

In the Matter of SENECA FALLS MACHINE COMPANY and UNITED STEEL-
WORKERS OF AMERICA—C. I. O.

Case No. 3-R-863.—Decided October 27, 1944

Fraser Brothers, by *Mr. Henry S. Fraser*, of Syracuse, N. Y., for the Company.

Mr. Bert Danquer, of Syracuse, N. Y., for the Steelworkers.

Mr. Harry I. Smith, of Buffalo, N. Y., and *Clark H. Goodrich*, of Seneca Falls, N. Y., for the I. A. M.

Mr. Paul Bisgyer, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America—C. I. O., herein called the Steelworkers, alleging that a question affecting commerce had arisen concerning the representation of employees of Seneca Falls Machine Company, Seneca Falls, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Syracuse, New York, on October 2, 1944. The Company, the Steelworkers, and International Association of Machinists, American Federation of Labor, herein called the I. A. M.,¹ 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. At the close of the hearing, the Company moved to dismiss the Steelworkers' petition and the I. A. M.'s "petition, if any." The Trial Examiner referred the motions to the Board for determination. For reasons appearing in Section III, *infra*, the motions are denied. 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 Over the Company's objection, the Trial Examiner granted the I. A. M.'s motion to intervene.

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

FINDINGS OF FACT

I THE BUSINESS OF THE COMPANY

Seneca Falls Machine Company, a Massachusetts corporation, is normally engaged in the manufacture of machine tools at its plant in Seneca Falls, New York. At the present time, it is also engaged under a special war contract in the production of shells. During 1943, the Company used at said plant raw materials exceeding \$100,000 in value, of which more than 10 percent represents shipments from points outside the State of New York. During the same period, products finished at said plant exceeded \$200,000 in value, of which more than 50 percent was shipped to points outside that State.

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

II. THE ORGANIZATIONS INVOLVED

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

International Association of Machinists, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated August 8, 1944, the Steelworkers notified the Company that it represented a majority of its employees and requested a conference for the purpose of negotiating an agreement. On August 14, 1944, the Company refused the Steelworkers' request:

A statement of a Board Field Examiner, introduced into evidence at the hearing, indicates that the Steelworkers represents a substantial number of employees in the unit it alleges to be appropriate.²

² The Field Examiner reported that the Steelworkers and the I A M submitted 172 and 30 authorization cards, respectively, and that the alleged appropriate unit contained approximately 250 employees. Since the Company refused to furnish prior to the hearing, a pay-roll list of employees against which a check of the authorization cards could be made, the Field Examiner was unable to do so. In view of this fact, the Trial Examiner stated on the record that, after the close of the hearing, he would make the check against the pay-roll lists of employees which were put in evidence by the Company, and report the results of the investigation to the Board as part of the record. Accordingly, subsequent to the hearing, the Trial Examiner filed an Amended Report on Investigation of Interest of Contending Labor Organizations, which shows as follows:

(1) That the Steelworkers submitted 166 authorization cards bearing the names of persons appearing on the Company's pay roll of September 23, 1944, which contained the names of 255 employees in the alleged appropriate unit.

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 DETERMINATION OF REPRESENTATIVES

The Steelworkers seeks a unit of all the Company's production and maintenance employees, including stationary firemen, and group leaders, but excluding office and clerical employees, watchmen, guards, engineering department employees, superintendents, foremen, assistant foremen, and all other supervisory employees. The I. A. M. requests a unit of all the production and maintenance employees in the machine shop, including stationary firemen, but excluding group leaders, and all supervisory personnel. Except for stationary firemen and group leaders whom the Company would exclude, the Company approves the unit sought by the Steelworkers.

The Company's plant consists of a foundry and machine shop housed in separate buildings, but which are connected to each other by a passageway.³ The entire plant is operated as a functional unit under the supervision of the general manager. Below the general manager in the supervisory hierarchy is a superintendent in charge of the foundry, and another superintendent in charge of the machine shop, both of whom are independent of each other. The foundry makes castings from which shells and machine tools are fashioned in the machine shop, and the machine shop occasionally makes some equipment for the foundry. The foundry also makes castings, apparently on a small scale, for the Company's customers without the per-

(2) That the I A M submitted 33 authorization cards bearing the names of persons appearing on the same pay roll

The record indicates that there are approximately 230 employees in the unit sought by the I A M

