

In the Matter of ONONDAGA POTTERY CO. (FAYETTE STREET PLANT)  
and DISTRICT 50, UNITED MINE WORKERS OF AMERICA

In the Matter of ONONDAGA POTTERY CO. (COURT STREET PLANT) and  
DISTRICT 50, UNITED MINE WORKERS OF AMERICA

Cases Nos. 3-R-705 and 3-R-706, respectively.—Decided March 18,  
1944

*Bond, Schoeneck & King*, by Messrs. *George H. Bond* and *Lyle L. Hornbeck*, of Syracuse, N. Y., for the Company.

*Mr. Stanley Denlinger*, of Akron, Ohio, and Messrs. *August Rouse*, *Andrew Hisney*, *Anthony Vecchio*, and *Richard Kopinsky*, of Syracuse, N. Y., for the UMWA.

*Mr. Charles Jordan*, of East Liverpool, Ohio, for the Brotherhood of Operating Potters.

*Miss Frances Lopinsky*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon two petitions duly filed by District 50, United Mine Workers of America, herein called the UMWA, alleging that a question affecting commerce had arisen concerning the representation of employees of Onondaga Pottery Co., Syracuse, New York, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Milton A. Nixon, Trial Examiner. Said hearing was held at Syracuse, New York, on January 25, 1944. The Company and the UMWA appeared and participated.<sup>1</sup> All parties were afforded full opportunity to be

<sup>1</sup> The Brotherhood of Operating Potters, A. F. of L., appeared only as an interested party and took no part in the proceeding.

On February 23, 1944, the Congress of Industrial Organizations filed a motion with the Board alleging that it is an interested party in the proceedings and requesting that it be accorded a place on the ballot in the election herein directed. The CIO admittedly had no membership among the Company's employees at the time investigation was made and notices of hearing were issued, nor did it produce evidence of its alleged organizational interest in such employees in support of its motion. The motion is hereby denied.

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

Onondaga Pottery Co., a New York corporation, is engaged at its plants in Syracuse, New York, in the manufacture of vitrified china. During the year 1943, the Company used at its Syracuse plants raw materials to the approximate value of over \$500,000, approximately 90 percent of which was shipped to the said plants from points outside the State of New York. During the same period the Company manufactured products of a value exceeding \$500,000, approximately 75 percent of which was shipped to points outside the State of New York.

For the purposes of this proceeding, the Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

### II. THE ORGANIZATION INVOLVED

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

### III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the UMWA as the exclusive bargaining representative of its employees until the UMWA has been certified by the Board in an appropriate unit or units.

Statements of a Board agent, introduced into evidence at the hearing, indicate that the UMWA represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</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.

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<sup>2</sup> The Field Examiner reported that the UMWA submitted 440 application-for-membership cards all of which bore apparently genuine original signatures; that the names of 347 persons appearing on the cards were listed on the Company's pay roll of November 6, 1943, which contained the names of 1,246 persons in the unit herein found appropriate. Two hundred eighty of the cards were dated in the months of July through December 1943; 67 were undated or partially dated. Of the 347 persons above mentioned, 217 were employees of the Fayette Street plant which on November 6, 1943, employed 639 persons in the appropriate unit, and 130 were employees of the Court Street plant which employed 607 persons in the appropriate unit on that date.

## IV. THE APPROPRIATE UNIT

The Company's operations in Syracuse are carried on in two plants, one located at Fayette Street, the other located at Court Street. The plants are approximately 5 miles apart. The UMWA contends that the employees of each plant constitute a separate appropriate bargaining unit. The Company takes the position that both plants should be treated as one for purposes of collective bargaining.

The Company started operations in about 1900 at the Fayette Street plant and on various occasions between the years 1900 and 1920 expanded its operations until all the land available in that vicinity had been utilized. In 1920 it purchased land at Court Street and continued its expansion. The work done at the two plants is substantially the same in character, the only difference being that the Court Street plant has more modern equipment. The Company has one staff of executive officers who divide their time between the two plants. It has one sales, advertising, and accounting department, one production-control department, one laboratory, one personnel manager with assistants at both plants, one staff of artists which serve both plants and one sheet-lithograph department which processes the products of both plants. Although there is a constant interchange of supervisory employees and materials between the plants, there is little interchange of production employees. Because of the difference in equipment in the two plants, their wage rates differ. Nevertheless the average weekly wage in the plants is about the same. Each plant advertises for and employs new workers according to its needs, but all hiring is done subject to the ratification of the central personnel office. Each receives raw materials and delivers products direct to consumers. At the Court Street plant, the Company has a department for manufacturing land mines for the United States Army. The shells of these mines differ from the usual product of the Company only in shape, and they are made by the production employees who make tableware. The final assembling of the mines is done by a crew of 60 persons. With the exception of the mines, the products of the two plants are so identical that there is a constant interchange of them, in all stages of production, to complete orders being filled at one plant or the other.

This is not a case in which the extent of organization doctrine is applicable, since a large number of employees in both plants have evinced an interest in the petitioning union as their bargaining representative.<sup>3</sup> Nothing in the record indicates that they cannot effectively be represented for bargaining purposes in a single unit. The employees at both plants perform the same type of work, very often on the same article, under the same supervision, for one employer who formulates labor relations policy for all. These factors outweigh the UMWA's argument for two separate units, based upon the distance between

<sup>3</sup> Cf. *Matter of Standard Overall Company*, 53 N L R B 960.

the plants, the small ordnance department at Court Street which has no counterpart at the Fayette Street plant, and the other minor differences in rates of pay and working conditions.

The parties are in agreement as to the constituency of the unit, and their agreement is consonant with our general practice. Accordingly, we find that all production and maintenance employees of the Company at its Fayette Street and Court Street plants, including watchmen, but excluding office clerks, militarized guards 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 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 Onondaga Pottery Co., Syracuse, New York, 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 Third 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 District 50, United Mine Workers of America, for the purposes of collective bargaining.