

IN the Matter of COMMERCE PATTERN FOUNDRY AND MACHINE COMPANY and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, C. I. O.

Case No. 7-R-1901.—Decided January 4, 1945

Mr. Jack D. Colyer, of Detroit, Mich., for the Company.

Messrs. Nicholas J. Rothe and Barden Young, of Detroit, Mich., for the U. A. W.-C. I. O.

Messrs. Robert O. Brown and James G. Beck, of Detroit, Mich., for the Society.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., herein called the U. A. W.-C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Commerce Pattern Foundry and Machine Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Max Rotenberg, Trial Examiner. Said hearing was held at Detroit, Michigan, on December 13, 1944. At the commencement of the hearing, the Trial Examiner granted a motion of Society of Tool and Die Craftsmen of America, herein called the Society, to intervene. The Company, the U. A. W.-C. I. O., and the Society 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 opportunity to file briefs with the Board.

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

59 N. L. R. B., No. 267.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Commerce Pattern Foundry and Machine Company is a Michigan corporation operating a plant at Detroit, Michigan, where it is engaged in the manufacture of tools, dies, metal castings, and patterns. During the first 6 months of 1944 the Company purchased raw materials valued in excess of \$5,000, about 40 percent of which was shipped to it from points outside the State of Michigan. During the same period the Company sold products valued in excess of \$100,000, about 20 percent of which was 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 ORGANIZATIONS INVOLVED

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Society of Tool and Die Craftsmen of America is a labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On January 28, 1944, the Society and the Company entered into a written exclusive collective bargaining contract, effective until January 15, 1945, with provision for automatic renewal from year to year thereafter, in the absence of written notice to terminate given by either party during the 30-day period preceding January 15 of every year. Prior to November 13, 1944, the U. A. W.-C. I. O. notified the Company that it claimed to represent a majority of the employees involved herein and requested a collective bargaining conference. The Company refused to grant such recognition, stating that it was precluded from doing so by its existing contract with the Society. The Society contends that its contract is a bar to a determination of representatives in this proceeding. Inasmuch as the U. A. W.-C. I. O. made its claim upon the Company prior to January 15, 1945, the date upon which the contract might renew itself, we find that the contract does not constitute a bar to a determination of representatives at this time.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the U. A. W.-C. I. O. repre-

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 substantial agreement with the parties that all production and maintenance employees in the tool room of the Company, including tool and die makers, apprentices and up-graders, sweepers, shipping and receiving employees, Upton salt bath furnace workers, and truck drivers, but excluding pattern makers, clerical employees, plant-protection employees, laboratory workers, 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.²

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of 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 Commerce Pattern Foundry and Machine Company, Detroit, 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 direc-

¹ The Field Examiner reported that the U. A. W.-C. I. O. presented 62 authorization cards bearing the names of persons who appear on the Company's pay roll for the period ending November 17, 1944. There are approximately 174 employees in the appropriate unit. The Society did not present any evidence of representation, but relies upon its contract as evidence of its interest in the instant proceeding.

² This is the same unit as provided for in the contract between the Company and the Society.

tations, 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 any 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 International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., or by Society of Tool and Die Craftsmen of America, for the purposes of collective bargaining, or by neither.