

In the Matter of VERMONT COPPER COMPANY, INC., and UNITED MINE  
WORKERS OF AMERICA, DISTRICT 50

*Case No. 1-R-1731.—Decided March 10, 1944*

*Mr. Stanley C. Wilson*, of Chelsea, Vt., for the Company.

*Mr. Harold Roitman*, of Boston, Mass., for the Union.

*Mr. Joseph W. Kilkis*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Mine Workers of America, District 50, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Vermont Copper Company, Inc., Strafford, Vermont, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Samuel G. Zack, Trial Examiner. Said hearing was held at White River Junction, Vermont, on February 3, 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. The 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

Vermont Copper Company, Inc., is a Vermont corporation engaged in the mining and milling of copper ore at Strafford, Vermont. The Company monthly purchases materials, consisting of steel, explosives, and chemicals amounting in value to approximately \$25,000, of which 75 to 80 percent is obtained from points outside the State of Vermont. The Company currently ships each month approximately

500 tons of copper concentrates valued at about \$20,000 to points outside the State of Vermont. We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

United Mine Workers of America, District 50, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On December 28, 1943, the Union advised the Company that it represented a majority of the Company's employees and requested the Company to recognize it as the exclusive bargaining representative of the employees within an alleged appropriate unit. On December 31, 1943, the Company refused to accord the Union such recognition unless and until the Union was certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit hereinafter found to be appropriate.<sup>1</sup>

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 Union seeks a unit composed of all production and maintenance employees, excluding executives, supervisory and clerical employees and guards. The Company contends that all employees of the Company, excluding only the manager, mine and mill superintendents and the mine foreman, constitute an appropriate unit. The parties are, therefore, in particular disagreement as to the inclusion or exclusion of shift bosses, master mechanic, chief engineer, clerical and office employees, draftsmen and engineers, guards, and the boss carpenter.

*Shift bosses:* These employees are in complete charge on the night shift and exercise all the ordinary powers of a foreman, whom the parties would exclude; they have direct supervision of employees and the authority to discharge. We shall exclude them.

*Master Mechanic:* This employee is in complete charge of 15 to 20 mechanics and laborers. He has the authority to hire and discharge those employees under his supervision; we shall, therefore, exclude him.

---

<sup>1</sup> The report of the Field Examiner shows that the Union submitted 88 membership cards bearing apparently genuine signatures; 73 of the cards bear names appearing on the January 7, 1944, pay roll of the Company, which contains the names of 134 persons within the alleged appropriate unit

*Draftsmen and Engineers:* The draftsmen and engineers are engaged in the surveying and mapping of the Company's properties under the supervision of the Chief Engineer. All these employees are required to have technical training for the proper performance of their duties, and have functions and interests different from those of the ordinary production and maintenance workers. We shall, therefore, exclude draftsmen and engineers.

*Clerical and Office Employees:* The duties of these employees are separate and distinct from those performed by the production and maintenance employees. In accordance with our usual practice, we shall exclude clerical and office employees from the unit.

*Guards:* The guards, of whom there are three in number, are armed but not militarized. Their primary function is to patrol the plant for the purpose of preventing fires and detecting fire hazards. They are also charged with the duty of keeping the fire equipment in proper working order. Since these guards are not militarized and their functions are those of ordinary watchmen, we shall include them within the unit. However, we shall exclude the day guard, who the record shows has effective supervisory authority over the two guards assigned to the other shifts.

*Boss Carpenter:* This employee has direct supervision of four or five other carpenters, who are engaged in the repair and maintenance of the Company's buildings. He has the authority to discharge those under his supervision; we shall, therefore, exclude him.

Accordingly, we find that all production and maintenance employees of the Company, including guards, but excluding clerical and office employees,<sup>2</sup> the day guard, master mechanic, draftsmen and engineers, boss carpenter, shift bosses, mine foreman, mine and mill superintendents, executives, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect change 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 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.

<sup>2</sup> We find that the paymaster, purchasing agent, and assistants fall within the above category of clerical and office employees

## 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 Vermont Copper Company, Inc., Strafford, Vermont, 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 First 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 any 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 the United Mine Workers of America, District 50, for the purposes of collective bargaining.

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