

In the Matter of **ROME CABLE CORPORATION and INTERNATIONAL ASSOCIATION OF MACHINISTS A. F. L.**

Case No. 3-R-829.—Decided September 12, 1944

Evans, Stevens and Evans, by *Mr. Arthur S. Evans*, of Rome, N. Y., for the Company.

Messrs. Daniel J. Omer, of Buffalo, N. Y., and *Alfred Hayes*, of Utica, N. Y., for the I. A. M.

Mr. James De Bella, of Rome, N. Y., for the Interstate.

Mr. Herbert C. Kane, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Machinists, A. F. L., herein called the I. A. M., alleging that a question affecting commerce had arisen concerning the representation of employees of Rome Cable Corporation, Rome, N. Y., herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Rome, N. Y., on August 4, 1944. The Company and the I. A. M. appeared and participated; Interstate Copper and Brass Workers Union, affiliated with Confederated Unions of America, herein called Interstate, appeared specially.¹ All parties

¹ On March 22, 1943, Interstate filed a petition in Case No. 3-R-564 seeking certification for the employees in a production and maintenance unit. Pursuant to a consent agreement, an election was conducted wherein Interstate was defeated. The petition was dismissed on April 21, 1943. Thereafter, on November 17, 1943, Interstate filed a petition in Case No. 3-R-711 seeking certification as bargaining agent of the Company's maintenance and yard employees. The Regional Director on December 31, 1943, refused to institute an investigation. Interstate made no request to the Board for a review of the action of the Regional Director. The I. A. M. was not involved in the foregoing proceedings. Interstate was served with Notice of Hearing in the instant case and appeared specially to move the dismissal of the petition of the I. A. M. on the ground that the unit sought herein was inappropriate in view of the Regional Director's refusal to institute an investigation pursuant to the petition filed by Interstate on November 17, 1943. Interstate stated that it did not desire to appear on the ballot in any election the Board might direct. The Trial Examiner reserved rulings for the Board on this motion; the motion to dismiss is hereby denied.

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.² 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

Rome Cable Corporation is a New York corporation having its office and plant in Rome, New York. It is engaged in the manufacture and processing of bare and insulated wires, cables, and special projects of ignition leads. During the last fiscal year, it used, at its Rome, New York, plant raw materials valued at in excess of \$10,000,000, of which approximately 90 percent represents shipments made to the Rome, New York, plant, from points outside the State of New York. During the same period, the Company manufactured at its Rome, New York, plant, finished products valued at in excess of \$16,000,000, of which approximately 90 percent represents shipments to points outside the State of New York.

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 Machinists, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

Interstate Copper and Brass Workers Union, affiliated with Confederated Unions of America, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the I. A. M. as the exclusive bargaining representative of its maintenance and yard employees until the I. A. M. has been certified by the Board in an appropriate unit.

² Subsequent to the hearing, the Company filed a motion to correct the record. There were objections thereto by the I. A. M. Since there appears to be nothing prejudicial to the interest of the I. A. M., in the corrections requested by the Company, the motion is hereby granted.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the I. A. M., represents a substantial number of employees in the unit hereinafter found appropriate.³

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 I. A. M. petitions for a unit comprising all the maintenance employees of the Company, including machinists, machinists' helpers, mechanics, mechanics' helpers, toolmakers, plumbers, electricians, carpenters, oilers, firemen, reel-shop employees, yard labor, but excluding foremen, assistant foremen, and all other supervisors. The Company contends that the only unit appropriate would be one including both the production and maintenance employees. The maintenance employees are in a building separate from that housing all production workers, with exception of the receiving department which is connected with the maintenance building. The maintenance employees have a separate locker room, a separate time clock for their use, and are under the separate supervision of the master mechanic and the maintenance foremen. They are all paid on an hourly basis, whereas the majority of the production employees are paid on a piece work basis. There is little or no interchange between the maintenance and production employees. We have held that maintenance employees can function separately from the production employees for the purposes of collective bargaining.⁴ In view of the foregoing, we are of the opinion that the employees here involved likewise constitute a separate appropriate unit.

We find that all maintenance employees, including machinists, machinists' helpers, mechanics, mechanics' helpers, toolmakers, plumbers, electricians, electricians' helpers, welders, carpenters, oilers, firemen, reel-shop employees and yard labor, but excluding foremen, assistant 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.

³ The Field Examiner reported that the I. A. M. submitted 83 authorization cards; that the names of 78 persons appearing on the cards were listed on the Company's pay roll of June 17, 1944, which contained the names of 117 employees in the appropriate unit; and that the cards were dated May and June 1944.

⁴ *Matter of Rohme & Haas Company*, 51 N. L. R. B. 1232, *Matter of American Steel Foundries*, 51 N. L. R. B. 78; *Matter of Fisher Cleveland Aircraft Division, General Motors Corporation*, 53 N. L. R. B. 657.

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

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 Rome Cable Corporation, Rome, New York, 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 Third 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 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 election, to determine whether or not they desire to be represented by International Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining.