

In the Matter of HEDSTROM-UNION COMPANY and LOCAL 154, UNITED
FURNITURE WORKERS OF AMERICA (CIO)

Case No. 1-R-1920.—Decided August 11, 1944

Mr. Samuel M. Salny, of Fitchburg, Mass., for the Company.
Grant and Angoff, by Mr. Sidney S. Grant, of Boston, Mass., for
the C. I. O.

Mr. William Francis, of Boston, Mass., for the Carpenters.

Mr. William Baisinger, Jr., of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petition duly filed by Local 154, United Furniture Workers of America (CIO), herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Hedstrom-Union Company, Fitchburg, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Leo J. Haloran, Trial Examiner. Said hearing was held at Gardner, Massachusetts, on July 6, 1944. The Company, the C. I. O., and United Brotherhood of Carpenters and Joiners of America (AFL), herein called the Carpenters, 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. At the hearing the Company moved for dismissal of the C. I. O.'s petition on the ground that a valid and subsisting contract between it and the C. I. O., covering the employees in the unit petitioned for, constitutes a bar to this proceeding. The Trial Examiner reserved ruling upon this motion for the Board. For reasons stated in Section III, *infra*, we hereby deny the motion. At the hearing the parties stipulated, and it is hereby directed, that the evidence adduced in *Matter of Conant Ball Company*,¹ insofar as pertinent, be incorporated in and made a part of the record in this case. The Trial Exam-

¹ Case No. 1-R-1919, 57 N. L. R. B. 1262.

57 N. L. R. B., No. 192.

iner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Hedstrom-Union Company is a Massachusetts corporation engaged at Fitchburg and Gardner, Massachusetts, in the manufacture of baby carriages, velocipedes, various types of household furniture, and wood and metal parts for aircraft. Both the Company's plants are involved in the instant proceeding. During the year 1943 the Company purchased raw materials for use at its Gardner, Massachusetts, plant, consisting of fiber, steel, wood, paint, varnish, and shellac, valued in excess of \$125,000, of which approximately 80 percent was purchased and shipped to the Company's plant from points outside the Commonwealth of Massachusetts. During the same period the Company manufactured approximately \$250,000 worth of finished products at its Gardner plant, of which over 90 percent was shipped to points outside the Commonwealth of Massachusetts. During the year 1943, the Company purchased over \$1,500,000 worth of raw materials for use at its Fitchburg, Massachusetts, plant, approximately 80 percent of which was shipped to this plant from points outside the Commonwealth of Massachusetts. During the same period the Company produced approximately \$3,000,000 worth of finished products at its Fitchburg plant, all of which was shipped to points outside the Commonwealth of Massachusetts.

The Company admits, and we find, that at each of the plants involved in this proceeding, it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Local 154, United Furniture Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

United Brotherhood of Carpenters and Joiners of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On March 5, 1942, the C. I. O. and the Company entered into a collective bargaining contract covering certain employees of the Gardner

and Fitchburg, Massachusetts, plants of the Company. This contract, by its terms, was to remain in effect until May 1, 1943, and "from year to year thereafter unless either party shall notify the other . . . in writing by registered mail of proposed termination, changes, or alteration thirty days before the expiration date hereof or before April 1 of any subsequent year." On December 17, 1942, the contracting parties executed a supplemental agreement providing for certain changes in the existing contract, including an extension of the termination date to May 1, 1944, and omitting the automatic renewal clause, but providing that, upon the written request of either party made 30 days prior to the expiration date, the parties would commence negotiations for a new contract. On March 29, 1944, the C. I. O. advised the Company in writing of its desire to make certain changes in the current contract. By letter dated April 3, 1944, the Company informed the C. I. O. of its willingness to discuss changes in the contract. Thereafter, the C. I. O. submitted to the Company a memorandum of the changes it desired incorporated in a new contract. Under date of April 24, 1944, the Company wrote the C. I. O. requesting proof that it currently represented a majority of the Company's employees in the contract unit. On April 27, 1944, the Company and the C. I. O. executed a document by which they extended the existing contract to July 1, 1944, "without prejudice to the rights of either of the parties hereto had this extension not been executed and . . . subject to cancellation or termination by mutual agreement at any time prior to July 1, 1944." On May 18, 1944, the C. I. O. filed its petition herein.

Apparently neither of the parties contends that there is now in effect any bargaining contract which constitutes a bar to this proceeding. Although the Company predicates its motion for dismissal of the petition upon the continued existence of the March 5, 1942, contract, as amended, it does not claim that this contract is now in force; but asserts that it filed the motion in order to obtain a ruling by the Board that the contract has in fact expired. Under the terms of the supplemental agreement dated December 17, 1942, the expiration date of the contract between the parties was definitely stated as May 1, 1944, a date now past. The most the parties did by their subsequent action was to extend that agreement to July 1, 1944, a date which is also now past. Consequently, since no contract is now in effect, we find that no bar exists to this proceeding.

