

In the Matter of COLUMBIA MALLEABLE CASTINGS CORPORATION and
INTERNATIONAL MOLDERS & FOUNDRY WORKERS UNION OF NORTH
AMERICA, (AFL)

In the Matter of COLUMBIA MALLEABLE CASTINGS CORPORATION and
PATTERN MAKERS LEAGUE OF NORTH AMERICA, A. F. OF L.

*Cases Nos. 4-R-1388 and 4-R-1473 respectively—Decided
August 7, 1944*

*Hinckley, Allen, Tillinghast & Wheeler, by Mr. Isadore Paisner
and Mr. Roger T. Clapp, of Providence, R. I., and Mr. H. Nelson
Albright, of Columbia, Pa., for the Company.*

*Mr. Matthew Reid, of Kearny, N. J., and Mr. Walter Griffiths, of
Cincinnati, Ohio, for the Molders.*

Mr. Harold Ware, of New York City, for the Pattern Makers.

Miss Frances Lopinsky, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by International Molders & Foundry Workers Union of North America, (AFL), herein called the Molders, alleging that a question affecting commerce had arisen concerning the representation of employees of Columbia Malleable Castings Corporation, East Columbia, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Herman Lazarus, Trial Examiner. Said hearing was held at Columbia, Pennsylvania, on May 16, 1944. The Company and the Molders appeared and participated. All parties 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. On May 24, 1944, the Company requested the opportunity to present oral argument before the Board. The request is hereby denied.

57 N. L. R. B., No. 172.

Thereafter, on June 14, 1944, while the petition of the Molders was still pending before the Board, Pattern Makers League of North America, A. F. of L., herein called the Pattern Makers, filed a petition for investigation and certification of representatives, alleging that a question affecting commerce had arisen concerning the representation of the pattern makers and apprentices employed by the Company. On July 6, 1944, the Board issued an order reopening the record, consolidating the Pattern Makers' case with that of the Molders, remanding the proceedings to the Regional Director and authorizing the Regional Director to issue notice of further hearing. Said further consolidated hearing was held upon due notice at Columbia, Pennsylvania, on July 20, 1944, before the Trial Examiner who had presided at the earlier hearing. The Company, the Molders, and the Pattern Makers appeared, participated, and were afforded a 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 further 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

Columbia Malleable Castings Corporation, a New York corporation, is wholly owned by the Grinnell Corporation, a Delaware corporation, which has its principal offices in Providence, Rhode Island. The Company operates a plant at East Columbia, Pennsylvania,¹ where it is engaged in the manufacture of malleable pipe fittings, malleable pipe hangers, pipe supporting devices, and miscellaneous castings made to customers' orders. One hundred percent of the Company's products is designed for use in the war effort. During the 6-months' period preceding the hearing, the Company used over \$125,000 worth of raw materials, including pig iron, coal, sand, refractory shapes or fire bricks, pure zinc, copper, lead, corn flour, and lumber, over 90 percent of which was shipped to the Company's plant from points outside the Commonwealth of Pennsylvania. During the same period the Company sold over \$200,000 worth of its products, over 90 percent of which was shipped to points outside the Commonwealth of Pennsylvania.

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

¹ The Company also has a plant in Columbia, Pennsylvania, which since 1931 has been used as a storage house. The employees of the Columbia plant are not involved herein.

II. THE ORGANIZATIONS INVOLVED

International Molders & Foundry Workers Union of North America and Pattern Makers League of North America are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Company refuses to grant recognition to the Molders or to the Pattern Makers as the exclusive bargaining representative of the employees which each claims to represent, until they, or either of them, has been certified by the Board in an appropriate unit or units. The Company further contends that the Pattern Makers is in no position to request certification at this time because its request for recognition was not made until June 13, 1944, subsequent to the original hearing herein. If the Pattern Makers, which admittedly had no interest in the employees of the Company prior to the original hearing, and which, therefore, was not entitled to notice of that hearing, claimed to represent the same employees whom the Molders claims to represent, the Company's position would be well taken. The Molders' however, upon learning of the Pattern Makers' organizational efforts in the plant, disclaimed all interest in representing pattern makers and their apprentices. The instant case is, therefore, clearly distinguishable from *Matter of American Woolen Company*² and *Matter of United Boat Service Corporation*³ relied upon by the Company to sustain its contention, and, accordingly, we find that contention to be without merit.

Statements of a Board agent, introduced into evidence at the hearings, indicate that each union represents a substantial number of employees in the unit alleged by it to be appropriate.⁴

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

Subject to their dispute concerning the propriety of segregating pattern makers from the plant-wide unit, all parties are in agreement

² 32 N. L. R. B. 1.

³ 55 N. L. R. B. 671.

⁴ The Field Examiner reported that the Molders submitted 446 authorization and application-for-membership cards, approximately all of which bore signatures of persons listed on the Company's pay roll of April 12, 1944, which contained the names of 554 employees in the Molders' alleged unit; 366 of the cards were dated in March and April 1944, and 80 were undated.

The Field Examiner further reported that the Pattern Makers submitted 7 undated application-for-membership cards, all of which bore signatures corresponding with names of persons listed as pattern makers and apprentices on the Company's pay roll for July 3, 1944, which contained the names of 9 persons so designated.

that all production and maintenance employees at the Company's East Columbia plant, including weighmasters, shipping department employees, group supervisors, and the employee in the super-seal department, but excluding office and clerical employees, watchmen, guards, and power equipment attendants, whose work is similar to that of guards, and watchmen, office maintenance employees, the gardener, and all supervisory employees, constitute a unit appropriate for collective bargaining.

