

In the Matter of MURCHEY MACHINE AND TOOL COMPANY *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, LOCAL 174, C. I. O.

Case No. 7-R-1923.—Decided February 10, 1945

Messrs. William H. Granse and L. E. Walker, of Detroit, Mich., for the Company.

Nicholas J. Rothe, by *Mr. H. B. Bell*, of Detroit, Mich., and *Mr. Borden Young*, of Detroit, Mich., for the U. A. W.-C. I. O.

Messrs. James G. Beck and Robert O. Brown, 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 & Agricultural Implement Workers of America, Local 174, 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 Murchey Machine and Tool Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sylvester J. Phoney, Trial Examiner. Said hearing was held at Detroit, Michigan, on January 22, 1945. At the commencement of the hearing, the Trial Examiner granted a motion of Local No. 6, Society of Tool and Die Craftsmen, herein called the Society, to intervene. The Company, the U. A. W.-C. I. O., and the Society appeared and participated in the hearing and 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 opportunity to file briefs with the Board.

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

60 N. L. R. B., No. 102.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Murchey Machine and Tool Company is a Michigan corporation with its principal place of business at Detroit, Michigan, where it is engaged in the manufacture of collapsible tops and die heads, threading machine tools, and quick center machines. During the 6-month period ending June 30, 1944, the Company purchased raw materials valued at about \$162,000, 75 percent of which was shipped to it from points outside the State of Michigan. During the same period, the Company sold products valued at \$1,209,000, approximately 75 percent of which was shipped to points outside the State of Michigan.

The Company admits, for the purpose of this proceeding, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 174, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Local No. 6, Society of Tool and Die Craftsmen, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On December 4, 1944, the U. A. W.-C. I. O. requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request on the ground that it was operating under a contract with the Society.

On February 12, 1944, the Company and the Society entered into a closed-shop contract covering the employees involved herein. The contract provides that it shall remain in full force and effect until January 15, 1944, and from year to year thereafter unless notice of a desire to terminate is given by either party thereto during the 30-day period preceding January 15 of any given year. Inasmuch as the U. A. W.-C. I. O. made its claim upon the Company on December 4, 1944, we find that the contract does not constitute a bar to a present determination of representatives.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the U. A. W.-C. I. O. represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

¹ The Field Examiner reported that the U. A. W.-C. I. O. presented 78 authorization cards bearing the names of persons who appear on the Company's pay roll of December 26, 1944. There are approximately 349 employees in the appropriate unit. The Society did not pre-

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 urges that all hourly rated production and maintenance employees in the Detroit and Oakland County plants of the Company, excluding office employees, superintendents, and leaders, constitute a single appropriate bargaining unit. The only controversy with respect to the unit concerns leaders. The Company and the Society would include them in the unit.

The Company employs two superintendents, one on the night shift and one on the day shift. There are approximately 280 employees in the Detroit plant and there are no supervisory employees between the superintendents and the leaders. The leaders are hourly rated employees and spend a considerable amount of their time in actual production and maintenance work. However, they assign the work to the regular production and maintenance employees and recommend the hiring and discharging of employees and the granting of pay increases. Under the circumstances, we find that the leaders are supervisory employees, and as such, we shall exclude them from the unit.

We find that all hourly rated production and maintenance employees at the Detroit and Oakland County plants of the Company, excluding office employees, superintendents, leaders, and any 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 single 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 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,

sent any evidence of representation but relies upon its contract as evidence of its interest in the instant proceeding. In view of the Society's closed-shop contract, the showing of the U. A. W.-C. I. O. (approximately 22 percent) is substantial.

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 Murchey Machine and Tool 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 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 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 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 & Agricultural Implement Workers of America, Local 174, C. I. O., or by Local No. 6, Society of Tool and Die Craftsmen, for the purposes of collective bargaining, or by neither.