

In the Matter of ALLIS-CHALMERS MANUFACTURING COMPANY, LA PORTE WORKS and UNITED FARM EQUIPMENT AND METAL WORKERS OF AMERICA, C. I. O.

*Case No. 13-R-2205.—Decided February 12, 1944*

*Mr. W. J. McGowan*, of Milwaukee, Wis., for the Company.  
*Meyers & Meyers*, by *Mr. Ben Meyers*, of Chicago, Ill., for the Union.  
*Mr. William R. Cameron*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Farm Equipment and Metal Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Allis-Chalmers Manufacturing Company, La Porte Works, La Porte, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert N. Denham, Trial Examiner. Said hearing was held at Chicago, Illinois, on January 13, 1944. 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. The Company requested oral argument. This request is hereby denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Allis-Chalmers Manufacturing Company, a Delaware corporation, maintains its principal office and place of business at West Allis, Wisconsin. It is generally engaged in the manufacture of machinery of

various types, and maintains manufacturing plants also in La Crosse, Wisconsin, Springfield, Illinois, Oxnard, California, Pittsburgh, Pennsylvania, Norwood, Ohio, Boston, Massachusetts, and La Porte, Indiana. We are here concerned with its plant at La Porte, Indiana, at which the Company normally manufactures agricultural implements and graders. At the present time, however, the Company is there engaged in the manufacture of both harvesting equipment and war equipment, more than 75 percent of its production being of the latter type. In its La Porte plant, the Company uses raw materials consisting of wood, steel, rubber, and numerous other miscellaneous articles, valued at more than \$10,000,000 per year, of which approximately 80 percent is shipped to the plant from points outside the State of Indiana. The Company's sales of products from its La Porte plant amount in value to more than \$18,000,000 per year, of which approximately 95 percent is shipped to points outside the State of Indiana. The normal employment at the La Porte plant is approximately 1,700 persons. The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

United Farm Equipment and Metal Workers 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

The Union, by letter dated November 23, 1943, notified the Company that it claimed to represent a majority of the inspectors at the La Porte plant and requested a collective bargaining conference. The Company replied on November 26, 1943, by letter, that it considered these employees to be representatives of management, and therefore refused the Union's request.

A statement of the Regional Director, introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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.

<sup>1</sup> The Regional Director reported that the Union submitted 23 membership and authorization cards, all bearing apparently genuine original signatures, of which 20, dated in October and November 1943, are the names of persons whose names are on the Company's pay roll of December 27, 1943, containing the names of 42 persons within the unit claimed to be appropriate.

## IV. THE APPROPRIATE UNIT; THE DETERMINATION OF REPRESENTATIVES

The Union seeks a unit comprising all inspectors employed by the Company in its La Porte, Indiana, plant, excluding supervisory employees. The Company contends that the inspectors do not constitute an appropriate unit, and asserts that these employees are representatives of management and are charged with duties of a supervisory nature. The Company further asserts, in support of its contention, that inasmuch as the Union is already the collective bargaining representative of the Company's employees in a general production and maintenance unit, it may not, by reason of the nature of their duties, also appropriately represent the inspectors. The Union further desires that if an election is held among the inspectors which results in selection of the Union as representative, the inspectors be joined with the other employees in the production and maintenance unit.

The Company's inspection department comprises approximately 37 checkers and 42 inspectors, who are supervised by foremen and assistant foremen, and a chief and assistant chief inspector. On the pay roll in this department also is listed an inspector in charge of experimental work, who is a supervisor over a crew engaged in assembling and testing certain of the Company's finished machines, and a resident inspector at the plant of a subsidiary company. Of this departmental group, the checkers are, however, already included in the production and maintenance unit now in existence, by virtue of the terms of an agreement under which a consent election was held in the plant on May 9, 1940. The Union which is here seeking to represent the inspectors was successful in that election, and has included the checkers among the employees for whom it has negotiated a series of contracts since that time. The inspectors, however, were not included within the consent election agreement, have been specifically excluded from the contracts subsequently executed, and have not been otherwise represented for collective bargaining.

