

In the Matter of SCOTT & WILLIAMS, INCORPORATED and AMERICAN
FEDERATION OF HOSIERY WORKERS (T. W. U. A.-C. I. O.)

Case No. 1-R-1979.—Decided September 14, 1944

Herrick, Smith, Donald, Farley & Ketchum, by *Mr. Henry L. Mason, Jr.*, of Boston, Mass., for the Company.

Mr. Francis B. Ertel, of Franklin, N. H., for the C. I. O.

Mr. Harold F. Reardon, of Boston, Mass., for the I. A. M.

Mr. Julius Kirle, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by American Federation of Hosiery Workers (T. W. U. A.-C. I. O.), herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Scott & Williams, Incorporated, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Leo J. Halloran, Trial Examiner. Said hearing was held at Laconia, New Hampshire, on August 8, 1944. The Company, the C. I. O., and International Association of Machinists, A. F. L., herein called the I. A. M., 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

Scott & Williams, Incorporated, a Massachusetts corporation, operates three plants at Laconia, New Hampshire. It is engaged in the manufacture of finished assemblies and aircraft accessories, as well as

hosiery-knitting machinery. Approximately 95 percent of its production is devoted to war work. During the year 1943, the Company used raw materials in excess of \$1,000,000, over 80 percent of which was shipped to its three plants from points outside the State of New Hampshire. During the same period, the Company's finished products were in excess of \$12,000,000, more than 80 percent of which was shipped to points outside the State.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

American Federation of Hosiery Workers (T. W. U. A.-C. I. O.), affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

International Association of Machinists, affiliated with the American Federation of Labor, 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 C. I. O., as the exclusive bargaining representative of certain employees, until the C. I. O. has been certified by the Board in an appropriate unit.¹

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. 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 parties are in general agreement that the appropriate unit should comprise all production and maintenance employees at the Laconia plants, of the Company, excluding executives, supervisors (including foremen and subforemen), office, clerical, time-study and estimator employees, nurses, guards, watchmen, draftsmen and tool

¹ The Company and the I. A. M. entered into a contract on August 5, 1943, which was to expire on July 1, 1944. On June 19, 1944, the C. I. O. requested recognition as the exclusive bargaining agent. On July 24, 1944, the Company and the I. A. M. extended their contract until December 31, 1944, subject to termination upon the Board's determination of the exclusive bargaining agent. Neither the Company nor the I. A. M. contends that the contract is a bar to the instant proceeding.

² The Board agent reported that the C. I. O. submitted 398 cards all of which bore apparently genuine original signatures; that the names of all persons appearing on the cards were not checked against the pay roll and that the cards were dated as follows: 4 in March 1944, 7 in May 1944, 368 in June 1944, and 19 were undated. There are approximately 1,522 employees in the appropriate unit.

designers, experimental department, telephone operators and salesmen. The Company, however, would also exclude timekeepers, inspectors, truck drivers and powerhouse employees, since they were excluded in its contract with the I. A. M. The I. A. M., although admitting that these classifications are specifically excluded from the unit covered by the contract, now seeks, as does the C. I. O., to include them.

Timekeepers: There are 95 timekeepers. While these employees have a desk in the department where they are located, they are on the office pay roll. They record the work done by productive and non-productive employees, for pay roll purposes, and also furnish this information to the cost department. They are responsible to the factory accountant and through him to the financial division and company treasurer. While they are hourly paid employees and punch a time clock, they do not engage in production work. Since their duties are largely of a clerical nature and are dissimilar to those of the regular production and maintenance employees, in accordance with our usual practice, we shall exclude them.

Inspectors: It is the duty of the inspectors to examine the Company's product in all stages of production in order to maintain its quality. Although they are under the separate supervision of a Chief Inspector and are not engaged in manual labor, they work in all departments of the plant in close proximity with the production workers. They are also hourly paid, and their department is carried as a division of the factory pay roll. In view of their common interests with the production workers, we shall include the inspectors.³

Truck drivers: There are 12 truck drivers. They transport material between the 3 plants and also deliver and pick up first class mail and parcel post. They receive a straight hourly pay without bonus, punch a time clock, and are on the factory pay roll as part of the maintenance group. We shall include them.

Powerhouse employees: There are five powerhouse employees. They are all firemen and come under the direct supervision of the supervisor of maintenance. Their duties consist of firing the boilers, and filling up the hoppers for the coal stokers. They are hourly paid, punch a time clock, are on the factory pay roll and enjoy the same vacation periods as the production employees. We shall include them.

We find that all production and maintenance employees at the Laconia, New Hampshire, plants, of the Company, including inspectors, truck drivers and powerhouse employees, but excluding office and clerical employees, guards, watchmen, timekeepers, draftsmen, and tool designers, nurses, experimental department employees, telephone operators, time-study and estimator employees, salesmen, ex-

³ See *Matter of Westinghouse Electric & Manufacturing Company*, 45 N. L. R. B. 826.

ecutives, foremen, assistant foremen, and all or any 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 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 Scott & Williams, Incorporated, Laconia, New Hampshire, 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 First 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 they desire to be represented by American Federation of Hosiery Workers (T. W. U. A.-C. I. O.), or by International Association of Machinists, A. F. L., for the purposes of collective bargaining, or by neither.