It appears that weighmasters spend the major portion of their time in manual work and that they are responsible to the department foremen; that the shipping department employees perform only the manual operations of packing and shipping, all clerical work connected therewith being performed by clerical employees in the Company's office. Group supervisors are experienced men who train, advise, and assist less experienced and newer men. They perform the same work as the workers whom they assist and have no authority to change or effectively recommend changes in the status of those employees. The employee in the super-seal department is the only employee in that department. Should the department be expanded, he will take on supervisory duties. The parties agree that when this occurs the employee in question will be dropped from the unit. The agreed exclusions are consonant with our usual practice. In the light of all these facts, we shall accept as appropriate the unit agreed upon by the parties.

There are two categories of employees not covered by the agreement of the parties concerning which the Company requests the Board to rule. They are the storeskeeper and the shop clerical employees. The Molders would exclude the storeskeeper from the unit but would include the shop clerical employees. The storeskeeper has complete charge of the Company's storeroom. He is directly responsible to the plant superintendent and usually works in connection with the purchasing agent. His duties include preparing and issuing requisitions to the purchasing department when he determines that supplies must be ordered, receiving, unpacking, and storing materials and supplies, and distributing them to employees upon requisition. He has no assistants. One-third of his time is spent in clerical duties; one-third in receiving and one-third in disbursing materials. Each department has a representative who calls at the storeroom for supplies for the employees in his department. The storekeeper has no other contact with the production and maintenance employees. He is a salaried employee. In view of the discretion which he exercises, the responsibility which he bears, and the fact that he has more contact with clerical and managerial employees than with production and maintenance employees, we are of opinion that the interests of the storekeeper are

substantially different from those of the production and maintenance employees and we shall, therefore, exclude the storeskeeper from the unit. The shop clerical employees keep pay-roll records and production reports and perform other clerical duties for the production foremen under whose supervision they work. These clerks are generally drawn from among employees in the shop production department, and on infrequent occasions they actually engage in production. It appears that, although their work is predominantly clerical, shop clerical employees have the same supervisors and conditions of work, and therefore the same interests, as the production and maintenance employees. Accordingly, we shall include them in the unit.

The Molders and the Pattern Makers contend that the pattern makers and their apprentices⁵ employed by the Company constitute a separate appropriate unit. The Company contends that the pattern makers and their apprentices should be included in the unit with other production and maintenance employees for the reason that the Pattern Makers' petition was untimely filed. Since we have hereinabove found this not to be the case, and since the pattern makers and apprentices employed by the Company constitute a clearly identifiable craft group, housed in a building separate and apart from other employees, working under separate supervision, and exercising skills unknown to the other production employees of the Company, we shall exclude the pattern makers and their apprentices from the agreed unit and shall establish a separate unit for them.

We find that all production and maintenance employees of the Company at its East Columbia plant, including weighmasters, shipping department employees, group supervisors, the employee in the super-seal department, and shop and clerical employees, but excluding pattern makers and their apprentices, office clerical employees, the storeskeeper, watchmen, guards and power equipment attendants, office maintenance employees, the gardener, and 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.

We further find that all pattern makers and pattern makers' apprentices employed by the Company, including the assistant foreman of the pattern department,⁶ but excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such ac-

⁵ All parties agree that handymen employed in the pattern shop come within the category of apprentice.

⁶ This employee spends at least 90 percent of his time in making patterns. He takes charge of the pattern department only during the infrequent absences of the regular foreman. All parties agree to his inclusion in the unit.

tion, 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 payroll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

The Company contends that inasmuch as the Molders attempted and failed to organize its employees in 1941, and inasmuch as a great many of the employees then employed by the Company are now serving in the armed forces of the United States, that the Board should either poll the employees in the armed forces by mail, or postpone the direction of an election herein until the said employees have returned to the plant in substantial number. The list of addresses of these employees, offered to the Board by the Company, demonstrates that most of the employees involved are no longer in this country. Our practice of denying requests to allow servicemen to vote by mail in Board elections is the result of careful consideration of all elements of the problem.⁷ Nothing in the facts here presented warrants a departure from our usual practice. In accordance therewith, we shall allow to vote in the election hereinafter directed only those employees in the armed forces of the United States who present themselves in person at the polls. When it is demonstrated that servicemen have returned to their employment in sufficient numbers so that they comprise a substantial percentage of the employees in an appropriate unit in which we have certified a collective bargaining representative, a new petition for investigation and certification of a bargaining agent may be filed with the Board.⁸

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Columbia Malle-

⁷ See *Matter of Wilson & Co., Inc.*, 37 N. L. R. B. 944.

⁸ See *Matter of Mine Safety Appliances Co., Callery Plant, Callery, Pa.*, 55 N. L. R. B. 1190.

able Castings Corporation, East Columbia, Pennsylvania, 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 Fourth 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 elections, and excluding all supervisory employees having authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, to determine (1) whether or not the production and maintenance employees of the Company at its East Columbia plant, including weighmasters, shipping department employees, group supervisors, the employee in the super-seal department, and shop clerical employees, but excluding pattern makers and their apprentices, office clerical employees, the storeskeeper, guards and power equipment attendants, office-maintenance employees, and the gardener, desire to be represented by International Molders & Foundry Workers Union of North America, (AFL), for the purposes of collective bargaining; and (2) whether or not the pattern makers and their apprentices desire to be represented by Pattern Makers League of North America, A. F. of L., for the purposes of collective bargaining.

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