

In the Matter of VIRGINIA BRIDGE COMPANY and UNITED STEELWORKERS
OF AMERICA, C. I. O.

Case No. 5-R-1648.—Decided November 16, 1944

Mr. Thomas S. Marshall, of Roanoke, Va., for the Company.

Mr. Robert Boyer, of Lynchburg, Va., for the C. I. O.

Mr. C. C. Cochran, of Roanoke, Va., for the I. A. M.

Mr. Jack Mantel, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Virginia Bridge Company, Roanoke, Virginia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George L. Weasler, Trial Examiner. Said hearing was held at Roanoke, Virginia, on October 19, 1944. The Trial Examiner granted a motion to intervene made by International Association of Machinists, Lodge No. 942, A. F. L., herein called the I. A. M. The Company, the C. I. O., and the I. A. M. 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. At the close of the hearing the I. A. M. moved to dismiss the petition on the ground that its contract with the Company constitutes a bar to this proceeding. The Trial Examiner referred the motion to the Board. The motion to dismiss is hereby denied, for reasons hereinafter set forth. All parties were afforded an opportunity to file briefs with the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Virginia Bridge Company is a New Jersey corporation operating plants located at Roanoke, Virginia, Birmingham, Alabama, and Memphis, Tennessee. The only plant involved in this proceeding is the one located at Roanoke, Virginia, where the Company is engaged in the manufacture of landing boats and bridge panels for the armed forces of the United States Government. The Company is a wholly owned subsidiary of the United States Steel Corporation. During the fiscal year ending June 30, 1944, the Company purchased raw materials, consisting of rolled steel, fuel oil, and coal, valued in excess of \$2,500,000 of which approximately 90 percent was purchased and shipped to its plant at Roanoke, from points outside the State of Virginia. During the same period, the Company's finished products were valued in excess of \$8,000,000, of which 90 percent was sold and shipped to points outside the 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, Lodge No. 942, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

In June 1944, the C. I. O. notified the Company that it represented a majority of the employees in an appropriate unit and requested recognition as their exclusive bargaining representative; the Company refused recognition, stating it was under contract with the I. A. M. On July 15, 1944, the C. I. O. filed the petition herein.

The Company and the I. A. M. entered into a collective bargaining contract on November 23, 1943, after the I. A. M. had won a consent election held on August 24, 1943.¹ The contract provided that it was to be in effect for a period of 1 year, and thereafter from year to year, unless either party gave notice of a desire to amend or terminate the contract 30 days prior to the annual termination date. The I. A. M.

¹ *Matter of Virginia Bridge Company*, Cases Nos. 5-R-1336 and 1339.

contends that the contract bars the instant proceeding. However, since the request for recognition by the C. I. O. was presented to the Company, and the petition filed, prior to the automatic renewal date of the contract, we find that the contract is not a bar to the present proceeding.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. represents a substantial number of employees in the unit hereinafter found appropriate.²

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 parties stipulated as to the composition of the appropriate unit, except for one employee, A. T. Whitlock. The I. A. M. would include him, whereas the C. I. O. and the Company seek his exclusion from the unit because of his alleged supervisory status.

Whitlock, who is directly responsible to the superintendent, is in charge of five employees in the labor gang department. He assigns work and turns in time reports as do the foremen. The I. A. M. contends that Whitlock has been a member of their organization for approximately 11 years, and has been regarded as a carpenter. The record shows, however, that Whitlock has authority to recommend the shifting of the men in his crew from one department to another, and effectively to recommend their discharge. We shall exclude him.³

We find that all production and maintenance employees, including inspectors, leadmen,⁴ and shipping department employees of the Company, but excluding salaried and clerical employees, the head shipping clerk, draftsmen, drafting engineers, designers, foremen, assistant foremen, the chief inspector,⁵ supervisor of the labor gang,⁶ watchmen, and guards, 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.

² The Board agent reported that the C. I. O. submitted 537 application for membership cards, all dated subsequent to August 1943, and that there are approximately 1,150 employees in the appropriate unit. The I. A. M. relies on its current contract for its interest in the proceeding.

³ The exclusion of Whitlock does not warrant the assumption, as made by the I. A. M. in its brief, that Whitlock is thereby deprived of any insurance benefits accruing from his membership in the I. A. M.

⁴ The record shows, and we find, that leadmen do not possess supervisory authority within our customary definition thereof.

⁵ W. B. Felty.

⁶ A. T. Whitlock.

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 Virginia Bridge Company, Roanoke, Virginia, 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 Fifth 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 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 they desire to be represented by United Steelworkers of America, C. I. O., or by International Association of Machinists, Lodge No. 942, A. F. L., for the purposes of collective bargaining, or by neither.