

In the Matter of YALE & TOWNE MANUFACTURING COMPANY and
AMERICAN FEDERATION OF LABOR

Case No. 2-R-4391.—Decided February 26, 1944

Porter & Taylor, by Mr. F. Carroll Taylor, of New York City, for
the Company.

Mr. Raphael O'Connell, of Springdale, Conn., for the Union.

Mr. Wallace E. Royster, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Yale & Towne Manufacturing Company, Stamford, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before David H. Werther, Trial Examiner. Said hearing was held at Stamford, Connecticut, on January 11, 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

Yale & Towne Manufacturing Company is a Connecticut corporation, with its principal office and place of business in Stamford, Connecticut, where it is engaged in the manufacture of locks, hardware, and related products. The Company's purchases of raw materials have an annual value in excess of 2 million dollars, of which approximately

50 percent is shipped to the Company from points outside of Connecticut. The annual production of the Company has an approximate value of 11 million dollars, of which about 50 percent is shipped from the plant to points outside of Connecticut.

The Company concedes, and we find, that its operations affect commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

It was stipulated at the hearing that the American Federation of Labor is a labor organization within the meaning of the Act. Through its constituent affiliates, the Union admits to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

In November 1943, the Union requested recognition of the Company as bargaining representative of the employees in the unit sought in the petition. The Company refused to extend recognition unless and until the Union is certified as such representative by the Board.

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

Three separate bargaining units have been approved by the Board covering a large majority of the Company's employees. The unit sought by the Union in this proceeding comprehends most of the remaining categories outside the scope of the established units. We will discuss first below the categories which both parties agree should be included in the unit:

Office and clerical employees, including typists, stenographers, proofreaders, blueprint operators, and office messengers, perform the usual functions indicated by their designations in the several office departments of the Company. All receive comparable incomes and work under similar conditions. We shall include them in the unit.

Room clerks are located throughout the plant in the foremen's offices. Their principal function is to keep records for the foremen

¹The Regional Director stated that the Union submitted 172 authorization cards, of which 153 bore apparently genuine original signatures. 133 cards were dated in October, November, and December 1943, and the remainder were undated. 150 cards bore names of persons whose names appear on the Company's pay roll of November 15, 1943. The pay roll lists 429 employees in the appropriate unit.

to whom they are assigned and to carry messages. Since they are clerical workers and do not appear to occupy a confidential relationship to management, we shall include them in the unit.

Expeditors work from the production office in following and checking the movement of materials and products through the plant. Their work is chiefly clerical and we shall include them in the unit.

The 9 employees in the chemical department, who are loosely described as chemists, perform routine tests and analyses on products and raw materials. Some have formal college training in their field; others are qualified by experience. Those with professional training lead and instruct those less qualified. Since all perform work of a routine nature, and since the parties so agree, we shall include them in the unit.

Both parties agree to the exclusion of:

Export department clerks and *price bureau clerks*, but no reason is advanced in the record for these exclusions. The employees involved perform clerical tasks under working conditions and for remuneration not substantially different from those common to the clerical employees who constitute the bulk of the unit. In the absence of evidence tending to persuade to a contrary finding, we shall include them in the unit.

Confidential secretaries who act as stenographers to officials of the Company. Although their duties are similar to those of the stenographers here included, they are recipients of confidential information relating to labor relations and we shall, therefore, exclude them from the unit.

Dental hygienists, nurses, tool designers, and salesmen, who are not discussed in the record. However, such categories are generally excluded from bargaining units of office and clerical employees and we shall exclude them here.

The Company would exclude, and the Union include:

Methods engineers who have the very general and important function of determining the separate processes and treatments necessary to the manufacture of a product from raw material to the shipping room. They prepare operational charts showing each stage of the production process and the machinery and labor entailed. They are required to exercise a high degree of initiative and are responsible only for results. Many of them are mechanical engineers and all have practical engineering training. They work closely with management and we are persuaded that their interests are sufficiently separate from those of the office and clerical employees to warrant their exclusion from the unit.

Product designers who make complete drawings of products and proposed products. They have college training, or the equivalent;

possess creative ability; and are engaged in work requiring initiative and resourcefulness. They occupy a position in the Company's organization similar to that of the methods engineers and we believe they should be similarly excluded from the unit.

Time-study men, or rate men, who make time and motion studies of production operations and set rates for production operations based upon their studies. About 3 years experience is required to acquire proficiency in the work. In setting rates for production work, time-study men are agents of management and, although their determinations do not affect earnings of the employees whom we shall include in the unit, we are of the opinion that their interests and functions are sufficiently akin to those of management to warrant their exclusion.²

Timekeepers, or shop pay-roll clerks, who are located throughout the plant and whose function is to record the operations performed and hours worked by the production employees. On the basis of the data so recorded, the factory pay roll is made up. These workers are engaged chiefly in clerical duties and receive substantially the same pay as office and clerical workers. They are separate in function and supervision from the time-study men. The Company contends that their possession of confidential information argues for their exclusion from the unit. However, this information consists of knowledge of pay rates and earnings of individuals, and does not directly concern labor relations. Since timekeepers are clerical employees, and since it does not appear that their duties affect the earnings of other clerical employees, we shall include them in the unit.

Upon the basis of the entire record and in consideration of the conclusions above, we find that all office and clerical employees of the Company, including typists, stenographers, proofreaders, blueprint operators, office messengers, room clerks, expeditors, chemical department employees, export department clerks, price bureau clerks, and timekeepers, but excluding confidential secretaries, dental hygienists, nurses, tool designers, salesmen, methods engineers, product designers, time-study men, production, maintenance and shipping employees, and all 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

² See *Matter of Gar Wood Industries, Inc.*, 41 N. L. R. B. 1156.

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.³

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 Yale & Towne Manufacturing Company, Stamford, Connecticut, 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 Second 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 American Federation of Labor, Office and Clerical Workers Union, Local 23555, for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.

³ The American Federation of Labor has requested to be designated on the ballot as in the Direction.