

In the Matter of **BLAW-KNOX COMPANY, SPECIAL ORDNANCE DIVISION**
and **INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL AND ORNA-**
MENTAL IRON WORKERS, A. F. OF L.

Case No. 4-R-1446.—Decided August 23, 1944

Messrs. Albert L. Cuff and W. Werner, of Pittsburgh, Pa., and Mr. John F. Padden, of York, Pa., for the Company.

Mr. Harold Stern, of New York City, Mr. Gay Borrelli, of Philadelphia, Pa., and Mr. George Sheffey, for the A. F. L.

Mr. Harold Fritchman, of Harrisburg, Pa., and Mr. John Hartwick, of York, Pa., for the C. I. O.

Mr. Robert E. Tillman, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Bridge, Structural and Ornamental Iron Workers, A. F. of L., herein called the A. F. L.,¹ alleging that a question affecting commerce had arisen concerning the representation of employees of Blaw-Knox Company, Special Ordnance Division, York, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Irving Rogosin, Trial Examiner. Said hearing was held at York, Pennsylvania, on July 18, 1944. The Company, the A. F. L., and United Steelworkers of America, C. I. O., herein called the C. I. O., appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The rulings of the Trial Examiner made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.²

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

¹ The A. F. L. waived the charges which it filed against the Company in Case No. 4-C-1421 and in Case No. 4-C-1443, insofar as they might constitute a basis for objecting to the instant proceeding.

² The C. I. O. requested of the Board an opportunity to present oral argument. The request is hereby denied.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Blaw-Knox Company, a New Jersey corporation, has its principal office in Pittsburgh, Pennsylvania. The Company is engaged in the manufacture of steel specialties, foundry products, and special ordnance for the armed forces. It operates six plants in the Pittsburgh area, two in the State of Ohio, and one at York, Pennsylvania. Only the latter plant is involved in this proceeding. More than 50 percent of the raw materials used by the Company is shipped to its plants from points outside the States in which they are located. More than 95 percent of the Company's business is concerned with the war effort and entails interstate and export shipments.

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

II. THE ORGANIZATIONS INVOLVED

International Association of Bridge, Structural and Ornamental Iron Workers is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

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

III. THE QUESTION CONCERNING REPRESENTATION

The Company did not assume operation of the York plant until June 19, 1944, when it leased the plant from the United States Navy, which had been operating it since January 21, 1944. Prior to January 21, the plant was one of nine owned and operated by York Safe & Lock Company, herein called the York Company.

On January 21, 1944, and again on April 11 and April 14, 1944, the A. F. L. sent letters to the York Company requesting recognition as the collective bargaining representative of the latter's production and maintenance employees. On April 17, 1944, the A. F. L. filed with the Board a petition for certification of the York Company's production and maintenance employees. On May 19, 1944, the A. F. L. informed the Company of its claim,³ and on May 22, 1944, filed its petition in the instant proceeding.

The C. I. O. contends that the contract between it and the Company precludes a present determination of representatives. The Company,

³ It was then known to the A. F. L. that the Company was shortly to take over the operations with which we are here concerned.

however, takes no position on this point. The contract to which reference is had, was executed by the Company and the C. I. O. on June 19, 1944. It, in effect, constitutes largely an adoption of a contract entered into by the York Company and the C. I. O. on May 18, 1943, and a supplemental agreement entered into on November 23, 1943. The 1943 contract provided for a term of 1 year, subject to automatic renewal in the absence of 30 days' notice prior to the anniversary date of a desire to change or terminate it. Certain provisions of the contract were left open or made subject to change after 90 days from the effective date thereof. The November supplemental agreement was intended to complete the original contract. However, the parties thereto went further and extended the expiration date of the original contract to May 18, 1945.

We are of the opinion that neither the May 1943 contract and the November 1943 supplement thereto, nor the June 1944 "adoption" contract, precludes a present investigation and determination of a bargaining representative. The November supplemental agreement, by altering the term of the original contract, clearly constitutes a premature extension of a contract of reasonable duration such as we have held, if given effect as a bar, would constitute an unreasonable restraint upon the exercise of the right of employees to select a new bargaining representative.⁴ The June 1944 contract, although an adoption of prior agreements, is, nevertheless, a new contract, since one of the parties to the original contract has been replaced by a new party, i. e., the Company. Since this new contract was entered into by the Company with full knowledge of the conflicting representation claim of the A. F. L., it is plainly no bar.⁵

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, as supplemented by a statement of the Trial Examiner made at the hearing, indicates that the A. F. L. represents a substantial number of employees in the unit alleged to be appropriate.⁶

⁴ *Matter of Memphis Furniture Mfg. Co.*, 51 N. L. R. B. 1447.

⁵ See *Matter of Albers Milling Company*, 38 N. L. R. B. 1331, 1334, and cases cited therein.

⁶ According to the combined statements, the A. F. L. submitted 1,020 authorization cards and an affidavit as to membership bearing 39 names. There are approximately 2,423 employees in the unit alleged to be appropriate. The C. I. O. relies upon its contract to show its interest and further reported that it had a paid-up membership of 2,024 employees of the Company.

The C. I. O. objects to the fact that a number of the A. F. L. authorization cards were obtained while the York Company was the nominal employer, and contents that they cannot be relied upon as authorizing the A. F. L. to represent the signers when the Company is now the employer. The primary function of authorization cards is the designation by employees of a union to act as their agent for collective bargaining purposes. The mere substitution of one employer for another employer has no legal effect upon this delegation of authority. Nor do we consider that it was the intent of the employees to condition their designation of the A. F. L. upon the contingency that the York Company resume operation of the plant.

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

We find, in substantial accordance with a stipulation of the parties, that all production and maintenance employees of the Company's York plant (originally the Special Ordnance and Armor Plate Plants and Testing Range of the York Safe & Lock Company), including working foremen,⁷ storekeepers, powerhouse employees, power drive test inspectors, truck drivers and helpers, sweepers and cleaners, stationary firemen, electric truck drivers, storeroom and toolroom men, inside expeditors, tool chasers, inspectors, maintenance men, tool makers, machinists, machine operators, heat treaters, assembly men, electric welders, chippers,⁸ grinders, and acetylene burners, but excluding guards, office and clerical employees, salaried employees (except those included in the categories above), employees in the foundry department, pattern makers, and superintendents, non-working 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.⁹

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 our Direction of Election herein, subject to the limitations and additions set forth therein.

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 Rela-

⁷ The record indicates, and we find, that working foremen are not supervisory employees within our customary definition.

⁸ In the stipulation of the parties as set out in the record, the word "sweepers" appears in place of "chippers." However, "sweepers" were specifically included in the first part of the stipulation, and the word "chippers" appears in the petition of the A. F. L. and in the stipulated unit mentioned in footnote 9, *infra*. Accordingly, we find it was the intent of the parties to include "chippers."

⁹ The unit, except that it is confined to only one plant, is substantially the same as that stipulated in a consent election held on March 16, 1943, in which all the plants of York Company, including the plant involved herein, were included.

tions 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 Blaw-Knox Company, Special Ordnance Division, York, 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 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 they desire to be represented by International Association of Bridge, Structural and Ornamental Iron Workers, A. F. of L., or by United Steelworkers of America, C. I. O., for the purposes of collective bargaining, or by neither.

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