

In the Matter of NATIONAL FOUNDRY & MACHINE CORPORATION and
AMERICAN FEDERATION OF LABOR AND ITS AFFILIATED INTERNATIONAL
UNIONS

Case No. 14-R-952.—Decided August 23, 1944

*Messrs. Mossis J. Levin and S. E. Allen, of St. Louis, Mo., for the
Company.*

*Messrs. Joe R. Gamble, Ralph Wilson, and John R. Barr, of St.
Louis, Mo., for the Union.*

Mr. Philip Licari, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by American Federation of Labor and its affiliated International Unions, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of National Foundry & Machine Corporation, St. Louis, Missouri, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Harry G. Carlson, Trial Examiner. Said hearing was held at St. Louis, Missouri, on July 8, 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

National Foundry & Machine Corporation, a Missouri corporation, is engaged at its plant located at 7901 Alabama Avenue, St. Louis, Missouri, in the manufacture, sale, and distribution of bronze, alumi-

num, and magnesium castings. During the year 1943, the Company purchased raw materials valued at approximately \$1,000,000, of which 90 percent was shipped to the plant from points outside the State of Missouri. During the same period, the Company sold finished products valued in excess of \$2,000,000, of which approximately 99 percent was shipped to points outside the State of Missouri.

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

II. THE ORGANIZATION INVOLVED

American Federation of Labor is a labor organization admitting to membership, through its affiliated International Unions, employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On June 15, 1944, the Union sought recognition from the Company as the exclusive bargaining representative of the Company's employees. The Company has refused to grant such recognition until the Union has been certified by the Board in an appropriate unit.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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 comprised of "all employees of the Company at its plant located at 7901 Alabama Avenue, except for supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action." The Company, on the other hand, seeks specifically to exclude from the unit guards, quality control department employees, the carpenter foreman, and chemists. We shall consider each classification separately.

Guards. These employees are armed and uniformed, and have been sworn as members of the auxiliary police. It is clear that their duties are confined to performing functions usually associated with that clas-

¹The Trial Examiner reported that the Union submitted 305 designation cards; that 139 names of the persons appearing on the cards were listed on the Company's pay roll of May 13, 1944, which contained the names of 247 employees in the alleged appropriate unit and that the cards were dated as follows: 5 February 1944; 55 March 1944; and 28 April 1944.

sification. Thus, they identify persons and vehicles entering and leaving the plant, and keep under surveillance the Company's property. The Company takes the position that because of the nature of the duties of these employees, they should not only be excluded from the alleged unit, but should also be precluded from forming a separate unit for the purposes of collective bargaining. The Union denies the contention of the Company, and would include them either in the plant-wide unit or establish a separate unit of guards.

We perceive no reason to deviate from the established policy of the Board with reference to militarized guards.²

Accordingly, we find that all militarized guards employed by the Company at its plant at 7901 Alabama Avenue, excluding the chief guard, and all other supervisory employees with the 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.

Quality Control Department Employees. This department is composed of 6 inspectors, 10 testers, and 4 salvage men. The inspectors work throughout the plant and determine by visual means whether the castings produced are in accordance with specifications. The testers and salvage men are semi-skilled employees working in a section of the plant alongside the production employees; their duties are to check the quality of the castings and to salvage rejected material. The final objective of the employees in this department is to eliminate waste of material, and control the quality of the castings produced. They are all under the supervision and direction of the head of this department. The Company contends that the interests of this group of employees are incompatible with those of the production employees, and would exclude them from the unit. We find no merit to the Company's argument. It is true that the functions of these employees do not involve the production of goods in the sense generally understood, but their tasks are so intimately connected with the work of the employees in the production department that a distinction is here impractical. It is also true that this department exercises a measure of control in the quality of the output of the production department, but this is so in its collective sense; the individual worker in this department does not discuss faulty workmanship with the production employees nor does he make reports on the quality of the work produced by any particular individual, but he simply reports generally to the supervisor in charge of his department who in turn channelizes these reports to the production foremen or the manager. Where similar facts have been presented

² See *Matter of Dravo Corporation*, 52 N. L. R. B. 322

in other cases, the Board has included employees in this classification in an industrial unit.³

Carpenter Foreman. There is only one employee in this classification. While he does full-time work at his trade, he is also in complete charge of a crew of carpenters. The record reveals that he has full authority to hire and discharge employees working under his supervision. We shall exclude him from the unit.

Chemists. The Company employs three chemists who are in charge of several divisions of the metallurgical department. They are highly trained professional employees engaged in experiments and tasks of a technical nature. We shall exclude them as technical employees from the unit.

We find, in substantial accordance with the agreement of the parties, and the foregoing determinations, that all employees of the Company at its 7901 Alabama Avenue plant, including purchasing office clerks, and employees in the quality control department, but excluding personnel office clerks, the production control clerk, chemists, the carpenter foreman, militarized guards, 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 (c) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has 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.⁴

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 National Foundry

³ See *Matter of Howard Aircraft Corporation*, 50 N. L. R. B. 386. The employees in the quality control department have shown substantial desire for representation by the Union.

⁴ The A. F. L. requested that it be designated on the ballots as "The American Federation of Labor and its affiliated International Unions." We are of the opinion, in the absence of showings of representation by particular International affiliates, that such designations are too indefinite for purposes of certification. We shall therefore designate the A. F. L. on the ballot simply as "American Federation of Labor."

& Machine Corporation, St. Louis, Missouri, separate 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 Fourteenth 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 the 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, to determine whether or not they desire to be represented by the American Federation of Labor for the purposes of collective bargaining.

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