

In the Matter of PACIFIC TUBE COMPANY and CENTRAL LABOR COUNCIL
ORGANIZING COMMITTEE

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ORGANIZING COMMITTEE

*Cases Nos. 21-R-2461 and 21-R-2462, respectively.—Decided
October 17, 1944*

*O'Melveny & Myers, by Mr. W. B. Carman, Jr., of Los Angeles,
Calif., for the Company.*

*Messrs. W. J. Bassett and C. C. Liles, of Los Angeles, Calif., for the
Committee.*

Mr. Gilbert C. Anaya, of Los Angeles, Calif., for the U. S. A.

Mr. W. A. McGowan, of Los Angeles, Calif., for the Association.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon separate petitions duly filed by Central Labor Council Organizing Committee, A. F. of L., herein called the Committee, alleging that questions affecting commerce had arisen concerning the representation of employees of Pacific Tube Company, Los Angeles, California, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Los Angeles, California, on September 13, 1944. At the commencement of the hearing the Trial Examiner granted motions of United Steelworkers of America, District 38, C. I. O., herein called the U. S. A., and Pacific Tube Company Employees Independent Association, herein called the Association, to intervene. The Company, the Committee, the U. S. A., and the Association appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing counsel for the Company moved to

dismiss both petitions. The Trial Examiner reserved rulings thereon. The motions are hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded 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

Pacific Tube Company is a Delaware corporation operating a plant at Los Angeles, California, where it is engaged in the manufacture of seamless steel tubing. During 1943 the Company purchased about 6,200 tons of raw materials to use at its Los Angeles plant, all of which was shipped to it from points outside the State of California. During the same period the Company sold products from its Los Angeles plant, valued at about \$1,500,000, all of which was sold to the United States Navy, airplane manufacturers, and oil refinery companies.

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

II. THE ORGANIZATIONS INVOLVED

Central Labor Council Organizing Committee is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

United Steelworkers of America, District 38, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Pacific Tube Company Employees Independent Association is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

On June 1, 1944, the Committee requested the Company to recognize it as the exclusive collective bargaining representative of the two groups of employees involved herein. The Company refused this request on the ground that it was operating under a contract with the Association covering certain of the employees.

On September 18, 1943, the Company and the Association entered into an exclusive bargaining contract covering the production and maintenance employees. Said contract has no expiration date but states that it may be terminated at any time prior to October 1, 1944, upon written notice of either party thereto. Inasmuch as the contract has been in effect for over a year and is for an indefinite period of time,

we find that it does not constitute a bar to a determination of representatives at this time.

Statements of a Field Examiner of the Board, introduced into evidence at the hearing, indicate that the Committee and the Association each represents a substantial number of employees in the production and maintenance unit hereinafter found to be appropriate and that the Committee represents a substantial number of employees in the officers and guards unit.¹

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

We find, in substantial accord with a stipulation of the parties, that all production and maintenance employees at the Los Angeles plant of the Company, including storeroom and toolroom employees, but excluding special officers and guards, office and clerical employees, and all 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.

The Committee, in addition, urges that a separate unit of special officers and guards at the Los Angeles plant of the Company, excluding supervisors, constitutes an appropriate bargaining unit. The Company stated that it doubted the propriety of setting up such employees as a bargaining unit. The special officers and guards are armed, uniformed, and sworn as Auxiliary Military Police. However, they are hired and discharged by the Company and carried on its regular pay roll. Despite the peculiar relationships which plant protection employees bear to management, they are not to be denied any of the rights and privileges granted under Section 7 of the Act.²

We find that all special officers and guards at the Los Angeles plant of the Company, excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute

¹ The Field Examiner reported that the Committee and the Association presented 63 and 96 authorization cards respectively, bearing the names of persons who appear on the Company's production and maintenance pay roll of August 10, 1944. There are approximately 210 employees in the production and maintenance unit. He further reported that the U. S. A. presented 32 membership application cards bearing the names of persons on the August 10, 1944, production and maintenance pay roll. The Field Examiner also reported that the Committee presented 4 authorization cards bearing the names of persons who appear on the Company's August 10, 1944, officers and guards pay roll. There are 4 employees in the officers and guards unit.

² See *Matter of Chrysler Corporation, Highland Park Plant*, 44 N. L. R. B. 881.

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 Elections 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 Pacific Tube Company, Los Angeles, California, 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 Twenty-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 following groups of employees of the Company 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 any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election:

(1) To determine whether the employees in the production and maintenance unit described in Section IV, above, desire to be represented by Central Labor Council Organizing Committee, A. F. of L., or by United Steelworkers of America, District 38, C. I. O., or by Pacific Tube Company Employees Independent Association, for the purposes of collective bargaining, or by none of said organizations;

(2) To determine whether or not the employees in the officers and guards unit described in Section IV, above, desire to be represented by Central Labor Council Organizing Committee, for the purposes of collective bargaining.

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