

In the Matter of WILLIAM J. BURNS INTERNATIONAL DETECTIVE AGENCY and BUILDING SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 6, A. F. OF L.

Case No. 19-R-1234.—Decided February 17, 1944

Mr. Floyd Brower, of Seattle, Wash., for the Company.

Mr. W. K. Dobbins, of Seattle, Wash., for the Union.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Building Service Employees International Union, Local 6, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of William J. Burns International Detective Agency, Seattle, Washington, herein called the Company, who are employed as uniformed, armed guards at two plants of the Puget Sound Sheet Metal Works, Seattle, Washington, herein called the Works, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph D. Holmes, Trial Examiner. Said hearing was held at Seattle, Washington, on January 19, 1944. The Company and the Union appeared and participated. All parties 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

William J. Burns International Detective Agency is a partnership consisting of W. Sherman Burns, Raymond J. Burns, Ashley John Burns, W. Sherman Burns, Jr., and William J. Burns, operating under the laws of the State of New York, and is engaged in general detective work. It has offices in the principal cities of the United States. As part of its business, the Company furnishes armed guards

to various industrial and defense plants throughout the United States. The Works operates two plants at Seattle, Washington, with which we are here concerned, at which it assembles airplane parts for the Boeing Aircraft Company and at which it also is engaged in the fabrication of sheet metal and structural steel. The value of airplane parts assembled is in excess of \$1,000,000 annually. The value of raw materials used in its fabrication is about \$1,000,000 annually. In 1943 about 25 percent of its fabricated products was sent to points outside the State of Washington.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.¹

II. THE ORGANIZATION INVOLVED

Building Service Employees International Union, Local 6, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of the Company's employees on the ground that the Company is not subject to the jurisdiction of the Board under the Act.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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 agree that the unit should consist of all guards patrolling the premises of the two plants of the Works, including the sergeants, but excluding supervisory and all other employees. In addition to the non-supervisory guards, there is a chief and one or more sergeants. The parties would exclude the chief; their position as to the sergeants is not quite clear from the record.

A sergeant "is the supervisor over each shift," but has no authority to hire or discharge guards. He directs the work of the guards and oversees the performance of their assigned duties. The sergeants apparently perform duties and have powers and responsibilities which

¹ See also *Matter of William J. Burns Detective Agency*, 49 N. L. R. B. 385; *Matter of W. Sherman Burns, etc.*, 49 N. L. R. B. 610; *Matter of W. Sherman Burns, etc.*, 50 N. L. R. B. 219; *Matter of Williams Diamond & Co.*, 2 N. L. R. B. 859

² The Field Examiner reported that the Union submitted designation cards and other evidence of designation of 9 persons; that the names of 6 such persons were listed on the Company's pay roll of December 9, 1943, which contained the names of 17 employees in the alleged appropriate unit.

place them within our definition of supervisory employees. We shall exclude them from the unit.

We find that all guards patrolling the premises of the two Puget Sound Sheet Metal Works plants, at East Marginal Way and Airport Way and Hardy Streets, Seattle, Washington, but excluding the chief guard and sergeants 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 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 William J. Burns International Detective Agency, 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 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 those 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 Building Service Employees International Union, Local 6, affiliated with the American Federation of Labor, for the purposes of collective bargaining.