

In the Matter of SEATTLE DRUM COMPANY and INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION, C. I. O.

Case No. 19-R-1465.—Decided February 6, 1945

Messrs. John Ambler, George D. Leonard, and L. C. Nelson, of Seattle, Wash., for the Company.

Messrs. O. L. Dearinger and Steve Glumaz, of Seattle, Wash., for the C. I. O.

Messrs. Samuel B. Bassett, and Fred Bowen, of Seattle, Wash., for the A. F. L.

Mr. Herbert C. Kane, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Longshoremen's & Warehousemen's Union, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Seattle Drum Company, Seattle, Washington, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John E. Hedrick, Trial Examiner. Said hearing was held at Seattle, Washington, on January 5, 1945. The Company, the C. I. O., and the Warehousemen's Local Union, No. 117, A. F. L., herein called the A. F. L., 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. 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

Seattle Drum Company, a partnership consisting of Hugh C. Underwood, L. L. S. Nelson, and L. C. Nelson, having its principal place of business at 7321 8th Avenue South, Seattle, Washington, is engaged  
60 N. L. R. B., No. 84.

in reconditioning oil drums for the Quartermaster Corps of the United States Army. The Company is presently operating under a contract for the reconditioning of 500,000 drums. The drums, the property of the United States, are delivered to the Company. After reconditioning, the Company prepares bills of lading and loads them on the cars or trucks for shipment to places designated by the Quartermaster Corps.

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

## II. THE ORGANIZATIONS INVOLVED

International Longshoremen's & Warehousemen's Union, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Warehousemen's Local Union No. 117, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the C. I. O. as the exclusive bargaining representative of its employees until the C. I. O. has been certified by the Board in an appropriate unit.

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.<sup>1</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 parties generally agree that a unit of all production and maintenance employees of the Company, excluding the welders, clerical workers, and supervisors would be appropriate. The Company, however, would exclude the leadmen; the petitioner would include them.

There are 1 foreman and 2 leadmen on each of the Company's 3 shifts of from 21 to 36 employees. The uncontradicted evidence shows that the leadmen may effectively recommend discharge and the change in status of employees under their supervision. Although the fore-

<sup>1</sup> The Field Examiner reported that the C. I. O. submitted 40 cards; that the names of 26 persons appearing on the cards were listed on the Company's pay roll of December 10, 1944, and that the cards were dated 4 in November 1944, 17 in December 1944, and 5 were undated. There are between 60 and 100 employees in the alleged appropriate unit.

The A. F. L. submitted 11 cards. The names of 6 persons appearing on the cards were contained in the aforesaid pay roll. The cards were dated 4 in November 1944, and 2 in December 1944.

man conducts an independent investigation as to the recommendations of the leadmen; such recommendations are followed in the large majority of cases. We find that the leadmen are supervisory employees within our usual definition thereof, we shall exclude them.

We find that all production and maintenance employees, but excluding welders, clerical employees, the plant superintendent, the shift foremen, the leadmen 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.

The intervenor contends that 22 employees of the Company, who were formerly employed by another Company (Arcweld Manufacturing Company), are ineligible to vote. These employees, although assured by Arcweld of an opportunity to return to their former positions when conditions warrant it, were separated from Arcweld and hired by the Company through the United States Employment Service after a certificate of availability had been furnished. Under the regulations of the War Manpower Commission these employees apparently will be required to procure a certificate of availability before they can be reemployed by Arcweld; accordingly, it is clear that they are not now employees of that Company. In view of this fact and since their present employment with the Company will continue for an indefinite period, we find that they are eligible to participate in the election directed hereinafter.<sup>2</sup>

#### 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 Seattle Drum Company, Seattle, Washington, an election by secret ballot shall be

<sup>2</sup> See *Matter of Yoder Company*, 53 N. L. R. B. 653.

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 Nineteenth 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 International Longshoremen's & Warehousemen's Union, C. I. O., or by Warehousemen's Local No. 117, A. F. L., for the purposes of collective bargaining, or by neither.