

In the Matter of THE YOUNGSTOWN SHEET AND TUBE COMPANY and  
UNITED STEELWORKERS OF AMERICA, CIO

*Case No. 8-R-1367.—Decided May 16, 1944*

*Mr. F. W. Schesler*, of Youngstown, Ohio, for the Company.  
*Messrs. Ernest Konesky and James P. Griffin*, both of Youngstown,  
Ohio, for the Union.

*Mr. David V. Easton*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by United Steelworkers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Youngstown Sheet and Tube Company, Youngstown, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before R. N. Denham, Trial Examiner. Said hearing was held at Youngstown, Ohio, on April 11, 1944. The Company and the Union appeared, participated, and 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 Youngstown Sheet and Tube Company, an Ohio corporation, is engaged in the business of manufacturing, purchasing, selling, and distributing iron, steel, and other metal products. For this purpose it operates several plants located in Ohio, Pennsylvania, Indiana, and Illinois, and at various other points in the United States. It also owns and operates coke, iron, and zinc mines located throughout the

United States. We are concerned here with the Company's operations at what is known as the Youngstown, Ohio, District, comprising the plants of the Company in the vicinity of Youngstown, which are linked under common management. During the year 1942, the Company purchased iron, steel, and other products valued in excess of \$48,000,000, of which more than 50 percent was purchased from points outside the States in which the various production plants are located. During the same period, the Company manufactured products valued at more than \$122,000,000, more than 50 percent of which was shipped to points located outside the States wherein the production plants are located. With respect to the plants in the Youngstown District, i. e., the Campbell,<sup>1</sup> Brier Hill, and Hubbard plants, the purchases of the Company exceeded \$10,000,000 during the year 1943, of which more than 50 percent was received from points located outside the State of Ohio. During the same year more than 50 percent of the finished products of these plants, valued in excess of \$10,000,000, was shipped to points located outside the State of Ohio.

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

## II. THE ORGANIZATION INVOLVED

United Steelworkers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused several requests of the Union, both written and oral, for recognition as the collective bargaining representative of the clerical employees engaged in the plants constituting the Youngstown District of the Company in the absence of certification by the Board.

The Company is currently operating under a collective bargaining agreement with the Union covering all production and maintenance employees, excluding, *inter alia*, clerical employees in the plants involved herein. It appears from the record that the Company contends that, because of this fact, the Union is estopped from seeking to represent the clerical employees in question. In disposing of the same contention made by the Company in a prior proceeding,<sup>2</sup> we stated

“ . . . the prior exclusion of certain categories of employees from a particular bargaining unit established by agreement, or

<sup>1</sup> The record discloses that the Struthers plant, hereinafter referred to, is considered part of the Campbell plant

<sup>2</sup> *Matter of The Youngstown Sheet and Tube Company*, 54 N. L. R. B. 1393.

otherwise, does not act as an estoppel against the subsequent organization of such employees by the same labor organization as represents the previously established unit, particularly where, as here, such labor organization made no commitment not to seek the representation of such employees. Accordingly, we find this contention of the Company to be without merit."<sup>1</sup>

For the reasons expressed in our prior decision, we find no merit to the contention advanced by the Company in the instant case.

A statement of a Board Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>3</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 National Labor Relations Act.

#### IV. THE APPROPRIATE UNIT

Both parties agree that all clerical employees of the Company at its Campbell (including Struthers) and Brier Hill plants,<sup>4</sup> but excluding all plant-protection employees, employees engaged in the general office of the Company located at Youngstown, Ohio, and all employees engaged in classifications listed on Appendix A attached hereto, constitute an appropriate unit. They disagree with respect to the classifications hereinafter discussed, the Company contending that all employees engaged therein should be excluded from the unit, whereas the Union contends that they should be included.

*Buyer's clerk.*—This employee is the stenographer to the buyer and performs various clerical functions in the purchasing department. The normal performance of his duties do not provide this employee with access to matters relating to the industrial relations of the Company. Under these circumstances, we are of the opinion that he may properly form part of a clerical unit. We shall include buyer's clerks.

*Standards setters.*—These employees, attached to the standards department, are concerned with the setting of rates of pay for various jobs in the machine shop. Their duties consist of making analyses and computations with respect to the time and production of employees in that shop, and measuring their findings against pre-determined standards, if such standards are available, or against time-studies. From the data collected, these employees issue proposed rates of pay which are passed upon by their supervisors. It is undisputed that the

<sup>3</sup> The Field Examiner reported that the Union submitted 210 designations and that the unit alleged by the Union to be appropriate contained approximately 600 employees.

<sup>4</sup> The parties stipulated that there are no employees in the Hubbard plant (which is situated within the Youngstown District of the Company) who could properly be included within the unit.

work of these employees has an intimate and immediate effect upon the setting of wages and costs. As noted in Appendix A, the Union agrees that all other employees in the standards department of the Company are properly excluded from a clerical unit. We are of the opinion that the work of standards setters is sufficiently akin to that of time-study employees and other "first line" men in the standards department to warrant their exclusion also. Accordingly, we shall exclude them.

