

In the Matter of TURNER MANUFACTURING COMPANY and INTERNATIONAL MOLDERS AND FOUNDRY WORKERS UNION OF N. A., A. F. OF L.

*Case No. 5-R-1560.—Decided July 13, 1944*

*Scott & Collier* by *Mr. John A. Scott*, of Statesville, N. C., for the Company.

*Mr. F. E. Long*, of East Point, Ga., and *Mr. John Montgomery*, of Statesville, N. C., for the Union.

*Mr. Bernard Goldberg*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Molders and Foundry Workers Union of N. A., A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Turner Manufacturing Company, Statesville, North Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George L. Weasler, Trial Examiner. Said hearing was held at Statesville, North Carolina, on June 5, 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

Turner Manufacturing Company, a North Carolina corporation, is engaged in the manufacture, assembly and sale of peanut pickers, and other farm machinery, at its sole plant and offices located at Statesville, North Carolina. During 1943 it purchased raw materials,

including lumber, steel, pig iron, scrap, and castings, valued at \$306,713.16, of which approximately 75 percent was shipped into the State of North Carolina from points outside the State. During the same period it sold machinery and equipment valued at \$721,135.42, of which approximately 75 percent was shipped to points outside the State.

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

## II. THE ORGANIZATION INVOLVED

International Molders, and Foundry Workers Union of N. A. 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 to the Union as the exclusive bargaining representative of its foundry employees until the Union has been certified by the Board in an appropriate unit.

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.<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

The Union seeks a unit composed of all foundry employees, excluding clerical and supervisory personnel. The Company contends that the appropriate unit should include all production and maintenance employees of the Company. The foundry is a separate department housed in a building of its own. The skills of foundry employees are distinct from those of employees in other departments of the factory, and employees are not transferred from the foundry to other departments, or vice versa. There is no history of collective bargaining in the plant. The Union has confined its organizational activities to employees in the foundry and, so far as appears from the record, no other union is attempting to organize the employees of the Company. We have held many times that foundry workers may constitute a separate unit appropriate for the purposes of collective bargaining.<sup>2</sup>

<sup>1</sup> The Field Examiner reported that the Union submitted 30 authorization cards 29 of which bore apparently genuine original signatures; that the names of 29 persons appearing on the cards were listed on the Company's pay roll of April 27, 1944, which contained the names of 35 employees in the appropriate unit; and that the cards were all dated in April, 1944.

<sup>2</sup> See *Matter of National Bearing Metals Corporation*, 48 N. L. R. B. 418; *Matter of Maryland Sanitary Manufacturing Corporation*, 53 N. L. R. B. 1490; *Matter of Goslin-Birmingham Manufacturing Company, Inc.*, 55 N. L. R. B. 304.

We find that all employees in the foundry, excluding clerical workers, 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 purpose 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.<sup>3</sup>

#### 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 Turner Manufacturing Company, Statesville, North Carolina, 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 Fifth 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 International Molders and Foundry Workers Union of N. A., affiliated with the American Federation of Labor, for the purposes of collective bargaining.

<sup>3</sup>The Union's request to be designated on the ballot as International Molders and Foundry Workers Union of N. A. is hereby granted.