

In the Matter of LUDLOW MANUFACTURING AND SALES Co. and
TEXTILE WORKERS UNION OF AMERICA

Case No. 1-R-1763.—Decided April 8, 1944

*Herrick, Smith, Donald, Farley & Ketchum, by Messrs. John T. Noonan and Henry L. Mason, Jr., of Boston, Mass., for the Company.
Mr. William J. Bowes, of Holyoke, Mass., for the Union.
Mr. William Strong, of counsel to the Board.*

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Textile Workers Union of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Ludlow Manufacturing and Sales Co., Ludlow, Massachusetts, 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 Boston, Massachusetts, on March 6, 1944. The Company and the Union 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. At the close of the hearing the Company filed a written motion for dismissal of this proceeding. The Trial Examiner reserved ruling for the Board. The motion is denied. 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

The Company, a Massachusetts corporation, has its main plant and offices in Ludlow, Massachusetts, and plants at Savannah, Georgia.

and Allentown, Pennsylvania. We are concerned only with the Ludlow plant. The Company is engaged in the manufacture of yarns, threads, twine, cordage, and rope from jute, flax, and hemp. During 1943, 100 percent of the raw materials used in the manufacture of these articles, valued in excess of \$2,000,000, was brought to Massachusetts from outside the Commonwealth. Of the Company's finished products, in excess of \$4,500,000 worth was shipped outside Massachusetts, while approximately \$1,500,000 worth was sold within Massachusetts.

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

II. THE ORGANIZATION INVOLVED

Textile Workers Union of America, affiliated with the Congress of Industrial Organizations, 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 Union as the exclusive bargaining representative of certain of the Company's employees.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees 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

The Union and the Company are agreed that an appropriate unit should be composed of all employees of the Company, including cranimen, inspectors, and employees utilized in connection with the yard locomotive, but excluding militarized armed guards, salesmen, executives, supervisors, agents and assistant agents, superintendents and assistant superintendents, overseers and assistant overseers, foremen and assistant foremen, section hands, employees in the chemical laboratory, and clerical employees, rate-setters, time-study men, and efficiency engineers. The Company also seeks to include, but the Union would exclude, firemen and engineers and their assistants employed in the

¹ The Field Examiner reported that the Union submitted 401 membership cards and that there are 983 employees in the alleged appropriate unit.

Although the United Textile Workers of America, AFL, was given an opportunity to submit evidence of representation of the Company's employees, it failed to do so and did not participate in the hearing before the Trial Examiner.

steam power plant, testing laboratory employees, and working foremen. We see no reason to depart from the agreed inclusions and exclusions. We now consider the disputed categories.

Firemen and engineers and their assistants are employed in the Company's powerhouse, which is in a building separated from all other buildings of the plant. These powerhouse employees produce power and steam, used both for heating and in connection with the Company's processing operations. The unit requested by the Union consists, generally, of all employees who perform production operations; the Union does not seek to represent other than production employees. Moreover, the Union apparently does not organize the firemen and engineers in question, whom it does not deem to be a part of the production department. We shall exclude the firemen and engineers and their assistants from the unit we find appropriate.

Employees in the testing laboratory are neither technical nor specially trained, and are distinguishable in this respect from personnel in the chemical laboratory, which is composed of highly trained technical employees. The function of the testing laboratory employees is to test materials. The Union would include in the unit other types of inspectors. There is but little practical difference between the functions performed by inspectors and by testing laboratory employees. We shall include the testing laboratory employees in the unit.

Working foremen each supervise and direct the work of between 5 and 20 employees. While working foremen spend most of their time in a supervisory capacity, they also perform some production work. These foremen can recommend hire, discharge, and promotion of employees. They clearly fall within our definition of supervisory employees. We shall exclude them from the unit.

We find that all employees of the Company, including inspectors, testing laboratory employees, and those employed in connection with the yard locomotive, but excluding militarized armed guards, salesmen, firemen and assistant firemen and engineers and assistant engineers employed in the steam power plant, employees in the chemical laboratory, clerical employees, rate-setters, time-study men and efficiency engineers, executives, supervisors, overseers and assistant overseers, foremen and assistant foremen, working foremen, section hands, agents and assistant agents, superintendents and assistant superintendents, and any 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 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 Ludlow Manufacturing and Sales Co., Ludlow, Massachusetts, 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 the 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 Textile Workers Union of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.