*Employment department employees.*—The record does not disclose which employees in this department the Union desires to include. However, it does show that the normal performance of the duties of all employees in the employment department requires that they have free access to all personnel and employment records. Under these circumstances, we shall exclude them from the unit.<sup>5</sup>

*Clerk in the masonry department of the Campbell plant and typist-clerk in the masonry department of the Brier Hill plant.*—The record reveals that these two employees act as stenographers and clerks for the general foreman and the superintendent's clerks. All matters pertaining to the operation and administration of their respective departments, including confidential communications referring to labor relations, grievances, and other matters of similar import, pass through their hands. Under these circumstances, we are of the opinion that these employees come within our customary definition of confidential employees, and we shall, therefore, exclude them from the unit.<sup>6</sup>

We find that all clerical employees of the Company at its Campbell (including Struthers) and Brier Hill plants, including buyer's clerks, but excluding all plant-protection employees, employees engaged in the general office of the Company located at Youngstown, Ohio, all employees engaged in classifications listed on Appendix A, standards setters in the standards department, all employees in the employment department, the clerk in the masonry department of the Campbell plant, the typist-clerk in the masonry department of the Brier Hill plant, 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-

<sup>5</sup> *Matter of Spicer Manufacturing Corporation*, 55 N. L. R. B. 1491.

<sup>6</sup> *Matter of Creamery Package Manufacturing Company*, 34 N. L. R. B. 108, 110

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 The Youngstown Sheet and Tube Company, Youngstown, Ohio, 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 Eighth 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 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 United Steelworkers of America, CIO, for the purposes of collective bargaining.

### APPENDIX A

#### *Campbell Works:*

#### *Excluded positions*

Purchasing Department -----	Buyer
	Assistant Buyer
	Chief Clerk
	Chief of Salvage
	Expediter
	Head Stenographer
	Head Invoice Clerk
General Superintendent's Office----	Stenographer
	File Clerk and Stenographer
	Chief Clerk
	Secretary to Assistant General Supt.

Works Accounting-----	Squad Leader Chief Production Clerk Chief Cost Clerk Head Stenographer Assistant Chief Cost Clerk Head Weighmaster Assistant Head Weighmaster Salary Payroll Clerks Cashier Secretary Paymaster Rate Clerk General Clerk Foreman (Time Clerks) Foreman (Shop Clerks) Chief Timekeeper Assistant Chief Timekeeper Division Head Assistant Chief Storekeeper Storekeeper
Industrial Relations Department	All employees
Standards Department-----	All employees, except standards setters
Buildings Department-----	Telephone Operator
Safety Department-----	Inspector Stenographer Clerk
Claims Department-----	Stenographer
Shops Department-----	Stenographer and Clerk Superintendent's Clerk
General Maintenance-----	Superintendent's Clerk Chief Clerk Drinking Water Inspector (Su- pervisor)
Masonry-----	Superintendent's Clerk
General Engineering-----	Construction Cost Engineer Estimator Expediter Secretary to Chief Engineer Head Stenographer Chief Clerk Construction Cost Clerk Squad Leader (Draftsmen) Field Engineer

Construction-----	Superintendent's Clerk Field Engineer Inspector (Technical)
Steam Power and Air-----	Superintendent's Clerk Stenographer
Fuel Engineering-----	Superintendent's Clerk Assistant Engineer (Technical)
Chemical-----	General Foreman Foreman Coke Plant Supervisor Chemical Process Foreman Raw Materials Superintendent's Clerk and Ste- nographer
Metallurgical-----	Plant Metallurgist Metallurgical Assistant Metallurgist Tester Foreman Observer Foreman Special Representative Chief Sales and Claims Clerk Processing Engineer Secretary to Superintendent Assistant Metallurgist (Technical) Foreman Tester Asst. Tube Mill Metallurgist (Technical) Instrument Technician (Techni- cal) Foreman Strip Mill Laboratory
Inspection Department-----	Chief Clerk Secretary and Stenographer Master Gauger (Technical)
Transportation and Labor Dept--	Chief Clerk Superintendent's Clerk
Scheduling and Shipping Dept--	Superintendent's Clerk Schedule Clerk (Administrative) Chief Schedule Clerk Asst. Chief Schedule Clerk Chief Planner Chief Provider Chief Service Clerk Chief Biller Chief Car Service Clerk Asst. Chief Car Service Clerk Chief Schedule Clerk (Lap Weld) Head Tallyman

Roll Shop Department.....	Superintendent's Clerk
Coke Plant Department.....	Secretary to Superintendent Superintendent's Clerk
Blast Furnace Department.....	Secretary to Superintendent Superintendent's Clerk
Bessemer Department.....	Superintendent's Clerk
Open Hearth Department.....	Superintendent's Clerk Scrap Inspector (Administrative)
Bloom and Kelp Department....	Superintendent's Clerk
Merchant Mill Department.....	Superintendent's Clerk
Rod and Wire Department.....	Superintendent's Clerk
Hot Strip Department.....	Superintendent's Clerk
Cold Strip Department.....	Superintendent's Clerk
Tube Mill Department.....	Superintendent's Clerk
Seamless Department.....	Clerk and Stenographer Superintendent's Clerk Mechanical Engineer (Technical)
Coupling Department.....	Superintendent's Clerk

*Brier Hill:*

Superintendent's Office .....	Clerk Secretary to Superintendent Photographer
Maintenance Department .....	Superintendent's Clerk
Masonry Department.....	Superintendent's Clerk
Chemical Department .....	Foreman
Transportation and Labor Dept.	Chief Clerk
Schedule and Shipping Dept....	Chief Biller Chief Provider Assistant Chief Schedule Clerk
Coke Works Department.....	Superintendent's Clerk
Blast Furnace Department.....	Superintendent's Clerk
Open Hearth Department.....	Superintendent's Clerk Scrap Inspector Practice Man (Administrative)
Blooming and Rod Department..	Superintendent's Clerk
Plate Mill Department.....	Superintendent's Clerk
Electric Weld Department.....	Secretary Superintendent's Clerk
Works Accounting .....	Division Head Payroll Clerk (Supervisor)
Blast Furnace Department.....	Superintendent's Stenographer Superintendent's Clerk