

In the Matter of MORRIS, WHEELER & Co., INC.<sup>1</sup> and UNITED ELECTRICAL  
RADIO & MACHINE WORKERS OF AMERICA, CIO

Case No. 4-R-1504.—Decided October 20, 1944

*Messrs. John F. E. Hippel and H. C. Cluley, Jr.*, of Philadelphia, Pa., for the Company.

*Mr. Samuel Goldberg*, of Philadelphia, Pa., for the CIO.

*Mr. Leonard Michael Propper*, of Philadelphia, Pa., for the Association.

*Mr. Raymond C. Adams*, of Philadelphia, Pa., for the A. F. of L.

*Miss Ruth Rusch*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio & Machine Workers of America, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Morris, Wheeler & Co., Inc., Philadelphia, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Herman Lazarus, Trial Examiner. Said hearing was held at Philadelphia, Pennsylvania, on September 12, 1944. The Company, the CIO, the Employees Representation Association of Morris, Wheeler & Co., Inc., herein called the Association, and Shopmen's Local Union No. 502, International Association of Bridge, Structural & Ornamental Iron Workers, A. F. of L., herein called the A. F. of L., appeared and participated.<sup>2</sup> 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 hear-

<sup>1</sup> All the formal papers were corrected to show the proper name of the Company as set forth above.

<sup>2</sup> At the beginning of the hearing, the Trial Examiner granted motions to intervene made by the Association and the A. F. of L.

Warehousemen's Local 169, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, also notified of the hearing, did not appear.

ing 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

The Company is a Pennsylvania corporation engaged in a general iron and steel warehousing and structural steel fabricating business. During the course of a year, the Company purchases structural steel amounting to more than \$100,000 in value, of which approximately 30 percent is shipped from sources outside the Commonwealth of Pennsylvania. In the same period the Company sells steel amounting to more than \$1,000,000 in value, of which 50 percent is shipped to points outside the Commonwealth of Pennsylvania.

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

#### II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio & Machine Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

The Employees Representation Association of Morris, Wheeler & Co., Inc., is a labor organization, admitting to membership employees of the Company.

Shopmen's Local No. 502, International Association of Bridge, Structural & Ornamental Iron Workers, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

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

A statement of a Field Examiner, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.<sup>3</sup>

<sup>3</sup> The Field Examiner reported that the CIO submitted 52 authorization cards, 46 of which bore the names of persons appearing on the Company's pay roll of August 11, 1944, which contained the names of 114 employees in the appropriate unit. The cards were dated as follows: 1 in June (no year shown); 37 in June 1944, 1 in July 1944, and 7 undated.

The Association has represented the employees in the unit involved herein for several years, and held a contract covering them which has recently expired. This contract,

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

We find, in accordance with the stipulation of the parties and the record, that the Company's production and maintenance employees including watchmen and guards,<sup>4</sup> but excluding general office employees, fabrication shop employees, truck drivers, the burner leader, executive officers, foremen, 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.<sup>5</sup>

#### 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 Election herein, subject to the limitations and additions set forth in the Direction. We shall make no provision for the A. F. of L. to appear on the ballot since it intervened in the proceedings only for the purpose of protecting its interest as the bargaining representative of the Company's fabrication shop employees, and, at the hearing, disclaimed all interest in the unit herein found appropriate.

In accordance with the request made by the CIO at the hearing, we shall designate it on the ballot as U. E.-CIO.

#### 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 Morris, Wheeler & Co., Inc., Philadelphia, Pennsylvania, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30)

which was received in evidence at the hearing, indicates the Association's interest in the proceeding.

<sup>4</sup> The record indicates that the guards are not militarized.

<sup>5</sup> This is substantially the same unit as that covered by the Association's contract.

days from the date of this Direction, under the direction and supervision of the Regional Director for the Fourth 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 they desire to be represented by U. E.-CIO, or by Employees Representation Association of Morris, Wheeler & Co., Inc., for the purposes of collective bargaining, or by neither.