The duty of inspectors is to check periodically, by use of various precision measurement devices, the parts produced by workers at machines, in order to determine whether such parts are within the tolerances allowed by blueprint specifications. The inspectors have authority, in instances wherein such tolerances are being exceeded, to require the shutting down of machines in order that the necessary readjustments may be made. They possess some discretion in regard to parts which already have been made, but which fall without the tolerances, as to whether such parts shall be approved or shall be submitted to the inspection foreman for decision by him, together with other supervisors both of inspection and production, as to whether

they are to be reworked or discarded as scrap material. Although a tag is placed on defective parts which identifies the operator who made them, such parts are not charged against the operator by the Company, but against the department, as a matter of bookkeeping. We have frequently held that inspectors having duties similar to those here involved may participate in collective bargaining, and have included them in units with production and maintenance employees.<sup>2</sup> No sufficient reason here appears why the inspectors may not be so included. We shall, however, permit the preference of the inspectors to determine whether or not they shall be added to the existing unit of production and maintenance employees, and to that end shall order a self-determination election. If at such election these employees select the Union they will have thereby indicated their desire to be included in a unit with the production and maintenance employees, and the Union may accordingly bargain for them as a part of such unit.

At the hearing the Union stated that it would take no position in advance of the election as to inclusion or exclusion of specific employees, its only contention in that regard being that supervisors, within the meaning of the Board's customary definition, should be excluded. Evidence was adduced at the hearing, however, which indicates that, in addition to the supervisors hereinabove mentioned, certain other employees, in the nature of group leaders, possess supervisory authority. Evidence was introduced, specifically, as to Chester De La Bar, who is classified by the Company as an inspector in charge of inspection in Department 69, and Lee Herbert, who is listed simply as an inspector. The record discloses that De La Bar supervises a small group of checkers, who work at a bench where all the parts produced in the department are brought to them for a final check, or inspection, before being sent to another department of the Company. Herbert performs similar duties in Department 60. The checkers performing this work are mostly girls. The chief inspector testified that De La Bar, although he does not have authority to hire or discharge, may make recommendations in respect to any of the employees whom he supervises at the bench. A recommendation by De La Bar for discharge of an employee must be made to the assistant foreman, who in turn carries the recommendation to higher supervisors. The record discloses that no discharge on such recommendation would probably be made without an investigation by the chief inspector, but the record further indicates that it is necessary for the chief inspector to sign a quit-slip for all discharged employees, and

<sup>2</sup> See *Matter of Gardner-Denver Company*, 44 N. L. R. B. 1192; *Matter of Brown and Sharpe Manufacturing Company*, 36 N. L. R. B. 1083, 1089; *Matter of Nineteen Hundred Corporation*, 32 N. L. R. B. 327.

that, in view of his desire to avoid unnecessarily discharging an employee who might be difficult to replace he makes an investigation in nearly all cases before an employee is finally discharged. The testimony of the chief inspector indicates that such recommendation by De La Bar would be as effective as that of an assistant foreman. The record discloses that Herbert's position involves the right of recommendation similarly to that of De La Bar. In view of the foregoing, we find that De La Bar and Herbert are supervisory employees within the meaning of our customary definition and, as such, we shall exclude them from the voting group.

We shall direct that an election by secret ballot be held among the inspectors employed by the Company at its La Porte, Indiana, plant, excluding the chief inspector, assistant chief inspector, inspector in charge of experimental work, resident inspector at the Foster Machine Tool Company, foremen, assistant foremen, inspectors in charge of checkers in Departments 60 and 69, 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, 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 Allis-Chalmers Manufacturing Company, La Porte, Indiana, 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 inspectors employed by the Company at its La Porte, Indiana, plant, excluding the chief inspector, assistant chief inspector; inspector in charge of experimental work, resident inspector at the Foster Machine Tool Company, foremen, assistant foremen, inspectors in charge of checkers in Departments 60 and 69, 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, 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 Farm Equipment and Metal Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.