The Company moves for dismissal of the Steelworkers petition and the I A M's "petition, if any" on the ground that no admissible evidence was presented establishing that either union was designated by the Company's employees as their representative. It argues that the above-mentioned reports of the Field and the Trial Examiners are hearsay and not the best evidence, and to accord them the weight of competent evidence of the statements contained therein without affording the Company an opportunity to cross-examine the Field and Trial Examiners and to inspect the authorization cards described therein, would violate its rights guaranteed by the Fifth Amendment to the Constitution. We find no merit in these contentions. "As we have frequently stated, the report of a Board agent with respect to a claim of authorization for the purposes of representation is taken, not as proof of the precise number of employees who desire to be represented by a labor organization, but rather to protect the Company and the Board from unfounded claims by such organizations and to give reasonable assurance that a substantial number of employees desire to be so represented." *Matter of Amos-Thompson Corporation*, 49 N. L. R. B. 423, 425 (footnote). Furthermore, "The submission of cards is an administrative expedient adopted by the Board to determine for itself whether or not a question concerning representation has arisen. It is a part of the Board's investigatory procedure." *Matter of Buffalo Arms Corporation*, 57 N. L. R. B. 1560.

³ For want of space, the Company also occupies temporarily a steel room in another part of Seneca Falls, where two or three of its employees work

formance of any machining process by the machine shop. The employees of the foundry and machine shop punch the same time clock, are included in the same pay roll, have the same vacation privileges, are subject to the same group insurance plan, and normally work the same hours. While permanent transfers of personnel from one shop to the other are rare, yet, when one shop is short-handed the other may furnish the required assistance.

The foregoing facts clearly demonstrate that, because of the integrated character of the Company's operations, a single production and maintenance unit of all the Company's employees could be found to be appropriate for collective bargaining purposes. On the other hand, in view of the substantial difference in the kind of work performed by the foundry employees and the machine shop employees, it is apparent that each group may properly constitute a separate unit. Accordingly, we shall first ascertain the desires of the employees themselves before making a final determination with respect to the appropriate unit.

We now turn to a consideration of the disputed categories of employees.

Stationary Firemen: With the onset of cold weather, the Company anticipates hiring two or three stationary firemen to attend to the heating of the plant. They will work in the boiler room which is located in the foundry. However, they will come under machine shop supervision. While the Steelworkers would include stationary firemen in a plant-wide production and maintenance unit, the I. A. M. would include them as part of the machine shop. The Company urges their exclusion from either proposed unit. In view of the fact that stationary firemen will come under the machine shop supervision, we shall include them in the machine shop unit.

Group leaders: There are seven group leaders in the machine shop, and one in the foundry. They are highly experienced employees, each of whom supervises a group of workers. They distribute work to their subordinates, instruct them, and are responsible for the amount of their production. They receive a higher rate of pay than the men they supervise and may perform manual work. The record discloses that the group leaders have power to discipline and effectively to recommend wage increases and changes in the status of their subordinates. Since it appears that group leaders fall within our customary definition of supervisory employees, we shall exclude them.

We shall direct elections by secret ballot to be conducted among the employees of the Company in the following groups who were employed during the pay-roll period immediately preceding the date of our Direction of Elections, subject to the limitations and additions set forth therein:

(1) All production and maintenance employees in the machine shop, including stationary firemen, but excluding the superintendent, foremen, assistant foremen, group leaders, 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, to determine whether they desire to be represented by the Steelworkers or the I. A. M., or neither;

(2) All remaining production and maintenance employees, but excluding office and clerical employees, watchmen, guards, engineering department employees, superintendents, foremen, assistant foremen, group leaders, 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, to determine whether or not they desire to be represented by the Steelworkers.

Upon the results of the election will depend, in part, our determination of the appropriate unit or units.

There are certain employees whom the Company hired in connection with its shell production operations. Apparently, the Company regards them as temporary employees for the reason that their employment may terminate at some indefinite time in the future upon the Government's cancellation of the contract under which the Company is manufacturing shells. Since they are presently production employees, subject to the same working conditions as other employees, they shall be eligible to vote in the elections hereinafter directed.

The Company urges that its employees now on military leave be permitted to vote by mail. For reasons stated in the *Mine Safety Appliance Co.* case,⁴ we shall direct that only persons in the armed forces who present themselves at the polls may vote in the election.

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 Seneca Falls Machine Company, Seneca Falls, New York, 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 Third Region, acting in this matter as agent for the National Labor Relations

⁴ 55 N. L. R. B. 1190.

Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the following employees 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) All production and maintenance employees in the machine shop, including stationary firemen, but excluding the superintendent, foremen, assistant foremen, group leaders, 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, to determine whether they desire to be represented by United Steelworkers of America—C. I. O., or by International Association of Machinists, American Federation of Labor, for the purposes of collective bargaining, or by neither;

(2) All production and maintenance employees, excluding office and clerical employees, watchmen, guards, engineering department employees, all employees included in group (1) above, superintendents, foremen, assistant foremen, group leaders, 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, to determine whether or not they desire to be represented by United Steelworkers of America—C. I. O., for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Elections.