

In the Matter of GEORGE GORTON MACHINE COMPANY *and* INTERNATIONAL ASSOCIATION OF MACHINISTS, LODGE 437, A. F. OF L.

Case No. 13-R-2383.—Decided May 17, 1944

Mr. Gilbert E. Brach, of Racine, Wis., for the Company.

Mr. P. L. Siemiller and *Mr. Ambrose Baksic*, of Chicago, Ill., 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, Lodge 437, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of George Gorton Machine Company, Racine, Wisconsin, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Gustaf B. Erickson, Trial Examiner. Said hearing was held at Racine, Wisconsin, on April 24, 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 Wisconsin corporation, is engaged at Racine, Wisconsin, in the manufacture of specialties, tools, dies and milling machines. During 1943, the Company used materials valued in excess of \$1,000,000, about 90 percent of which originated at sources outside the State of Wisconsin, and manufactured finished products

valued in excess of \$2,000,000, about 80 percent of which was sent to points outside that State.

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

II. THE ORGANIZATION INVOLVED

International Association of Machinists, Lodge 437, 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 of 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 seeks a unit composed of all production and maintenance employees of the Company, including demonstrators and watchmen, but excluding engineering department employees, production, general and shop office and clerical employees, timekeepers, guards, general foremen and foremen. The Company agrees, except that it would exclude the demonstrators.

Demonstrators spend about 80 percent of their time checking and demonstrating, at the plants of purchasers, the machines previously sold by the Company, repairing broken machines, suggesting changes and improvements in their operation and use by the purchasers, and performing other related work. Some of the demonstrators are, and others when fully qualified will be, paid on a salary basis. We are of the opinion that the demonstrators are neither production nor maintenance employees, and we shall exclude them from the unit.

We find that all production and maintenance employees of the Company, including watchmen but excluding engineering department employees, production, general and shop office and clerical employees, timekeepers, guards, demonstrators, general foremen, foremen, and

¹ The Field Examiner reported that the Union submitted 206 authorization cards and that there are about 270 employees in the appropriate unit.

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 George Gorton Machine Company, Racine, Wisconsin, 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 Thirteenth 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 periods 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 Association of Machinists, Lodge 437, affiliated with the American Federation of Labor, for the purposes of collective bargaining.