

In the Matter of COLUMBIAN ROPE COMPANY and UNITED FARM
EQUIPMENT AND METAL WORKERS OF AMERICA, C. I. O.

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EQUIPMENT AND METAL WORKERS OF AMERICA, C. I. O.

Cases Nos. 3-R-789 and 3-R-790 respectively.—Decided June 20, 1944

Hiscock, Cowie, Bruce, Lee & Mawhinney, by Messrs. *H. Duane Bruce* and *G. H. Cowie*, of Syracuse, N. Y., for the Company.

Mr. Neil Eastman, of Auburn, N. Y. and *Mr. G. O. McMahill*, of Rock Island, Ill., for the Farm Equipment Workers.

Messrs. *Jack Rubenstein* and *Harry Walton*, of New York City, for the Textile Workers.

Nathan Blittman by *Mr. N. Downey*, of Syracuse, N. Y., for the A. F. L.

Mr. Max M. Goldman, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by United Farm Equipment and Metal Workers of America, C. I. O., herein called the Farm Equipment Workers, alleging that questions affecting commerce had arisen concerning the representation of employees of Columbian Rope Company, Auburn, New York, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Milton A. Nixon, Trial Examiner. Both the Textile Workers Union of America, C. I. O., herein called the Textile Workers, and the United Textile Workers of America, A. F. L., herein called the A. F. L., were duly served with notice of the hearing. Said hearing was held at Auburn, New York, on May 9, 1944. At the hearing the Textile Workers moved to intervene. However, it failed to show that it represented any of the Company's employees,¹ and the Trial Examiner accordingly denied its motion. The

¹ The Textile Workers' claim of interest was based solely on "jurisdictional grounds."

Company moved to dismiss the petition in Case No. 3-R-789 on the grounds that the Farm Equipment Workers had made an insufficient showing of representation, and that it was not qualified by its charter and bylaws to represent the Company's employees; and in Case No. 3-R-790, on the ground that a unit of guards is inappropriate. For reasons hereinafter stated, the motions in both cases are hereby denied. The Company and the Farm Equipment Workers appeared and participated in the hearing and both were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing on the issues and to file briefs with the Board. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.²

Subsequent to the hearing the Textile Workers filed a motion with the Board requesting the dismissal of the petitions on the ground that a jurisdictional dispute exists between it and the Farm Equipment Workers, and stated that, in the event its motion to dismiss is denied and an election is directed, it would produce proof of its interest in the form of application cards and desired to appear on the ballot. Since the Textile Workers was afforded an opportunity and failed to produce at the hearing any showing of representation among the Company's employees, we shall deny its motion in all respects.³

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Columbian Rope Company, a New York corporation, is engaged in the manufacture of rope and twine, and aluminum and plastic products at Auburn, New York. During the year 1943, the Company used raw materials valued in excess of \$1,000,000, of which more than 95 percent was shipped to the Company from points outside the State of New York. During the same period, the Company sold finished products valued in excess of \$1,000,000, of which more than 50 percent was shipped by it to points outside the State of New York.

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

² See *Matter of Thomasville Chair Company*, 37 N. L. R. B. 1017; *Matter of American Woolen Company*, 32 N. L. R. B. 1 and 8, in connection with our affirmance of the Trial Examiner's refusal to permit the Textile Workers to intervene.

Despite the fact that the A. F. L. was also unable to offer any showing of representation among the Company's employees, and although it had received advance notice of the hearing, when it appeared before the Trial Examiner it sought to continue the hearing for 30 days. The Trial Examiner properly rejected its application. Thereafter the A. F. L. withdrew from the hearing.

³ See cases cited in footnote 2, *supra*, and *Matter of Interstate Drop Forge Company*, 35 N. L. R. B. 1067.

II. THE ORGANIZATION INVOLVED

United Farm Equipment and Metal Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.⁴

III. THE QUESTIONS CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Farm Equipment Workers as the exclusive bargaining representative of certain of its employees until the Farm Equipment Workers has been certified by the Board.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Farm Equipment Workers represents a substantial number of employees in the units hereinafter found appropriate.⁵

We find that questions affecting commerce have 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 UNITS

In Case No. 3-R-789, the Company and the Farm Equipment Workers are agreed that all the production and maintenance employees at each of the Company's five plants, including inspectors, but excluding superintendents, supervisors, foremen, assistant foremen, timekeepers, guards, salaried office and clerical employes (the office and plant testers), and experimental and laboratory employees, constitute an appropriate unit. They are in disagreement, however, concerning the technicians, the Company contending that they should be included with the production and maintenance employees, and the Farm Equipment Workers that they should be excluded as laboratory employees.

There are about 20 technicians involved in the disputed category. These technicians are the more experienced employees and act as trouble-shooters in the solution of some of the Company's production problems. Although they spend the major part of their time assisting in production operations in any one of the Company's 5 centrally administered plants, and only a minor part of their time as apprentices to the laboratory engineers in the experimental department, they

⁴ In the present posture of the case, whether or not the Farm Equipment Workers is qualified by its charter and bylaws to represent the Company's employees is not germane to the issues. See *Matter of Grand Rapids Fibre Cord Company*, 56 N. L. R. B., No. 103; *Matter of McLouth Steel Corporation*, 30 N. L. R. B. 1000.

⁵ The Field Examiner reported that the Farm Equipment Workers in Case No. 3-R-789 submitted 524 undated membership cards, and that there are 1626 employees in the unit petitioned for; and that in Case No. 3-R-790 it submitted 19 membership cards, that there are 33 employees in the unit petitioned for, and that the cards were dated as follows: 6 in March 1944, 1 in April 1944, and 12 undated.

report to, and receive their work assignments at, the experimental department and are carried on its pay roll. We are of the opinion that the technicians have interests and functions which more closely identify them with the laboratory workers than with the production and maintenance workers; accordingly, we shall exclude the technicians from the unit.

We find in Case No. 3-R-789, that all the production and maintenance employees at each of the Company's five plants, including inspectors, but excluding timekeepers, guards, salaried office and clerical employees (the office and plant testers), the technicians and the experimental and laboratory employees, superintendents, supervisors, foremen, assistant foremen, and all 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.

In Case No. 3-R-790, the Farm Equipment Workers seeks a unit of plant guards, excluding chiefs and lieutenants,⁶ employed at the Company's five plants. The Company opposes this request, contending that the guards are confidential employees and, hence, cannot form an appropriate unit.

The Company employs 33 guards, including a chief guard and 5 head guards, who patrol and protect both the inside and the outside of the Company's 5 plants. The guards are militarized and armed, but only those employed on outdoor duty are uniformed. Although the Company is engaged in war work, and the guards are charged with the duty of protecting secret equipment and products, their duties are not directly related to labor relations or to the functions of management. Accordingly, we find that the guards are not employed in a confidential capacity.⁷

The Company's guard force is under the supervision of the chief guard, who has the authority to hire and discharge. There is a head guard in charge of the guards at each of the Company's five plants. The head guards recommend promotions and demotions, and report matters requiring disciplinary action, to the chief guard. We are of the opinion that the chief guard and head guards fall within our customary definition of supervisory employees; accordingly, we shall exclude them from the unit.

We find in Case No. 3-R-790, that all guards at the Company's five plants, excluding the chief guard and head guards, and all other supervisory employees with authority to hire, promote, discharge, discipline,

⁶ It appears from the record that the Company does not maintain a classification of employees known as lieutenants, but that it does maintain a classification of employees known as head guards.

⁷ See *Matter of Firestone Tire and Rubber Company of California*, 50 N. L. R. B. 679.

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 questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

The Company requests that employees who are serving in the armed forces of the United States be permitted to vote by mail. The Union opposes this request. In accordance with our established policy, recently affirmed after a full review of the reasons in support thereof,⁸ we shall deny the Company's request and direct that only those employees on military leave who present themselves in person at the polls, shall be permitted to vote.

DIRECTION OF ELECTIONS

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 Columbian Rope Company, Auburn, New York, elections 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 Third 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 units 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

⁸ See *Matter of Mine Safety Appliance Company*, 55 N. L. R. B. 1190.

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.

Mr. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Elections.