

In the Matter of GEORGE M. PARKER, WILLIAM PARRISH FULLER, AND
HESTER PORTER FULLER, D/B/A PORTER STEEL SPECIALTIES and UNITED
BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFFILIATED
WITH THE AMERICAN FEDERATION OF LABOR

In the Matter of GEORGE M. PARKER, EVA MAE PARKER, AND CLAUDE F.
BROWN, D/B/A SHELBY MACHINE PRODUCTS COMPANY and UNITED
BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, AFFILIATED
WITH THE AMERICAN FEDERATION OF LABOR

*Cases Nos. 9-R-1449 and 9-R-1513, respectively.—Decided August
24, 1944*

Mr. Wilbur F. Pell, of Shelbyville, Ind., for the Companies.

Mr. C. A. Shuey, of Indianapolis, Ind., for the Union.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon separate amended petitions duly filed by United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, herein called the Union, alleging that questions affecting commerce had arisen concerning the respective representation of employees of George M. Parker, William Parrish Fuller, and Hester Porter Fuller, partners d/b/a Porter Steel Specialties, and of employees of George M. Parker, Eva Mae Parker, and Claude F. Brown, partners, d/b/a Shelby Machine Products Company, both of Shelbyville, Indiana, and herein collectively called the Companies, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before James A. Shaw, Trial Examiner. Said hearing was held at Shelbyville, Indiana, on August 1, 1944. The Companies and the Union 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 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.

57 N. L. R. B., No. 257.

On August 7, 1944, the Companies filed separate motions for further hearing and for leave to adduce additional evidence, and memoranda in support of their motions. For reasons which appear in Section III, below, the motions are denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANIES

A. *Porter Steel Specialties*

George M. Parker, William Parrish Fuller, and Hester Porter Fuller are partners engaged in manufacturing hand carpet sweepers at Shelbyville, Indiana, under the name of Porter Steel Specialties. Raw materials used in such manufacture consist principally of wood, steel, and bristles. Raw materials valued in excess of \$50,000, constituting more than 50 percent of the total raw materials used during a year, are purchased by the partners from points outside Indiana. Finished products valued in excess of \$50,000 are sold annually to purchasers outside Indiana and constitute more than 40 percent of the total products manufactured. Some few orders are shipped to war agencies.¹

B. *Shelby Machine Products Company*

George M. Parker, Eva Mae Parker, and Claude F. Brown are partners engaged in machining steel and cast iron parts at Shelbyville, Indiana,² under the name of Shelby Machine Products Company. The owners of the metal forgings, castings, and parts are prime contractors engaged in manufacturing products for the war effort and the partners, as subcontractors, process such parts according to directions furnished to them. Approximately 75 percent of the products processed by the partners is received at the plant from points outside the State. The value of products finished at the plant exceeds \$70,000, of which approximately 10 percent is shipped to points outside the State.

We find that the Companies are each engaged in commerce, within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

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 Companies.

¹ By order of the War Production Board the production of carpet sweepers was suspended on June 30, 1942. Their production was resumed on February 28, 1944.

² The two Companies in this proceeding occupy different parts of one building at Shelbyville. They are conducted as independent and separate enterprises.

III. THE QUESTIONS CONCERNING REPRESENTATION

On April 27, 1944, the Union asked for recognition as exclusive bargaining representative of employees of Porter Steel Specialties, claiming to represent a majority among them. On May 2 recognition was denied. On May 15, the Union filed a petition for investigation and certification of representatives covering employees of both Companies. On July 6, the Union filed separate petitions covering employees of each of the Companies. At the hearing, the Companies each denied that the Union represented a majority of its employees.

Statements of a Field Examiner, introduced into evidence at the hearing, indicate that the Union represents a substantial number of employees in each of the separate units hereinafter found appropriate.*

We find that questions affecting commerce have arisen concerning the representation of employees of the Companies, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNITS

We find, in accordance with the stipulation of the parties, that all production and maintenance employees of George M. Parker, William

* In support of its claim to represent employees of Porter Steel Specialties, the Union submitted 25 cards, 24 of which bore the names of persons appearing on the pay roll of July 9, 1944, which contained the names of 66 employees in the appropriate unit. The cards were dated in 1944.

In support of its claim to represent employees of Shelby Machine Products Company, the Union submitted 26 cards, 25 of which bore the names of persons on the July 9, 1944, pay roll, which contained the names of 81 employees in the appropriate unit. The cards were dated in 1944.

During the course of the hearing, the Companies objected to the introduction into evidence of the statements prepared by the Field Examiner, and the Trial Examiner overruled their objections. The Companies requested *subpoena duces tecum* to bring into the official record in this proceeding the authorization cards submitted to the Regional Director by the Union in support of its claims of representation, and other pertinent documents in the Board's files. These requests were denied. During the course of the hearing, the Union sought to introduce evidence of additional authorization cards among employees in its proposed units and likewise was refused permission. The Trial Examiner explained the purpose of the Field Examiner's preliminary investigation, and statements pertaining thereto, and ruled that the findings with respect to the Union's showing among the Companies' employees constituted a sufficient safeguard to the Board that the instant petitions were filed in good faith and justified the Board in continuing its investigation by elections. As the Trial Examiner clearly indicated at the hearing, elections, and not the statements of Board agents of showings made upon a preliminary investigation constitute the basis for finding majority representation in representation proceedings.

Since the week ending July 9, 1944, the date of the pay roll for checking the Union's cards, 7 employees have left the employ of Porter Steel Specialties and 2 have been hired, and 2 employees have left the employ of Shelby Machine Products Company, 11 have been laid off, and 7 have been hired. The Companies contend that under these circumstances the check of cards made by the Field Examiner does not presently reflect the Union's representation among their employees and that a recheck is necessary to determine if elections are presently justified. We see no advantage in this procedure. Employees laid off are eligible to vote if they present themselves in person at the polls. Employees who quit their employment or are discharged may be reinstated prior to the eligibility date, and thus, as employees, become eligible to vote in an election. Successive recheckings from time to time to determine whether employees who sign union authorization cards have left their employment, or whether new employees have signed, would cause futile delay and would not necessarily be conclusive on the ultimate eligibility of such persons to vote in an election.

Parrish Fuller, and Hester Porter Fuller, partners d/b/a Porter Steel Specialties, but excluding office and clerical employees and all 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, in accordance with the stipulation of the parties, that all production and maintenance employees of George M. Parker, Eva Mae Parker, and Claude F. Brown, partners d/b/a Shelby Machine Products Company, but excluding office and clerical employees and all 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.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions concerning representation which have arisen be resolved by separate elections by secret ballot among the employees in the respective units found appropriate in Section IV, above, 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.

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 George M. Parker, William Parrish Fuller, and Hester Porter Fuller, partners, d/b/a Porter Steel Specialties, Shelbyville, Indiana, and with George M. Parker, Eva Mae Parker, and Claude F. Brown, partners d/b/a Shelby Machine Products Company, Shelbyville, Indiana, 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 Ninth 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 respective 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 a 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 election, to determine whether or not they desire to be represented by United Brotherhood of Carpenters and Joiners of America, affiliated with 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.