

In the Matter of CAMERON CAN MACHINERY COMPANY and UNITED
STEELWORKERS OF AMERICA, C. I. O.

Case No. 13-R-2134.—Decided January 12, 1944

*Fyffe & Clarke, by Mr. Albert J. Smith, of Chicago, Ill., for the
Company.*

*Messrs. Anthony J. Graczyk and George A. Patterson, of Chicago,
Ill., for the Union.*

Mrs. Augusta Spaulding, 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 Cameron Can Machinery Company, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Bernard Cushman, Trial Examiner. Said hearing was held at Chicago, Illinois, on November 30, 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

Cameron Can Machinery Company is engaged in the manufacture of can making machinery at Chicago, Illinois. In its operations the Company uses steel, iron, and brass, and iron castings. During the year 1942, the Company purchased for its plant raw materials valued in excess of \$50,000, approximately 25 percent of which was received

at its plant from points outside Illinois. During the same period the Company manufactured and sold products valued in excess of \$75,000, approximately 60 percent of which was shipped from its plant to points outside Illinois.

The Company admits 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 October 27, 1943, the Union by letter asked the Company for recognition as sole bargaining representative of the Company's production and maintenance employees. On November 2, 1943, the Company by letter questioned that the Union represented a majority of its employees and refused recognition.

A statement prepared by the Regional Director and introduced into evidence at the hearing indicates that the Union represents a substantial number of employees in the unit herein found appropriate for bargaining.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 contends that all production and maintenance employees of the Company, excluding all employees in the engineering and general office departments, clerical employees, foremen, the superintendent, and the assistant superintendent, constitute an appropriate bargaining unit. The Company takes no position with respect to the scope of the bargaining unit.

The Union questioned at the hearing the status of the shipping clerk. The shipping clerk receives the Company's supplies and packs its products for shipment. He performs the incidental physical work. Bills of lading and shipping instructions are issued to him from the general office. His clerical duties are minor. The Union wishes to include him in the unit and the Company does not object. He has

¹ The Union submitted to the Regional Director 107 authorization cards, of which 2 were undated and the remainder bore dates between August and November 1943, and of which 72 appeared to bear genuine original signatures of employees on the Company's pay roll of November 27, 1943. There are approximately 163 employees in the appropriate unit.

no supervisory authority. We shall include the shipping clerk in the bargaining unit.

The superintendent and assistant superintendent of the plant, who have authority to discharge employees, and the department foremen, who make effective recommendations for this purpose, fall within our usual definition of supervisory employees whom we customarily exclude from bargaining units. The unit proposed by the Union, which is plant wide in scope and which excludes clerical, technical, and supervisory employees, constitutes a form of unit which the Board has frequently found to be appropriate in plants similar to that operated by the Company.

We find that all production and maintenance employees of the Company at its Chicago plant, including the shipping clerk, but excluding employees in the engineering and general office departments, other clerical employees, the superintendent, assistant superintendent, foremen, 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 find that the question which has arisen concerning the representation of the Company's employees can best be resolved by an election by secret ballot.

The Union requests that the Board determine eligibility to vote in the election by employment during the pay-roll period ending November 4, 1943, alleging that the Company laid off thereafter a number of men who should be entitled to vote in the election. A representative of the Company testified that, due to the cancellation of a defense contract, approximately 40 employees had been released since November 1, 1943, and that there was no immediate prospect of their reemployment. We do not believe that the foregoing warrants a departure from our usual practice in determining the eligibility of employees to vote in the election.

Those eligible to vote in the election shall be all employees of the Company in the unit found appropriate in Section IV, above, 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.

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 purpose of collective bargaining with Cameron Can Machinery Company, Chicago, Illinois, 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 Thirteenth 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 of the Company 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 employees 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.