

In the Matter of CONTINENTAL GIN COMPANY and UNITED STEEL-  
WORKERS OF AMERICA, C. I. O.

Case No. 16-R-928.—Decided June 16, 1944

Mr. H. F. Haslbauer, of Dallas, Tex., for the Company.

Messrs. C. L. Mulholland and Frank Heisler, of Dallas, Tex., for  
the I. A. M.

Mr. Thomas Peasner, of Dallas, Tex., for the United.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Steelworkers of America, C. I. O., herein called the United, alleging that a question affecting commerce had arisen concerning the representation of employees of Continental Gin Company, Dallas, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Milton A. Nixon, Trial Examiner. Said hearing was held at Dallas, Texas, on May 26, 1944. At the commencement of the hearing the Trial Examiner granted a motion of International Association of Machinists, A. F. of L., herein called the I. A. M., to intervene. The Company, the I. A. M., and the United appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing the I. A. M. moved to dismiss the petition. The Trial Examiner reserved ruling. The motion is hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded 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

Continental Gin Company is a Delaware corporation operating a plant at Dallas, Texas, where it is engaged in the sale and manufac-  
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ture of cotton ginning machinery. During 1943 the Company purchased raw materials valued in excess of \$100,000, for use at its Dallas, Texas, plant, about 80 percent of which was shipped to it from points outside the State of Texas. During the same period the Company sold products from its Dallas plant valued in excess of \$250,000, about 30 percent of which was shipped to points outside the State of Texas.

The Company admits, for the purpose of this proceeding, that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

International Association of Machinists is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

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

On April 25, 1944, the United requested the Company to recognize it as exclusive collective bargaining representative of the employees at the Dallas plant. The Company refused this request.

On June 21, 1943, the Company and the I. A. M. entered into an exclusive collective bargaining contract. The contract provides that it shall remain in effect until June 21, 1944, and from year to year thereafter unless notice of a desire to terminate is given by either party thereto 30 days prior to any annual expiration date. Inasmuch as the United served notice upon the Company on April 25, 1944, and the contract is about to expire, we find that it does not constitute a bar to a determination of representatives at this time.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the United represents a substantial number of employees in the unit hereinafter found to be 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

We find, in agreement with the parties, that all regular production and maintenance employees at the Dallas plant of the Company, in-

<sup>1</sup> The Field Examiner reported that the United presented 95 authorization cards bearing names of employees on the April 30, 1944, pay roll of the Company. The I. A. M. relies upon its contract as evidence of its interest in the instant proceeding. There are about 150 employees in the appropriate unit.

cluding plant-production clerks, but excluding office employees, night watchmen, confidential secretaries, clerks, 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.<sup>2</sup>

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of 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 a 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 Continental Gin Company, Dallas, Texas, 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 Sixteenth 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 who have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by International Association of Machinists, A. F. of L., or by United Steelworkers of America, C. I. O., for the purposes of collective bargaining, or by neither.

<sup>2</sup> This is substantially the same unit as provided for in the contract between the Company and the I. A. M.