

In the Matter of LANCASTER IRON WORKS, INC. and INTERNATIONAL  
ASSOCIATION OF MACHINISTS, A. F. OF L.

*Case No. 4-R-1364.—Decided May 5, 1944*

*Zimmerman, Myers & Cready*, by *Mr. S. R. Zimmerman* and *Mr. J. S. Posey*, of Lancaster, Pa., for the Company.

*Mr. Stanley N. Lentz*, of Philadelphia, Pa., *Mr. William Dameron* and *Mr. Samuel F. Dengler*, of Lancaster, Pa., 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 International Association of Machinists, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Lancaster Iron Works, Inc., Lancaster, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Herman Lazarus, Trial Examiner. Said hearing was held at Lancaster, Pennsylvania, on April 14, 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. 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 Pennsylvania corporation, is engaged at Lancaster, Pennsylvania, in the manufacture of iron and steel products. Approximately 35 percent of the raw materials used by the Company during the past year was purchased by, and shipped to it from points

outside the Commonwealth of Pennsylvania. During the same period about 75 percent of the Company's products, exceeding \$100,000 in value, was shipped to points outside the Commonwealth of Pennsylvania.

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

## II. THE ORGANIZATION INVOLVED

International Association of Machinists, affiliated with the American Federation of Labor, 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, on the ground that the unit sought by the Union is inappropriate.

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.<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 asserts that the unit should include all the Company's maintenance and production employees, excluding supervisory, clerical, office, and foundry employees. The Company asserts that the unit should include, in addition to those employees included by the Union, all foundry employees.

The Company operates two plants in Lancaster, known respectively as the South Plant and the North Plant. All of the Company's foundry employees are located in a separate building in the North Plant. There is no interchange of employees between the two plants. Occasionally maintenance employees perform maintenance work at each of the plants.

The Union has not sought to organize the foundry employees, on the ground in part that jurisdiction over those employees is vested in another affiliate in the American Federation of Labor, the International Molders and Foundry Workers Union of North America.

<sup>1</sup> The Field Examiner reported that the Union submitted 110 authorization cards, and that 187 employees are in the alleged appropriate unit.

Between 1935 and 1937 the Company bargained collectively with a company-dominated labor organization on a production and maintenance unit basis, including the foundry employees. In 1940 the Board, in a decision which in part found that this labor organization was illegal, also found that the over-all production and maintenance unit was appropriate, as contended by the charging union, not the instant petitioner, in that case.<sup>2</sup> Although in that case the Board also directed the Company to bargain upon demand with the charging union there involved, for reasons immaterial to this proceeding there has been no bona fide collective bargaining relationship established between the Company and its employees at any time.

In April 1942 the Company and the International Molders and Foundry Workers Union of North America executed a consent election agreement in which they agreed that all production employees in the Company's foundry, exclusive of pattern makers, clerical, salaried, and supervisory employees constituted a unit appropriate for purposes of collective bargaining. The Molders Union lost the election. The Company admits that there has been no change in its operations since April 1942.

It is evident that the past history of organization of the Company's employees is inconclusive and furnishes no basis for a present unit determination. There has been, moreover, no bona fide bargaining between the Company and a legally constituted collective bargaining representative of its employees at any time.

In the light of all the considerations before us, including the lack of past collective bargaining history, the absence of any organization of the molders by the Union, and the physical separation of the molders from the other employees involved, and the fact that the Company's operations have undergone no change since its concession in 1842 that the molders could constitute an appropriate unit apart from the other employees, we shall exclude the molders from the production and maintenance unit which we find appropriate.

We find that all production and maintenance employees of the Company at Lancaster, excluding clerical and office employees, foundry 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 em-

<sup>2</sup> *Matter of Lancaster Iron Works, Inc.*, 20 N. L. R. B. 738.

ployees 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 Lancaster Iron Works, Inc., Lancaster, Pennsylvania, 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 Fourth 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 Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining.