

IN THE MATTER OF HILLSDALE STEEL PRODUCTS DIVISION OF SPICER  
MANUFACTURING CORPORATION *and* UNITED AUTOMOBILE WORKERS  
OF AMERICA, A. F. L.

*Case No. 7-R-1769.—Decided October 27, 1944*

*Messrs. Marshall, Melhorn, Wall, and Bloch, by Mr. Arnold F. Bunge, of Toledo, Ohio, and Mr. Lloyd J. Haney, of Toledo, Ohio, for the Company.*

*Mr. Oliver E. Starks, of Lansing, Mich., for the Union.*

*Mr. David V. Easton, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by United Automobile Workers of America, A. F. L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Hillsdale Steel Products Division of Spicer Manufacturing Corporation, Hillsdale, Michigan, herein called the Company,<sup>1</sup> the National Labor Relations Board provided for an appropriate hearing upon due notice before Cecil Pearl, Trial Examiner. Said hearing was held at Hillsdale, Michigan, on September 8 and 29, 1944. The Company and the Union appeared, participated, and 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

Spicer Manufacturing Corporation, a Virginia corporation, owns and operates a plant at Hillsdale, Michigan, designated as Hillsdale

<sup>1</sup> The Company moved at the hearing to amend all papers in this proceeding to reflect the correct name of the Company. The motion was granted by the Trial Examiner, and all papers were amended in accordance therewith.

Steel Products Division of Spicer Manufacturing Corporation.<sup>2</sup> It is engaged at its Hillsdale Division in the production of power take-offs and automotive parts. The Company purchases annually for use at the Hillsdale Division raw materials, consisting principally of steel, iron, and bronze materials, and parts, valued at approximately \$450,000, of which about 90 percent is shipped to the Hillsdale Division from points outside the State of Michigan. The Company sells annually finished products manufactured at the Hillsdale Division, valued at more than \$2,000,000, of which approximately 75 percent is shipped to points outside the State of Michigan.

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

## II. THE ORGANIZATION INVOLVED

United Automobile Workers of America 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 Union as the exclusive bargaining representative of certain of its employees until the Union has been certified by the Board in an appropriate unit.

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

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, currently the representative of the production and maintenance employees, seeks a unit comprised of all office and clerical employees of the Company, including time-study and process men, but excluding the plant manager, employment manager and his secretary (employment clerk), employment supervisor, assistant employment supervisors, superintendents, foremen, paymaster, time-study supervisor, and all other supervisory employees as defined by the Board's

<sup>2</sup> See *Matter of Spicer Manufacturing Corporation*, 55 N L R B 1491.

<sup>3</sup> The Regional Director reported that the Union submitted 32 application cards, all of which bore apparently genuine original signatures; and that the names of 28 persons appearing on the cards were listed on the Company's pay roll dated July 23, 1944, which contained the names of 40 employees in the proposed unit.

customary definition.<sup>4</sup> The Company contends that time-study and process men should be excluded from a unit of office and clerical workers on the ground that they are professional and technical employees performing managerial functions. It further contends that the assistant production manager, the traffic manager, the process foreman, and supervisors of Schedules, Material Purchase and Follow-up, and Tool Purchase Departments are supervisors, whereas the Union contends that they are not.<sup>5</sup> In addition, it seeks, over opposition by the Union, the exclusion of the stenographer in the Material Purchase and Follow-up Department on the ground that she is a confidential employee.<sup>6</sup>

The three time-study men engaged by the Company perform the duties usual to this classification. They set the rates for work operations, and, as part of their duties, attempt to "sell" the rates they establish to the operators and union stewards. In the event of a failure to secure acceptance of their proposed rates, these employees sit in with management as assistants in the conduct of grievances with the Union arising from rate determinations. We shall exclude them.<sup>7</sup>

The record indicates that process men are required to possess a knowledge of machinery, mechanics, tools, and metals, and, in a prior case,<sup>8</sup> we found that these employees were more properly represented as part of a technical and professional unit rather than an office and clerical unit. Accordingly, we shall exclude them.

The record indicates that the assistant production manager, the traffic manager, the supervisor of the Schedules Department, the supervisor of the Material Purchase and Follow-up Department, the supervisor of the Tool Purchase Department, and the process foreman possess the authority either to hire and discharge or to make effective recommendations affecting the status of subordinates. Each of these employees exercises such supervisory functions over two or more subordinates. Under these circumstances, we are of the opinion that they are supervisory employees within the meaning of our customary definition, and we shall exclude them.

The record indicates that a stenographer in the Material Purchase and Follow-up Department, besides performing the necessary following-up on non-productive items and entering invoices, takes dictation

<sup>4</sup> See *Matter of Douglas Aircraft Company, Inc*, 50 N L R B 784

<sup>5</sup> There is, apparently, no dispute with respect to the exclusion of the production manager. Although no specific contention concerning this employee is made by either party, the record clearly indicates his supervisory status.

<sup>6</sup> In stating its contention with respect to the appropriate unit, the Company requested the exclusion of "all confidential or private secretaries to department heads or executives or administrative officers." The record indicates that this employee is the only one who is the subject of dispute between the Union and the Company.

<sup>7</sup> *Matter of Oliver Farm Equipment Company*, 53 N L R B. 1078, *Matter of J. H. Williams & Co*, 57 N L R B 634

<sup>8</sup> *Matter of Spicer Manufacturing Company*, *supra*.

from the production manager and the plant manager, part of which concerns relations between the Company and its employees. The record further indicates that this employee looks to the production manager for directions with respect to her duties. Under these circumstances, we are of the opinion that this employee is confidential, and we shall exclude her.<sup>9</sup>

Accordingly, we find that all office and clerical employees of the Company, excluding time-study and process men, the stenographer in the Material Purchase and Follow-up Department, secretary (employment clerk) to the employment manager, the production manager, the assistant production manager, the plant manager, superintendents, foremen, paymaster, employment manager, employment supervisor, assistant employment supervisors, time-study supervisor, traffic manager, process foreman, supervisors of the Schedules, Material Purchase and Follow-up, and Tool Purchase Departments, 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

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Hillsdale Steel Products Division of Spicer Manufacturing Corporation, Hillsdale, Michigan, 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 Seventh Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections

<sup>9</sup> See *Matter of General Cable Corporation*, 55 N. L. R. B. 1143.

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 or not they desire to be represented by United Automobile Workers of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.