

In the Matter of A. M. CASTLE & Co. and UNITED STEELWORKERS OF
AMERICA, C. I. O.

Case No. 13-R-2203.—Decided February 16, 1944

Gann, Secord, Stead & McIntosh, by *Mr. J. Walter Stead*, of Chicago, Ill., for the Company.

Mr. George A. Patterson, of Chicago, Ill., for the Union.

Mr. Charles W. Schneider, 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 A. M. Castle & Co.,¹ Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before R. N. Denham, Trial Examiner. Said hearing was held at Chicago, Illinois, on January 4, 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.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

A. M. Castle & Co. is an Illinois corporation engaged in the business of merchandising and fabricating steel. The Company operates plants in Chicago, Illinois, Seattle, Washington, and Los Angeles, San Francisco, and Oakland, California. Only the Chicago plant,

¹ The correct name of the Company, in accordance with a stipulation made at the hearing.
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employing approximately 160 persons, is involved in the present proceedings.

During 1943 the Chicago plant received raw materials, consisting principally of steel plates, shapes, bars and sheets, valued in excess of \$200,000, of which more than 30 percent was secured from sources outside the State of Illinois. During the same period the Chicago plant sold or delivered products valued in excess of \$200,000, of which more than 20 percent was shipped to points outside the State of Illinois.

The Company concedes that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Steelworkers of America, C. I. O., is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On December 2, 1943, the Union requested recognition as collective bargaining representative of the Company's production and maintenance employees. On December 8, the Company declined to accord such recognition until the Union had been certified by the Board.

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.²

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 parties are in general agreement that all production and maintenance employees in the Chicago plant, excluding guards and clerical and supervisory employees, constitute an appropriate unit. Some question is raised, however, as to whether certain employees should be included or excluded.

Stockroom clerk and shippers: The stockroom clerk is in charge of a stockroom in the plant where small tools and parts are kept. He maintains an inventory of these items and supplies them to the employees on requisition. The parties did not specifically indicate their position with respect to the clerk. We are of the opinion that his

² The Regional Director reported that the Union submitted evidence indicating that it represented 54 of the 99 persons in the appropriate unit as of November 30, 1943.

duties identify him more closely with the production than with the general office clerical employees. He will therefore be included in the unit hereinafter found to be appropriate.

The so-called "shippers" work in the shipping department of the plant and prepare bills of lading for outgoing shipments. We shall include them within the appropriate unit.

Supervisory employees: There is a question as to the supervisory status of the following employees: George Lind, John Liepe, A. P. Neugebauer, J. J. Majosky, S. A. Jagielo, Roy T. Dixon, and W. J. Naughton. The Union would apparently exclude these employees, with the exception of Majosky. The position of the Company with respect to their exclusion was not ascertained. All but Majosky and Neugebauer, who were described as "semi-supervisory," were characterized by Quetsch, vice president and general manager of the Company, as "supervisory."

Lind is superintendent of Warehouse No. 1; Liepe, superintendent of Warehouses 2 and 3. Although the record does not disclose their precise authority, we infer that Lind and Liepe either have authority to discharge or effectively recommend such action. They will therefore be excluded.

Neugebauer is a day working foreman of the loading crew in warehouses 2 and 3. He substitutes for Liepe when the latter is absent. Majosky is a working foreman of the night loading crew, consisting of about three men. He "supervises" the night loading operations. He has no authority to hire or discharge, but reports violations to the superintendent who in turn investigates.

Jagiello is an expert craftsman who lays out material for blueprints, builds jigs, and "runs the shop under the supervision of Liepe." Dixon performs duties similar to those of Jagiello in the sheet steel and light bar warehouse. Naughton is an expert flame-cutting operator who instructs newly-hired burners and "generally supervises" their work in the plant.

The authority of Neugebauer, Jagiello, Dixon, and Naughton with respect to disciplinary treatment of employees is not disclosed. Their inclusion or exclusion is therefore made dependent upon whether they fall within our customary definition of supervisory employees as given hereinafter.

However, with respect to Majosky, the record indicates that his recommendations carry no weight, since the superintendent investigates his reports. We therefore find that Majosky is not a supervisory employee within our definition.

In accordance with the foregoing, we find that all production and maintenance employees at the Company's Chicago plant, including the stockroom clerk and the shippers, but excluding clerical employees,

guards, and 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 an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction and in this Section.

There is dispute as to whether certain part-time employees should vote in the election. There are eight of these employees. They are regularly employed during the day in the main office of the Company as salesmen, clerical workers, or in other classifications not within the appropriate unit, but work as part-time employees in the production department for 4-hour periods, 3 nights a week. This employment is brought about by the Company's inability to hire regular employees. The tenure of these men was characterized by Quetsch as "temporary." It is strictly of an emergency nature and is engaged in by the part-time employees primarily for patriotic reasons. For such work as they perform, they are paid the regular rates for production employees. They are not required to maintain the regularity of attendance demanded of the regular production employees. The Company contends that these part-time employees should be permitted to vote in the election; the Union contends that their interests lie primarily with the office group.

Since their employment is, in a very real sense, of an emergency and temporary character, and because of the nature of their regular employment, we are of the opinion that part-time employees who are regularly employed by the Company in classifications excluded from the appropriate unit, have an insufficient interest to warrant their participation in the election.

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 A. M. Castle &

Co., 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 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 the part-time employees referred to in Section V, above, and employees who have since quit or been discharged for cause and who 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, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.