

In the Matter of THE TURNER & SEYMOUR MANUFACTURING Co. and
INTERNATIONAL UNION OF MINE, MILL AND SMELTER WORKERS,
C. I. O.

Case No. 1-R-1774.—Decided April 12, 1944

Mr. J. F. Whiteside, Jr., of New Haven, Conn., and *Mr. F. H. Griffiths*, of Torrington, Conn., for the Company.

Mr. Thomas J. Gangi, of Torrington, Conn., *Mr. John J. Driscoll*, of Waterbury, Conn., *Mr. Henry St. Hilaire* and *Miss Viola Concannon*, of Torrington, Conn., for the C. I. O.

Mr. William Whitsett, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Union of Mine, Mill and Smelter Workers, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of The Turner & Seymour Manufacturing Co., of Torrington, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John W. Coddair, Jr., Trial Examiner. Said hearing was held at Torrington, Connecticut, on March 10, 1944. The Company and the C. I. O. 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.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company, a Connecticut corporation, is engaged at its plant in Torrington, Connecticut, in the manufacture of gray iron castings for
55 N. L. R. B., No. 224.

use in the manufacture of machinery. Over 30 percent of the Company's raw materials, consisting of iron, sand, coke, steel, and brass, is shipped to it from points outside the State; the remainder of its raw materials, consisting of steel and brass, is purchased in Connecticut but originate outside the State. In 1942 its finished products were valued in excess of \$500,000, over 50 percent of which was shipped by the Company to points outside the State. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Union of Mine, Mill and Smelter Workers, affiliated with 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 C. I. O. as the exclusive bargaining representative of its employees until the C. I. O. has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. 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 C. I. O. desires a unit composed of all production and maintenance employees, including shipping and receiving employees, but excluding executives, foremen, assistant foremen, employees of the laboratory and engineering departments and office and clerical workers. The Company concedes the appropriateness of this unit but contends that set-up men, inspectors, chief of the weighing department, working and assistant foremen, and watchmen should be excluded.

The record shows that set-up men set up new tools, instruct new employees, and report to the foremen on the proficiency of employees. Their recommendations relative to the promotion, demotion, and discharge of employees are given considerable weight by the foremen. We shall, therefore, exclude them from the unit.

Inspectors have no disciplinary power, and do not make recommendations affecting the status of any employee. They are paid on the

¹ A representative of the Board reported that the C. I. O. submitted 232 cards, bearing apparently genuine original signatures; that 107 of the cards were undated, while the remainder bore dates from December 1943 through February 1944. There are 365 employees in the appropriate unit.

same basis as production and maintenance employees, receive the same vacations, and for the most part work alongside production employees. Since their work is not of a supervisory nature, we shall include them in the unit.

The chief of the weighing department weighs and computes "quantities from weight." He is paid by the hour like production employees and his vacation plan is the same. He has three assistants but has no authority to hire or discharge them; while he could recommend their discharge or transfer, it does not appear that such recommendation would be given any effect. For these reasons, we shall include him in the unit.

The working foremen have absolute authority to hire, discharge and effect changes in the status of employees. We shall, therefore, exclude them from the unit.

The watchmen are concerned solely with plant protection. They are not uniformed or deputized. They have no authority to effect or recommend changes in the status of employees. Their duties are purely monitorial. We shall, therefore, include them in the unit.

We find that all production and maintenance employees, including shipping-room and receiving-room employees, chief of the weighing department, inspectors, and watchmen, but excluding executives, foremen, working and assistant foremen, set-up men, employees of the laboratory and engineering departments, office and clerical 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 pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in 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 The Turner &

Seymour Manufacturing Co., Torrington, Connecticut, 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 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 International Union of Mine, Mill and Smelter Workers, C. I. O., for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.