

IN the Matter of THOMAS L. GREEN & COMPANY and UNITED STEELWORKERS OF AMERICA, AFFILIATED WITH THE CONGRESS OF INDUSTRIAL ORGANIZATIONS

Case No. 9-R-1502.—Decided August 29, 1944

Barnes, Hickam, Pantzer & Boyd, by *Mr. George Rose*, of Indianapolis, Ind., for the Company.

Mr. Harry C. Dougherty, of Indianapolis, Ind., for the Union.

Miss Ruth Rusch, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, affiliated with the Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Thomas L. Green & Company, Indianapolis, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Benjamin E. Cook, Trial Examiner. Said hearing was held at Indianapolis, Indiana, on July 26, 1944. The Company and the Union appeared and participated. All parties were afforded an 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

Thomas L. Green & Company is an Indiana corporation which is engaged in the manufacture of steam cargo winches for the United States Maritime Commission. Prior to the war, the Company manufactured special bakery machinery. During 1943, the Company pur-

chased raw materials amounting to more than \$100,000 in value, of which more than 50 percent was shipped from sources outside the State of Indiana. During the same period, the Company manufactured products amounting to more than \$100,000 in value, all of which was shipped to points outside the State of Indiana.

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

II. THE ORGANIZATION INVOLVED

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 has refused to grant recognition to the Union as the exclusive bargaining representative of its production and maintenance employees until the Union has been certified by the Board in an appropriate unit.

On October 26, 1937, the Company and Thomas L. Green & Company Employees Protective Organization, herein called the Independent, entered into a written agreement recognizing the Independent as the bargaining representative of employees of the Company, effective for a term of 1 year, without provision for automatic renewal. After the contract had expired, it was orally agreed to continue in operation the terms of the contract. Since the record reveals that the Independent has apparently become dormant, and inasmuch as no written agreement was entered into between the Company and the Independent after the expiration of the 1937 contract, we find that no bar exists to a current determination of representatives.¹

A statement of a Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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 Company and the Union are in agreement with respect to the appropriate unit, with the exception of a dispute concerning the inclu-

¹ See *Matter of Eivor, Inc.*, 46 N L R B 1035.

² The Field Examiner reported that the Union submitted 35 authorization cards, 30 of which bore the names of persons listed on the Company's pay roll of June 29, 1944, which contained the names of 72 employees in the appropriate unit. There were 25 cards dated June 1944, and 5 were undated.

sion of the Company's two draftsmen. The Company desires to have them included in the unit, whereas the Union seeks to have them excluded.

The Company contends that the draftsmen are paid by the hour, work under a foreman, have no association with the management, have contact with the production employees, and have been included in the unit governing the bargaining relations between it and the Independent. For these reasons, the Company asserts they should be included in the unit. Draftsmen are highly skilled technical employees whose interests are different from those of production and maintenance workers. We have had previous occasion to exclude draftsmen from units composed of production and maintenance employees³ and we see no persuasive reason for departing from our customary practice.

We find, in substantial accordance with the agreement of the parties and our foregoing determination, that all production and maintenance employees of the Company at its plant at Indianapolis, Indiana, including stock handlers, but excluding outside erectors, office and clerical employees, draftsmen, the chief engineer, 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.

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

The Union's request that it be designated on the ballot as "United Steelworkers of America, CIO" is hereby granted.

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 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 Thomas L. Green

³ See *Matter of Virginia Electric & Power Company*, 49 N. L. R. B. 1095; *Matter of Birdsboro Steel Foundry and Machine Company*, 54 N. L. R. B. 247; and *Matter of Associated Spring Corporation*, 54 N. L. R. B. 332.

& Company, Indianapolis, Indiana, 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 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 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 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 Steelworkers of America, CIO, for the purposes of collective bargaining.

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