

In the Matter of MACK MANUFACTURING CORPORATION and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, LOCAL 824, C. I. O.

*Case No. 4-R-1251.—Decided January 20, 1944*

*Chadbourne, Wallace, Parke & Whitside, by Mr. Dwight R. Collin, of New York City, for the Company.*

*Mr. Samuel L. Rothbard, of Newark, N. J., 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 Union, United Automobile, Aircraft and Agricultural Implement Workers of America, Local 824, C. I. O., herein called the Union alleging that a question affecting commerce had arisen concerning the representation of employees of Mack Manufacturing Corporation, New Brunswick, New Jersey, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene M. Purver, Trial Examiner. Said hearing was held at Brunswick, New Jersey, on December 3, 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

Mack Manufacturing Corporation is a Delaware corporation operating plants in the States of Pennsylvania and New Jersey. We are here concerned with its plant at New Brunswick, New Jersey, where it is engaged in the manufacture of parts for motor trucks,

busses, and fire apparatus. The Company purchases raw materials valued in excess of \$500,000, annually, for use at its New Brunswick plant, over 50 percent of which is shipped to it from points outside the State of New Jersey. During the same period the Company manufactures products at its New Brunswick plant valued in excess of \$1,000,000, over 50 percent of which is shipped to points outside the State of New Jersey. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, Local 824, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On September 20, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the employees at the New Brunswick plant. The Company refused the 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.<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 Act.

## IV. THE APPROPRIATE UNIT

The Union contends that all general office employees at the New Brunswick, New Jersey, plant of the Company, including tool designers and typist-relief telephone operators, but excluding supervisory employees, engineering department employees, personnel department employees, methods and time-study employees, general executives, chemists, metallurgists, laboratory assistants, confidential secretaries, regular telephone operators, cashiers, assistant cashiers, confidential pay-roll clerks, draftsmen, and registered nurses, constitute an appropriate unit. The only controversy with respect to the unit concerns clerical leaders and the traffic manager.

The Company employs 12 persons classified by it as clerical leaders. Each of them supervises from 1 to 17 employees by following up the

<sup>1</sup> The Regional Director reported that the Union presented 92 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of October 12, 1943. There are approximately 156 employees in the appropriate unit.

work of their respective groups, distributing the work, and assigning employees to work overtime. The clerical leaders are charged with the duty of notifying the management when additional help is needed or when it is necessary to lay off employees. They make factual reports of the work of their subordinates and make recommendations with respect thereto. We find that clerical leaders are supervisory employees, and as such, we shall exclude them from the unit.

The traffic manager, who reports directly to the purchasing agent, is in complete charge of the routing of shipments of materials and finished goods, and exercises independent discretion in the selection of the carriers to be used. He is assisted by one helper, whose duties are largely clerical in nature. We shall exclude the traffic manager, since it appears that his duties are more of an administrative than a clerical nature. The helper will be included as a clerical employee.

We find that all general office employees at the New Brunswick, New Jersey, plant of the Company, including tool designers, the typist-relief telephone operators, but excluding the traffic manager, engineering department employees, personnel department employees, methods and time-study employees, general executives, chemists, metallurgists, laboratory assistants, confidential secretaries, regular telephone operators, cashiers, assistant cashiers, confidential pay-roll clerks, draftsmen, registered nurses, clerical leaders, and any 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 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.

#### 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 Mack Manufacturing Corporation, New Brunswick, New Jersey, 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 Fourth 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 International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, Local 824, affiliated with the Congress of Industrial Organizations,<sup>2</sup> for the purposes of collective bargaining.

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<sup>2</sup> The Union's request that its name appear on the ballot as "UAW-CIO, Local 824," is hereby granted.