

In the Matter of THE PITCAIRN COMPANY (PITTSBURGH VALVE & FITTINGS DIVISION)¹ and UNITED MINE WORKERS OF AMERICA,
DISTRICT 50

Case No. 8-R-1491.—Decided May 29, 1944

Mr. Lester D. Seymour and *Mr. J. R. Traugott*, of Barberton, Ohio,
for the Company.

Mr. William Thomas and *Mr. Joseph Bird*, of Cleveland, Ohio, 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 United Mine Workers of America, District 50, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Pitcairn Company (Pittsburgh Valve & Fittings Division), Barberton, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James C. Paradise, Trial Examiner. Said hearing was held at Cleveland, Ohio, on May 2, 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 operates a plant at Barberton, Ohio, where it is engaged in the manufacture of valves and fittings. During 1943 the

¹ The Company's name is shown as corrected by amendment at the hearing.

Company used raw materials valued in excess of \$1,000,000, about 20 percent of which came from sources outside the State of Ohio, and manufactured finished products valued at more than \$2,000,000, about 75 percent of which was shipped to points outside that State.

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

II. THE ORGANIZATION INVOLVED

United Mine Workers of America, District 50, 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 the Company's checkers, on the ground that the checkers alone do not constitute an appropriate unit.

The Company contends that the Union, by excluding checkers, among others, from the coverage of the production and maintenance employees contract, impliedly agreed not to represent the excluded categories of employees. The production and maintenance unit with certain exclusions was found appropriate by the Board; the contract thereafter executed followed the Board's unit findings.² Nothing in either the Board's findings or in the terms of the contract precludes the Union from representing the excluded employees. Moreover, as shown in Section IV, below, the Company has extended recognition and has signed a contract in a unit composed of pattern makers, another of the excluded categories. We find no merit in the Company's contentions in this respect.

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.³

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 the Company's checkers. The Company asserts that such a unit is inappropriate because the checkers are part of clerical group excluded from the production and maintenance unit found to be appropriate in this plant in a

² *Matter of The Pitcairn Company*, 52 N. L. R. B. 404.

³ The Field Examiner reported that the Union submitted eight designation cards and that there are eight employees in the appropriate unit.

prior proceeding,⁴ and further asserts that an appropriate unit embracing the checkers should include the clerical employees as well. The checkers are in the Company's pay-roll department, and are under the supervision of a head checker. The duties of the checkers consist mainly of checking the production workers' time cards and daily work reports. The checkers also at times engage in the preparation of monthly inventories on raw materials, reports showing the amount of time that various motors in their department operate, and other work of this type. The Company also employs various other categories of clerical and office employees, both in the same department as the checkers and elsewhere. The checkers' pay, vacation, and other privileges are on the same basis as that of the clerical and office employees.

Up to about 3 months preceding the hearing herein, however, the checkers were paid and had privileges similar to those of production employees. The change was effected in part because the checkers complained that while the Company insisted on treating them as clerical workers and denied them certain rights which the production workers had, the Company was simultaneously declining to extend to the checkers all the benefits which were given to office and clerical workers.

No labor organization has ever sought to represent all of the clerical and office employees of the Company. The Company is at present party to a contract covering only the pattern makers in its employ.

The checkers constitute a distinct, readily definable, homogeneous group.⁵ We see nothing in the record which might militate against a unit composed solely of checkers; we shall find that a unit of checkers is appropriate.

We find that all of the Company's checkers excluding the head checker and 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 Elec-

⁴ *Matter of The Pitcairn Company*, 52 N. L. R. B. 404.

⁵ See, e. g., *Matter of Clark Equipment Company*, 56 N. L. R. B. 9; *Matter of Bethlehem Steel Company*, 46 N. L. R. B. 1166; *Matter of Cramp Shipbuilding Company*, 46 N. L. R. B. 115.

tion 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 Pitcairn Company (Pittsburgh Valve & Fittings Division), Barberton, 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 Mine Workers of America, District 50, for the purposes of collective bargaining.