

In the Matter of J. D. WALLACE & Co. and UNITED FARM EQUIPMENT  
AND METAL WORKERS OF AMERICA, C. I. O.

Case No. 13-R-2395.—Decided May 20, 1944.

*Fyffe & Clarke*, by Mr. John Harrington, of Chicago, Ill., for the Company.

*Meyers & Meyers*, by Mr. Ben Meyers, of Chicago, Ill., for the Union.

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

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Farm Equipment and Metal Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of J. D. Wallace & Co., Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert T. Drake, Trial Examiner. Said hearing was held at Chicago, Illinois, on April 24, 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

J. D. Wallace & Co., an Illinois corporation with its plant and office located in Chicago, Illinois, is engaged in the manufacture of wood-working machinery. During the year 1943, the Company used in its manufacturing processes steel castings, electrical motors, and miscellaneous materials having a value of more than \$50,000. Approximately 60 percent of the castings and motors were obtained by the Company from points located outside the State of Illinois. During

the same period, the Company sold products valued at more than \$75,000, of which approximately 90 percent was shipped to points located outside the State of Illinois.

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

## II. THE ORGANIZATION INVOLVED

United Farm Equipment and Metal Workers 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 to grant recognition to the Union as the exclusive bargaining representative of its employees until the Union has been certified by the Board in an appropriate unit.

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>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

Both the Company and the Union agree that all production and maintenance employees of the Company, including inspectors, but excluding foremen, supervisory employees, and office clerical employees, constitute an appropriate unit.<sup>2</sup> The parties disagree with respect to the status of set-up men; the Union contends that they should be included within the unit, whereas the Company contends that the status of these employees should be passed upon by the Board.

The record indicates that the Company employs two set-up men who spend the major portion of their time setting up machines and preparing them for operation by other employees. At one time, when the Company operated a night shift, set-up men were in charge of this shift. However, at the present time, the Company operates on one shift, and the record clearly shows that set-up men have no responsibility with respect to the hiring or discharging of employees or the recommending of such action. Under these circumstances, we are of the opinion that they are not supervisory employees, and may properly be included within an industrial unit.

<sup>1</sup> The Field Examiner reported that the Union submitted 26 designations, of which 22 checked with the Company's pay roll, and that there are 28 employees in the unit hereinafter found appropriate.

<sup>2</sup> The Union, in its petition, sought the exclusion of watchmen. However, the record discloses that the Company employs no one in this classification.

We find that all production and maintenance employees of the Company, including inspectors and set-up men, but excluding office clerical employees, foremen, 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 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 J. D. Wallace & Co., Chicago, Illinois, 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 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 United Farm Equipment and Metal Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

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