employees in the Company's machine shop and should be a multiple employer unit covering all like machine shops in the Puget Sound area. The Company took no position as to the appropriate unit, indicating that it would favor whatever arrangement would best satisfy its employees.

The plant occupies a single building about 200 feet long and 30 feet wide. There are no partitions inside the plant, and the various machines used in the Company's work occupy much of the floor space. At one end of the plant is a large welding table, around which is located all the welding equipment. At the present time there are only two welders in the Company's employ.² Both of them spend their entire time at welding. About 70 percent of their time is spent at the welding table, while the remainder of their time they work throughout the rest of the plant, doing whatever welding is necessary. The welders do all the welding that is done at the plant.

The Company presently has a contract with the IAM covering the machinists in the Company's employ. A representative of the Company testified that the contract does not cover welders, and that the IAM has never attempted to bargain collectively on their behalf. The contract itself makes no mention of welders. The wage scale of the welders is different from that of the machinists.

The IAM contends that the appropriate unit should include all the machine shops in the area. Although there is an employer association in the area, Washington Metal Trades, Inc., to which many of the Companies operating machine shops belong, the Company is not and never has been a member of the Association. The Company itself negotiated its contract with the IAM although it is identical in form with the contracts which the IAM has entered into with the Association. Clearly, the Company's employees are not part of an association-wide unit.

It appears, therefore, that not only are the welders a clearly definable group, performing functions separate and distinct from those of other employees, but the history of bargaining at the plant indicates that the welders have been considered by the Company and by the IAM as outside the scope of the already existing bargaining unit. We are therefore of the opinion that the welders may properly constitute a separate bargaining unit if they so desire.³ On the other hand, it is evident that the welders may feasibly be included in the unit of machinists presently represented by the IAM. Accordingly we shall

² The maximum number of welders at the Company's shop at any one time has been four; there are at the present time no cutters, burners, or helpers in the Company's employ.

³ *Matter of Houston Shipbuilding Corporation*, 46 N. L. R. B. 161; *Matter of Taylor Forge & Pipe Works*, 51 N. L. R. B. 48; *Matter of Dedman Foundry & Machine Company*, 50 N. L. R. B. 1019; *Matter of Truck Welding Co., Inc.*, 40 N. L. R. B. 206.

make no present determination as to the appropriate unit but shall first ascertain the desires of the employees involved.

We shall direct that an election by secret ballot shall be held subject to the limitations and additions set forth in the Direction, among the welders, burners, and their helpers in the Company's employ, excluding supervisory employees who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, to determine whether they desire to be represented for the purposes of collective bargaining by the Weldors or the IAM. Upon the results of the election will depend in part our determination of the appropriate unit. If a majority of those participating in the election select the Weldors, they will have indicated their desire to constitute a separate bargaining unit. If a majority select the IAM they will have indicated that they desire to become a part of the unit presently represented by the IAM, and they will be deemed to be included in such unit.⁴ The IAM has requested that it be designated on the ballot used in the election as Machinists' Union Local 79. This request is hereby granted.

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 Pope Machine Company, Seattle, Washington, 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 Nineteenth 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 welders, burners, and their helpers in the employ of Pope Machine Company, Seattle, Washington, excluding supervisory employees with authority to hire, promote, discipline, discharge, or otherwise effect changes in the status of employees, or effectively to recommend such action, 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

⁴ See *Matter of Markey Machinery Co., Inc.*, Case No 19-R-982, decided this day, 54 N. L. R. B. 251.

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 Brotherhood of Weldors, Cutters and Helpers of America, Local 9, or by Machinists Union Local 79, 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.