A statement prepared by a Field Examiner of the Board, introduced into evidence at the hearing, as supplemented by a statement made by the Trial Examiner on the record, indicates that the C. I. O.

and the Carpenters each represents a substantial number of employees in the unit which it claims to be appropriate.²

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 DETERMINATION OF REPRESENTATIVES

The C. I. O. seeks a bargaining unit comprised of all employees of the Company at its Fitchburg and Gardner, Massachusetts, plants, excluding executives, superintendents, foremen, salesmen, office and clerical help, and guards. The unit covered by the prior existing contract between the Company and the C. I. O. was "all of [the Company's] employees except executives, superintendents, foremen, salesmen, office and clerical help." The unit requested by the C. I. O. in the instant case is identical with the unit established by the prior contract, except for the exclusion of guards. The C. I. O. desires that the guards employed by the Company at its Fitchburg, Massachusetts, plant be excluded from the appropriate unit since they are militarized. The Company raises no objection to the appropriateness of the requested unit, subject, however, to whatever rights the Carpenters may have with respect to employees in the proposed bargaining unit.

The Carpenters contends that all highly skilled employees at the Company's Fitchburg plant who perform carpentry work constitute a separate appropriate unit. From the record it appears that there are approximately 90 such employees engaged at the Fitchburg plant in the manufacture of ailerons for airplanes. Soon after the entry of the United States into the present war, the Company converted its Fitchburg plant to the production of airplane parts for the Government. In October 1942, sometime after the Company had begun war production in its Fitchburg plant, it began hiring skilled carpenters for work on airplane construction. The Carpenters was requested by the United States Employment Service to furnish skilled carpenters to the Company. The Carpenters complied with this request and since that time the Company has hired approximately 90 skilled carpenters recommended by the Carpenters. Each person so employed, according to the business representative of the Carpenters, is a member of the Carpenters and all carpenters, as a group, have insisted upon their right to autonomy. The Carpenters has refused

² The Field Examiner reported that the C. I. O. submitted a current ledger book containing the names of 604 dues-paying members and that there are approximately 800 employees in the unit for which the C. I. O. is petitioning.

The Trial Examiner stated on the record that the Carpenters submitted to him 31 authorization cards purportedly bearing the names of persons employed by the Company within the unit which the Carpenters alleges is appropriate. There are approximately 90 employees in the unit sought by the Carpenters.

to allow its members employed by the Company to sign any card or petition circulated by the C. I. O. lest the claim be advanced that they have thereby recognized the C. I. O. as their bargaining representative. It appears that due to the nature of the war work done by the Company at its Fitchburg plant, highly skilled woodworkers and cabinet makers are needed and that the skill required is much greater than in normal times when the Company was engaged in peacetime production. These skilled woodworkers and cabinet makers comprise the unit requested by the Carpenters. They work exclusively in the first clean department of the Fitchburg plant and are engaged solely in airplane construction work. Inasmuch as it appears that the skilled woodworkers and cabinet makers employed in the first clean department of the Company's Fitchburg plant are a homogeneous and identifiable group engaged in work which we have frequently found to be sufficiently distinguishable from that of other production employees to warrant establishment as a separate unit and since it appears that they have attempted to maintain their autonomy during the period which the C. I. O. has had exclusive bargaining contracts with the Company, we are of the opinion that they may properly function as a separate bargaining unit or be included in the larger production and maintenance unit requested by the C. I. O.

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, we shall direct that the question concerning representation which has arisen be resolved by means of separate elections by secret ballot among the employees in the voting groups set forth below, 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. Upon the results of these elections will depend, in part, our determination of the appropriate unit.

The voting groups shall be as follows:

- (1) All skilled woodworkers and cabinet makers employed by the Company in the first clean department of its Fitchburg, Massachusetts, plant, who are engaged in airplane construction work, excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether they desire to be represented by the Carpenters, or by the C. I. O., or by neither;
- (2) All remaining employees of the Company at its Fitchburg and Gardner, Massachusetts, plants, excluding salesmen, office and clerical employees, guards, executives, superintendents, 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, to determine whether or not they desire to be represented by the C. I. O.

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 Hedstrom-Union Company, Fitchburg, Massachusetts, 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 First 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 of the Company in each of the groups described below 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 employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the elections:

(1) All skilled woodworkers and cabinet makers employed by the Company in the first clean department of its Fitchburg, Massachusetts, plant, who are engaged in airplane construction work, excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether they desire to be represented by United Brotherhood of Carpenters and Joiners of America (AFL), or by Local 154, United Furniture Workers of America (CIO), for the purposes of collective bargaining, or by neither;

(2) All remaining employees of the Company at its Fitchburg and Gardner, Massachusetts, plants, excluding salesmen, office and clerical employees, guards, executives, superintendents, 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, to determine whether or not they desire to be represented by Local 154, United Furniture Workers of America (CIO), for the purposes of collective bargaining.

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