

In the Matter of CATERPILLAR TRACTOR COMPANY and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 595, A. F. of L.

Case No. 20-R-1036.—Decided April 29, 1944

Mr. Albert E. McIntyre, of San Leandro, Calif., for the Company.
Messrs. Samuel E. Rockwell and *Marshall T. Hotchkiss*, of Oakland, Calif., for the Electrical Workers.

Mr. K. C. Apperson, of Stockton, Calif., for the Machinists.

Mr. Ogden W. Fields, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Electrical Workers, Local 595, A. F. of L., herein called the Electrical Workers, alleging that a question affecting commerce had arisen concerning the representation of employees of Caterpillar Tractor Company, San Leandro, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John Paul Jennings, Trial Examiner. Said hearing was held at San Francisco, California, on March 22, 1944. The Company, the Electrical Workers, and International Association of Machinists, Local 284, District 115, A. F. of L., herein called the Machinists, 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

Caterpillar Tractor Company is a California corporation which operates plants at Peoria, Illinois, and San Leandro, California. At 56 N. L. R. B., No. 24.

the latter plant, the only one herein involved, the company manufactures fuel engine injectors for Diesel engines and special machine parts almost exclusively for war purposes. During the year 1943, the Company purchased raw materials, consisting chiefly of iron, steel, copper, and brass; which exceeded \$1,000,000 in value, more than 50 percent of which was shipped to the Company's San Leandro plant from points outside the State of California. During the same period the Company manufactured products at its San Leandro plant valued at approximately \$2,000,000, of which approximately 100 percent was shipped to points located outside the State of California.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Electrical Workers, Local 595, affiliated with the American Federation of Labor is a labor organization admitting to membership employees of the Company.

International Association of Machinists, Local 284, District 115, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about December 13, 1943, the Electrical Workers requested recognition from the Company as the bargaining representative of all its employees engaged as electricians. The Company refused this request stating that a unit composed of electricians was inappropriate in view of its past history of collective bargaining with the Machinists covering all its production and maintenance employees, including those claimed by the Electrical Workers.

A statement of a Field Examiner, introduced into evidence at the hearing, indicates that the Electrical Workers 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 Electrical Workers seeks a unit composed of the Company's maintenance electricians, their helpers, and any employee spending 50 percent or more of his time doing electrical work or helping the

¹The Field Examiner reported that the Electrical Workers submitted a designation, dated January 25, 1944, containing 5 signatures; there are 5 employees in the alleged appropriate unit.

maintenance electricians. On the other hand, the Company urges that the appropriate unit should comprise all its production and maintenance employees, inclusive of those sought by the Electrical Workers.

The record shows that the Company employs 4 workers classified as maintenance electricians, and 1 man, classified as a specialist, who works full time as a helper to one of the maintenance electricians. These 5 men are part of a plant maintenance department consisting of 32 employees of varying crafts; all under the supervision of a foreman. The maintenance department is responsible for maintaining and repairing the equipment and facilities of the plant. Three of the maintenance electricians spend all of their time maintaining and repairing electrical equipment in the plant, and the fourth spends full time in the maintenance and repair of electrical recording instruments in the heat treating department, where he is assisted by a full-time specialist.

Included within the maintenance department are a number of employees classified as specialists who work as helpers to the various craftsmen. These specialists or maintenance helpers are not ordinarily assigned to work regularly with any one craft but are instructed to help various crafts as the maintenance department work demands.²

The record clearly shows that the employees in the unit requested by the Electrical Workers are not directly concerned with production and constitute a well defined and homogeneous group.³ Although the Company contends that these employees have been bargained for by the Machinists as part of a larger industrial group and thus should not be set apart as a separate unit, the Machinists has relinquished the right to represent them and has ceded jurisdiction to the Electrical Workers. Insofar as the record is concerned it must be assumed that the Machinists is neither willing nor constitutionally able to bargain for them in the future, so that a dismissal of the present petition would deprive them of an opportunity to designate a new bargaining representative.⁴

In view of the foregoing facts we find that all maintenance electricians, their helpers, and any employee spending 50 percent or more of his time doing electrical work or helping the maintenance electricians employed by the Company at its San Leandro plant, but excluding 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 appro-

² At the time of the hearing, with the single exception of the specialist assisting the electrician in the heat treating department, there were no specialists spending 50 percent or more of their time doing electrical work or helping the maintenance electricians.

³ See *Matter of Santa Cruz Portland Cement Company*, 52 N. L. R. B. 444.

⁴ *Matter of General Tire and Rubber Company*, 55 N. L. R. B. 250.

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 Caterpillar Tractor Company, San Leandro, California, 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 Twentieth 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 International Brotherhood of Electrical Workers, Local 595, affiliated with the American Federation of Labor, for the purposes of collective bargaining.