

In the Matter of THE AMERICAN ROLLING MILL COMPANY and PAT-
TERN MAKERS' LEAGUE OF N. A., AFFILIATED WITH AMERICAN FEDERA-
TION OF LABOR

In the Matter of THE AMERICAN ROLLING MILL COMPANY and ARMCO
EMPLOYEES INDEPENDENT FEDERATION, INC.

Cases Nos. 9-R-1093 and 9-R-1170, respectively.—Decided March
2, 1944

Mr. Thomas E. Shroyer, for the Board.

Frost & Jacobs, by *Messrs. Cornelius J. Petzhold* and *Clifford W. Elliott*, of Cincinnati, Ohio, for the Company.

Mr. C. D. Madigan, of Cleveland, Ohio, for the P. M. L.

Mr. Henderson Estes, of Middletown, Ohio, for the Independent.

Mr. Philip M. Curran, of Pittsburgh, Pa., and *Mr. R. W. Light*, of Middletown, Ohio, for the U. S. A.

Mr. Robert E. Tillman, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by Pattern Makers' League of N. A., affiliated with American Federation of Labor, herein called the P. M. L., and by Armco Employees Independent Federation, Inc., herein called the Independent, each alleging that a question affecting commerce had arisen concerning the representation of employees of The American Rolling Mill Company,¹ Middletown, Ohio, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Earl S. Bellman, Trial Examiner. Said hearing was held at Middletown, Ohio, on December 1, 1943. The Company, the P. M. L., the Independent, and United Steelworkers of America, CIO, herein called the U. S. A., 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 rulings of the Trial Examiner 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.

¹ In the formal papers of these proceedings, the name of the Company appears variously as "The American Rolling Mills" and "The American Rolling Mill Co." Its name appears in the caption and in the body of this decision as it was amended at the hearing.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The American Rolling Mill Company, an Ohio corporation, is engaged in the business of producing iron and steel and manufacturing iron and steel products. It operates several plants, including a steel mill and a fabricating plant in Middletown, Ohio, which are alone involved in this proceeding. The Middletown plants annually use raw materials valued in excess of \$5,000,000, of which approximately 75 percent is shipped to the plants from points outside the State of Ohio. The plants annually manufacture products having a value in excess of \$10,000,000, of which approximately 75 percent is shipped to points outside the State of Ohio.

II. THE ORGANIZATIONS INVOLVED

Armco Employees Independent Federation, Inc., is an unaffiliated labor organization admitting to membership employees of the Company.

Pattern Makers' League of N. A. is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

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

III. THE QUESTIONS CONCERNING REPRESENTATION

The Independent and the P. M. L. informed the Company of their respective claims to represent certain of the Company's employees. The Company advised each of them, in effect, that it would not recognize any labor organization as the exclusive collective bargaining representative of its employees unless and until such organization had been certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, and a statement of the Trial Examiner made at the hearing, have been summarized in a table in the footnote below.²

² See table below:

Type of Unit	No. Employees in Unit	Cards in Unit		
		P. M. L.	Ind.	U. S. A.
Pattern makers.....	9	6		
Production and maintenance.....	3,713		1,383	1,989*

*This figure is based upon a spot-check comparison of 1 out of every 10 cards submitted by the U. S. A.

These statements indicate that each of the labor organizations represents a substantial number of employees in the unit it alleges to be appropriate.

We find that questions affecting commerce have 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 UNITS

A. *The contentions of the parties*

As brought out at the hearing, the Independent seeks a unit of all production and maintenance employees in the Fabricating Division and the Middletown Division (steel mill) of the Company, including weighmen, recorders, scrap yard men, and river pump men, but excluding all wood and metal pattern makers and pattern maker apprentices, plant-protection employees, the weighmaster, timekeepers, premium checkers, employees in the first aid and medical departments, salaried employees in the metallurgical department, all employees in the home office and in the main office of each Division, all salaried employees not directly connected with production and maintenance, foremen, assistant foremen, chief mill clerks, and all other supervisory employees with authority to hire and discharge.

The U. S. A. likewise seeks a unit of production and maintenance employees, but is in disagreement with the Independent as to the inclusion of certain categories of employees, which are discussed in detail in subsection E, *infra*.

The Company declined to take any position on the appropriate unit, but indicated that it had no objection to the inclusion of employees of the steel mill and of the fabricating plant in a single unit.

The P. M. L. requests a separate unit of all wood and metal pattern makers and their apprentices employed in the Fabricating Division of the Company, excluding the shop foreman.

B. *The Company's plants*

The Company has four steel mills located respectively in Butler, Pennsylvania, Zanesville, Ohio, Ashland, Kentucky, and Middletown, Ohio. In addition to the four steel mills, the Company operates a fabricating plant in Middletown. As indicated heretofore, this plant and the Middletown steel mill are alone involved in this proceeding. All the mills produce iron and steel plates, some of which are sent to the fabricating plant which manufactures iron and steel products. The Middletown mill supplies the bulk of the plates to the fabricating plant.

The Middletown mill is approximately 1½ miles from the fabricating plant. Although under separate management, employees of the two plants have relatively the same skills, are paid similar wages, and are carried on the same pay roll. Temporary interchange of employees is frequent.

C. *The history of collective bargaining*

There has been no collective bargaining in the Middletown plants other than on the basis of an employee representation plan which the Company has had in effect since 1933. On June 8, 1943, the Independent filed a petition in Case No. 9-R-1103, seeking a unit in the Fabricating Division only. The Acting Regional Director refused to order a hearing on the ground that the unit proposed was inappropriate because it did not include employees of the Middletown steel mill.

At the Ashland plant, subsequent to March 1, 1943, the U. S. A. won a consent election in which the following unit was specified: all production and maintenance employees, excluding foremen, assistant foremen, watchmen, office and salaried employees, employees in the first aid and medical departments, and salaried employees in the metallurgical department.

At the Butler plant subsequent to July 15, 1943, the U. S. A. lost a consent election in which the following unit was specified: all production and maintenance employees, including the scrap yard, but excluding foremen, assistant foremen, watchmen, office and salaried employees,³ employees of the first aid and medical departments, salaried employees in the metallurgical department, and plant-protection employees.

At the Zanesville plant the Board on July 17, 1943, found the following unit to be appropriate, there being no dispute between the parties to the proceeding:⁴ all production and maintenance employees, excluding watchmen, plant guards, office and salaried employees, employees in the first aid and medical departments, salaried employees in the metallurgical departments, foremen, assistant foremen, and other supervisory employees.

D. *The pattern makers*

The pattern makers are employed in a shop connected with the Company's foundry, which in turn is part of the Fabricating Division. There are seven pattern makers, two apprentices, and a foreman. In addition, one carpenter, four pattern carriers and two

³ The Company and the U. S. A. later agreed to exclude mill clerks under this designation, but to include recorders.

⁴ *Matter of American Rolling Mill Company*, 51 N. L. R. B. 391.

helpers work in the shop. The P. M. L. does not intend to bargain for the latter seven employees. The record contains ample testimony indicating the high degree of skill possessed by the pattern makers, and the adherence of the P. M. L. to strict craft lines in its collective bargaining relations with other companies. It is thus clear that the Company's pattern makers and their apprentices are members of an identifiable skilled craft.

As previously indicated, the P. M. L. seeks a separate unit of all wood and metal pattern makers and their apprentices. The Independent does not desire to represent these employees, and the U. S. A., while contending that they should be included in the production and maintenance unit, does not desire to appear on any ballot where the pattern makers would be given the opportunity to determine whether they desire to be represented in a separate unit. We shall, therefore, treat the P. M. L. as the only labor organization having a substantial interest in the pattern makers. Such being the case, and in view of their identity as a craft group, we find that all wood and metal pattern makers and their apprentices employed by the Company in its fabricating plant at Middletown, Ohio, excluding carpenters, pattern carriers, helpers, the shop foreman, 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, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

E. The remaining production and maintenance employees

As has been indicated, the Independent and the U. S. A. are not in agreement on the inclusion of several categories of employees in the production and maintenance unit. The categories in dispute are set forth below. In each instance, the Independent desires the inclusion of the employees concerned, whereas the U. S. A. contends that they should be excluded.

Mill clerks and junior mill clerks,⁵ of whom there are about 100, comprise 2 classifications of employees who maintain production records in the fabricating plant, and in the steel mill. Some work entirely in the 25 plant offices; others are stationed entirely in production departments; and still others work both in the plant offices and the plant itself. When in the plant, they come under the supervision of production foremen; in the plant offices, they come under the supervision of a senior mill clerk, a chief mill clerk, or a department superintendent. All are hourly paid, and are listed on the production pay roll.

⁵ In its brief, the U. S. A. stated that it was willing to include these employees in the unit.

The above facts indicate that the mill clerks and junior mill clerks are plant clerical employees who are in constant contact with the production employees, and are subject to much the same working conditions. We find, therefore, that they have interests in common with the production and maintenance employees, and we shall include them in the unit.

