

In the Matter of PITTSBURGH-DES MOINES COMPANY and UNITED
STEELWORKERS OF AMERICA, LOCAL No. 2789, AFFILIATED WITH CIO

Case No. 6-R-876.—Decided March 6, 1944

*Messrs. H. E. McCamey and Carl E. Wolfston, of Pittsburgh, Pa.,
for the Company.*

Mr. Phillip M. Curran, of Pittsburgh, Pa., for the C. I. O.

Mr. John Petrelli, of McKees Rocks, Pa., for the Committee.

Miss Frances Lopinsky, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, Local No. 2789, affiliated with CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Pittsburgh-Des Moines Company, Pittsburgh, Pennsylvania, herein called the Company, the National Labor Relations Board, provided for an appropriate hearing upon due notice before Peter F. Ware, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on January 14, 1944. The Company, the CIO, and Shop Committee of the Pittsburgh-Des Moines Company, herein called the Committee¹ 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.

¹ The CIO moved that the Committee not be allowed to intervene in this proceeding. The Trial Examiner referred the motion to the Board and allowed the Committee to participate in the hearing pending a ruling by the Board. For reasons hereinafter stated, the motion is denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Pittsburgh-Des Moines Company, a Pennsylvania corporation, is engaged at its plant on Neville Island, Pittsburgh, Pennsylvania, in the manufacture of various steel products and in the building of units for floating dry docks for the Pittsburgh-Des Moines Steel Company which operates a shipyard adjacent to the plant. During the year 1943 the Company purchased materials and supplies for fabrication of a value in excess of \$1,000,000, more than 10 percent of which was purchased from sources outside the Commonwealth of Pennsylvania. The value of its finished products sold and delivered during that period was in excess of \$8,000,000, 50 percent of which was shipped to points outside the Commonwealth of Pennsylvania.

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

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, Local No. 2789, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Shop Committee of the Pittsburgh-Des Moines Company is a labor organization in which all employees of the Company participate by virtue of their employment by the Company.²

III. THE QUESTION CONCERNING REPRESENTATION

The Company, asserting that its employees are represented by the Committee, has refused to grant recognition to the CIO as exclusive bargaining representative of its employees unless the CIO is certified by the Board in an appropriate unit.

A statement of the Trial Examiner, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.³

² Although the CIO stipulated that the Committee is a labor organization, the tenor of the evidence which it sought to introduce and its motions opposing the Committee's right to intervene and to appear on the ballot amounted to a repudiation of the stipulation. The record indicates that the Committee is elected by employees of the Company to represent them in dealing with the Company concerning grievances, wages, and conditions of employment. The Committee, therefore, is a labor organization within the meaning of Section 2 (5) of the Act. Its failure to collect dues or have meetings does not deprive it of that status nor does its informality of organization. The *Matter of Garland-Haswell Foundry Co.*, 26 N. L. R. B. 1270; *Matter of Atlas Powder Company*, 43 N. L. R. B. 757.

³ The Trial Examiner reported that the CIO submitted 416 applications for membership cards, 382 of which bore apparently genuine original signatures; that the names of 197

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

In accordance with the stipulation of the parties, we find that all employees of the Company at its Neville Island Plant, excluding clerical employees, shop clerks, watchmen, janitors, construction department 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 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.

The CIO moved that the Committee be denied a place on the ballot. Since the Committee is a labor organization, presumably bona fide, which has represented employees of the Company, we shall accord it a place on the ballot.⁴

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 Pittsburgh-Des

persons appearing on the cards were listed on the Company's pay roll of January 12, 1944, which contained the names of 511 employees in the appropriate unit; and that the cards were dated 57 in 1942, 162 in 1943, and 197 undated.

The Committee relied upon its activities in the plant for the past 10 years to show its interest in the matter. The Committee, which is elected by a plurality of the votes of all employees, has not signed a written agreement with the Company but has met with management from time to time to discuss grievances, safety measures, wages, and working conditions.

⁴ Cf. *Matter of Douglas Aircraft Company*, 53 N. L. R. B. 486; *Matter of Phelps Dodge Corporation, United Verde Plant Branch*, 6 N. L. R. B. 624. In each of the cited cases, the Board denied an intervener a place on the ballot; the evidence introduced to show that the intervener was a labor organization revealed the existence of facts which *per se* established that said organization was not a bona fide representative of employees.

Moines Company, Pittsburgh, Pennsylvania, 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 Sixth 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 they desire to be represented by United Steelworkers of America, Local No. 2789, affiliated with the CIO, or by Shop Committee of the Pittsburgh-Des Moines Company, for the purposes of collective bargaining, or by neither.