

In the Matter of REICHHOLD CHEMICALS, INCORPORATED, and INTERNATIONAL ASSOCIATION OF MACHINISTS, LOCAL 455, A. F. L.

In the Matter of REICHHOLD CHEMICALS, INCORPORATED, and FEDERAL LABOR UNION, LOCAL 23,618, A. F. L.

Cases Nos. 10-R-1281 and 10-R-1280 respectively.—Decided October 11, 1944

Messrs. Carl B. Fritsche, Carl H. B. Jarl, and William O. Fetterly, of Tuscaloosa, Ala., for the Company.

Mr. Paul Chipman, of Atlanta, Ga., Mr. Jack H. Crunk, of Birmingham, Ala., and Mr. James L. Fisher, of Holt, Ala., for the IAM.

Mr. G. S. Elkins, of Holt, Ala., and Mr. M. B. Scarbrough, of Birmingham, Ala., for the Federal.

Mr. Paul Bisgyer, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by International Association of Machinists, Local 455, A. F. L., herein called the IAM, and Federal Labor Union, Local 23,618, A. F. L.,¹ herein called the Federal, alleging that a question affecting commerce had arisen concerning the representation of employees of Reichhold Chemicals, Incorporated, Tuscaloosa, Alabama, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before T. Lowry Whittaker, Trial Examiner. Said hearing was held at Tuscaloosa, Alabama, on September 6, 1944. The Company, the IAM, and the Federal 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.

¹ Name as amended at the hearing.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Reichhold Chemicals, Incorporated, is a Delaware corporation with its principal office and place of business in Detroit, Michigan. It operates plants in Michigan, Alabama, New York, New Jersey, and California. At its Tuscaloosa, Alabama, plant, with which we are solely concerned in this proceeding, the Company is engaged under war contracts in the production of phenol used in the manufacture of high explosives. For the past 12-month period, the Company purchased for its Tuscaloosa, Alabama, plant, raw materials valued in excess of \$1,000,000, of which approximately 80 percent came from points outside the State of Alabama. For the same period, the Company's products finished at said plant, exceeded \$1,000,000 in value, of which approximately 90 percent was sold and shipped to points outside the State of Alabama.

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, Local 455, and Federal Labor Union, Local 23,618, both affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Company has refused to recognize the IAM as the exclusive bargaining representative of certain of its employees, and has likewise refused to recognize the Federal as the exclusive bargaining representative of other of its employees, until the IAM and the Federal have been certified by the Board in appropriate units.

Statements of a Board Field Examiner, introduced into evidence at the hearing, indicate that the IAM and the Federal represent a substantial number of employees in their respective units hereinafter found appropriate.²

² The Field Examiner reported that the IAM submitted 35 authorization cards bearing the names of persons appearing on the Company's pay-roll of August 20, 1944, which contained the names of 42 employees in the alleged appropriate unit of Maintenance Department employees.

He also reported that the Federal submitted 74 authorization cards, bearing the names of persons appearing on the Company's pay-roll of August 20, 1944, which contained the names of 120 employees in the alleged appropriate residual unit.

We find that questions affecting commerce have 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 UNITS

The IAM and the Federal have agreed to their respective spheres of jurisdiction among the Company's employees. Accordingly, the IAM seeks to represent a unit of all non-supervisory employees in the Company's Maintenance Department, including the instrument technician and his apprentices, but excluding the maintenance engineers. The Federal, on the other hand, desires to represent a unit of all employees in the Company's Production Department, Labor Department, and Boilerhouse, and the shipping and receiving clerk, excluding clerical and office employees, plant guards,³ laboratory employees, Production Department supervisors, the Labor Department yardmaster, and other supervisory personnel. Thus, it clearly appears that there is no overlapping of jurisdiction between the two unions. The Company, asserting that two units would be inconvenient for bargaining purposes and handling grievances, and may cause possible jurisdictional disputes between the unions at some future time, proposes a single unit of all the employees involved herein. Yet, the Company's plant superintendent, William Fetterly, called as a Board witness, testified that he knew no reason why the two units sought by the unions herein could not be separately formed and administered. We have examined the record and are persuaded that there is no merit in the Company's position, and that, in fact, the two units sought will serve to insure to the employees therein the full benefit of their rights under the Act to self-organization and collective bargaining.

As mentioned above, the IAM requests a unit of all non-supervisory employees in the Company's Maintenance Department, including the instrument technician and his apprentices. This department is housed in one of the Company's five buildings in which a storeroom is also located. Its highly skilled and experienced employees and their helpers perform the installation, maintenance, and repair work required in the plant. With the exception of the instrument technician⁴ and his two apprentices, these employees are under the supervision of two maintenance engineers. Not only do the Maintenance Department employees receive a higher level of wages than other workers, but, unlike the production employees who work "around-the-

³ They are militarized.

⁴ He is a highly skilled electrician who attends to the electrical work in the plant, and is responsible to the plant superintendent. His office is in the same building as the Maintenance Department. There is no dispute with respect to his inclusion in the unit. Although there are two apprentices under him, his relationship to them appears to be no more than that of a craftsman to his helpers. He is regarded by the employer merely as a skilled technician.

clock" 7 days a week, they work one regular shift, 6 days a week. Moreover, there is no interchange of personnel between the Maintenance Department and other departments, although an employee who has shown a certain ability may be transferred permanently to the Maintenance Department. Since it is apparent that the unit sought by the IAM embraces a well-defined, homogeneous group of employees, we find such a unit appropriate.⁵

Turning to the unit requested by the Federal, this union would include therein all the non-supervisory employees in the Company's Production Department, Labor Department, and Boilerhouse, and the shipping and receiving clerk. The record demonstrates that the functions of these departments and the shipping and receiving clerk are interrelated and interdependent. Thus, the Production Department performs the actual manufacturing processes; the Labor Department unloads from railroad cars raw materials used by the Production Department, and loads railroad cars with the finished products and by-products; and the shipping and receiving clerk, among other things, weighs incoming shipments of raw materials, and outgoing shipments of finished products. In view of the foregoing facts, we are of the opinion that the unit sought by the Federal is also appropriate.

We find that the following units are appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

1. All the employees in the Company's Maintenance Department at its plant at Tuscaloosa, Alabama, including the instrument technician and his apprentices, but excluding maintenance engineers, 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;

2. All the employees in the Company's Production Department, Labor Department, and Boilerhouse, and the shipping and receiving clerk at its plant at Tuscaloosa, Alabama, but excluding clerical and office employees, plant guards, laboratory employees, Production Department supervisors, the Labor Department yardmaster, 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.

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 appropriate units who were employed during the

⁵ *Matter of White-Rodgers Electric Company*, 58 N. L. R. B. 312.

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 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 Reichhold Chemicals, Incorporated, Tuscaloosa, Alabama, 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 Tenth 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 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 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 elections, (1) to determine whether or not the employees in the unit described in paragraph 1 of Section IV, above, desire to be represented by International Association of Machinists, Local 455, A. F. L., for the purposes of collective bargaining; and (2) to determine whether or not the employees in the unit described in paragraph 2 of Section IV, above, desire to be represented by Federal Labor Union, Local 23,618, A. F. L., for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Elections.