

In the Matter of AMERICAN STEEL AND WIRE COMPANY and UNITED
STEELWORKERS OF AMERICA (C. I. O.)

Case No. 1-R-1981.—Decided September 14, 1944

Mr. Frank C. Manak, of Cleveland, Ohio, for the Company.
Mr. Harold B. Roitman, of Boston, Mass., for the Union.
Mr. Herbert C. Kane, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of American Steel and Wire Company, Worcester, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John W. Coddair, Jr., Trial Examiner. Said hearing was held at Worcester, Massachusetts, on August 8, 1944. The Company and the Union 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

American Steel & Wire Company is a New Jersey corporation engaged, primarily, in the production of various wire products and other iron and steel products, which it manufactures and sells in commerce within the meaning of the National Labor Relations Act.

The Company operates 15 works, the Worcester South Works being the only one involved in this proceeding. In a normal year the

Worcester South Works uses raw materials exceeding \$1,000,000 in value, approximately all of which is purchased from points outside the Commonwealth of Massachusetts. The finished products of the Worcester South Works, during the same period, exceed \$5,000,000 in value, approximately 70 percent of which is shipped to points outside the Commonwealth of Massachusetts.

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, affiliated with the Congress of Industrial Organizations, 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 Union as the exclusive bargaining representative of the hospital attendants of the Company until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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 Union, which now represents the production and maintenance employees of the Company in one unit and the office and clerical employees in another, desires all hospital attendants, except supervisors, be included as part of the office and clerical employees unit, or, in the alternative, that these employees be adjudged a separate appropriate unit. The Company contends that these employees cannot be included within either category, claiming that they are confidential employees, have interests closely identified with management in problems of labor relations as part of the Industrial Relations Department, and have not been included in any unit asked for by the Union in any other plant of the Company. There is also a question concerning the supervisory authority of the head nurse.

The hospital attendants are all registered nurses employed in the dispensary, which is located in a separate building. They administer

¹The Field Examiner reported that the Union submitted seven authorization cards; that there are eight employees in the appropriate unit; and that the cards were dated **June 1944**.

first aid, some therapeutic treatment, assist in making physical examinations, and keep records thereof and of injuries and treatments. They work under the direction of the physician, who spends part of each weekday at the dispensary and who is on 24-hour call, and, on his orders, visit employees at their homes and provide nursing care. They maintain the dispensary, its equipment and supplies.

Although these employees have access to the personnel records of the employees of the Company, in the ordinary course of their duties they are concerned only with those records which have to do with the health of the employees and not those having to do with the labor relations of the Company. We find, accordingly, that they are not confidential employees. They constitute a well defined professional group whose training, skill, duties, and interests differ from those of the office and clerical employees, and whom we have held may constitute an appropriate bargaining unit.²

The head nurse is in charge of the weekly work schedules for the nurses, is responsible for the ordering of supplies and supervises the keeping of records. The evidence shows that he makes effective recommendations regarding the hire and discharge of the nurses under his supervision. We find that he is a supervisory employee within our usual definition; we shall exclude him from the unit.

We find that all hospital attendants, excluding the head nurse 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 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

² *Matter of Hudson Motor Car Company*, 45 N. L. R. B. 55; *Matter of Electric Auto-Lite Company*, 50 N. L. R. B. 68; *Matter of Consolidated Vultec Aircraft Corporation*, 56 N. L. R. B. 1785.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with American Steel and Wire Company, Worcester, Massachusetts, 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 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 (C. I. O.), for the purposes of collective bargaining.

[See *infra*, 58 N. L. R. B. 1166 for Supplemental Decision and Direction.]