Schedule clerks are salaried employees who, in each plant, aid in maintaining plant schedules by first posting schedules throughout the plant and then checking through the plant and reporting deviations from the posted schedules. All but one are responsible to the production supervisor. We shall include them in the unit for the same reason we included mill clerks and junior mill clerks.

Order dispatchers are salaried employees who act as expeditors in each plant. They see that material flows through the plants as scheduled and is shipped out on time. Approximately 80 to 90 percent of their time is spent in production departments. They are also responsible to the production supervisor. These facts indicate that the work of the order dispatchers is closely associated with that of the schedule clerks whom we have included in the unit. We find that order dispatchers should be included in the unit for the same reasons.

Salaried fuel men: The Company employs two salaried fuel men, both of whom are responsible to the production superintendent. One works in the open hearth furnace department where he is responsible for fuel oil inventories and the proper functioning of the oil burning equipment. The other is in the processing department where he has similar duties. We find that the salaried fuel men are maintenance employees, and we shall include them in the unit.

Salaried inspectors: The Company has two salaried inspectors, both of whom report to the chief inspector, and neither of whom has supervisory powers or is over other inspectors. They perform quality tests. There is no substantial difference between their work and that of hourly inspectors whom the Independent and the U. S. A. have agreed to include. We shall, therefore, include salaried inspectors in the unit.

Main office janitors clean up the main offices of the Company, as distinguished from offices located in the plant. We see no reason to draw a distinction between main office janitors and other janitors whom the Independent and the U. S. A. have agreed to include. We shall, therefore, include main office janitors in the unit.

Motor tester: The Company has one such employee who is a salaried electrician. He tests motors in the power division of the plant, under the supervision of the assistant superintendent of maintenance in charge of power. He has no supervisory powers. Aside from the fact that he is paid a salary, we find no basis for drawing a distinction between him and other production and maintenance employees. We shall, therefore, include him in the unit.

Meter repairman: The Company likewise has only one such employee. He is salaried and inspects meters. On his recommendation meters are sent to the shop for repairs. He has no supervisory powers. We shall include him in the unit for the reason we included the motor tester.

We find that all production and maintenance employees in the Fabricating Division and the Middletown Division (steel mill) of the Company in Middletown, Ohio, including weighmen, recorders, scrap yard men, river pump men, mill clerks, junior mill clerks, schedule clerks, order dispatchers, salaried fuel men, salaried inspectors, main office janitors, salaried motor testers, and salaried meter repairmen, but excluding all wood and metal pattern makers, pattern maker apprentices, plant-protection employees, the weighmaster, timekeepers, premium checkers, employees in the first aid and medical departments, salaried employees in the metallurgical department, all employees in the home office, all employees in the main office of each Division except janitors, all salaried employees not directly connected with production and maintenance, foremen, assistant foremen, chief mill clerks, 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, 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 questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units who were employed during the payroll period immediately preceding the date of our Direction of Elections herein, subject to the limitations and additions set forth therein.

Dispute exists as to whether some 25 to 40 business and professional men, school teachers and school boys, who work in the plant in their spare time, should be eligible to vote. They average approximately 24 hours per week. Most of them are engaged in production and maintenance work, but some are clerical employees. We are of the opinion that the part-time employees have a substantial interest in the selection of a collective bargaining representative for the Company's employees. We find, therefore, that part-time employees who are employed in categories included in the unit, are eligible to vote.

DIRECTION OF ELECTIONS

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 The American Rolling Mill Company, Middletown, Ohio, elections 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 Ninth 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 following groups of employees 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 elections:

1. All wood and metal pattern makers and their apprentices employed by the Company in its fabricating plant at Middletown, Ohio, excluding carpenters, pattern carriers, helpers, the shop foreman, 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, to determine whether or not they desire to be represented by Pattern Makers' League of N. A., A. F. L., for the purposes of collective bargaining.

2. All production and maintenance employees in the Fabricating Division and the Middletown Division (steel mill) of the Company in Middletown, Ohio, including weighmen, recorders, scrap yard men, river pump men, mill clerks, junior mill clerks, schedule clerks, order dispatchers, salaried fuel men, salaried inspectors, main office janitors, salaried motor testers, and salaried meter repairmen, but excluding all wood and metal pattern makers, pattern maker apprentices, plant-protection employees, the weighmaster, timekeepers, premium checkers, employees in the first aid and medical departments, salaried employees in the metallurgical department, all employees in the home office, all employees in the main office of each Division except janitors, all salaried employees not directly connected with production and maintenance, foremen, assistant foremen, chief mill clerks, 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, to determine whether they desire to be represented by Armco Employees Independent Federation, Inc., or by United Steelworkers of America, CIO, for the purposes of collective bargaining, or by neither.