

In the Matter of STANDARD NUT AND BOLT COMPANY and UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 1-R-2216.—Decided February 19, 1945

Mr. Isadore Paisner, of Providence, R. I., for the Company.  
Mr. Antonio DiPinto, of Providence, R. I., for the Union.  
Miss Ruth E. Bliefeld, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio and Machine Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Standard Nut and Bolt Company, Valley Falls, Rhode Island, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert E. Greene, Trial Examiner. Said hearing was held at Providence, Rhode Island, on January 16, 1945. The Company and the Union 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 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

Standard Nut and Bolt Company is a Rhode Island corporation, incorporated in 1907, and is engaged in the manufacture, sale, and distribution of nuts and bolts. The Company purchases raw materials consisting principally of ferrous and non-ferrous metals, valued at more than \$750,000 annually, all of which are shipped from points

outside the State of Rhode Island. The Company's finished products are valued in excess of \$1,000,000 annually. Approximately 75 per cent of the finished products is shipped to points outside the State of Rhode Island.

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

## II. THE ORGANIZATION INVOLVED

United Electrical, Radio and Machine Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On December 7, 1944, the Union requested recognition as the exclusive bargaining representative of the Company's employees. The Company has, however, refused to grant such recognition until the Union 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 Union 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 Union contends that all production and maintenance employees, including working supervisors, utility men, leadmen, and watchmen,<sup>2</sup> but excluding factory clerks, timekeepers, executives, foremen, and office employees<sup>3</sup> comprise an appropriate unit. The Company would, however, exclude working supervisors, or subforemen, and one Ferreira.

The Company contends that Ferreira is a clerical worker, and should be excluded, while the Union desires his inclusion as a production worker. It appears that Ferreira, during his regular working periods, records work as it is weighed, from which records the time and pay on the particular job are prepared. He sits at a desk near the scales, and is not responsible to any production foreman, but reports

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<sup>1</sup> The Field Examiner reported that the Union submitted 125 membership cards; that there are 181 employees in the appropriate unit; and that 6 cards were dated November 1944, and 119 cards were dated December 1944.

<sup>2</sup> Utility men, leadmen, and watchmen were included in the unit by stipulation of the parties. The watchmen employed by the Company are not uniformed, deputized, or militarized.

<sup>3</sup> The unit as originally petitioned for included factory clerks and timekeepers, but was amended at the hearing, without objection, to exclude these employees.

directly to the factory manager. It was testified that he also works a great deal of overtime and during such overtime periods he prepares orders, does special jobs, and works on machines. However, since he is under office supervision and his work during his regular working periods is clerical, it would appear that his interests are allied with those of the clerical employees and timekeepers, whom the parties agreed to exclude from the unit. We shall therefore exclude Ferreira from the unit as a clerk.

The Union contends that the subforemen in the production and shipping departments should be included in the unit, while the Company desires their exclusion as supervisory employees. It was testified that the subforemen are responsible for the work of the employees in the groups over which they have charge. They allocate the work to the individuals in their groups, and check on their performance. The subforemen can recommend the discharge or discipline of the employees in their groups, and their recommendations are given serious consideration. Subforemen receive higher pay than any employee in their groups. The number of employees in each subforeman's group varies considerably, but this appears to be due to the fact that the Company is engaged in a custom business which involves large numbers of orders for "few of a kind" articles manufactured under close supervision. The amount of time spent by each subforeman in supervisory work differs in each case, but it appears that all the subforemen spend a substantial portion of their working time in overseeing the work of other employees.

There is some question as to the supervisory status of one Labounty, who is classified as a subforeman in the shipping department. The testimony regarding him was contradictory, but it appears that he works on local shipping orders, and has one full-time and one part-time employee working with him. The full-time employee testified that he is not aware that Labounty is his supervisor, and that there is only a 1 cent an hour differential in their wages. Labounty does not issue orders to him, and apparently does not exercise any supervisory powers. We find that Labounty is not a supervisory employee. He is, therefore, included within the unit hereinafter found appropriate. We find that the other subforemen in the production and shipping departments are supervisory employees within our usual definition and we shall exclude them from the appropriate unit.

It was stipulated by the parties that M. Gavelick, who is listed on the pay roll of the Company as a foreman, does not exercise any supervisory powers and should therefore be included in the unit. This employee is the only worker in the heat treating department and does not exercise any supervision over any employees. We shall include him in the appropriate unit, in accordance with the stipulation of the parties.

We find that all production and maintenance employees, including utility men, leadmen, watchmen, and the heat treating department employee, but excluding factory clerks, timekeepers, office employees, foremen, executives, 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

The Company employs certain part-time production and maintenance workers. They are mostly high school students who are given regular schedules of work, and are considered regular part-time employees by the Company. They admittedly perform the same types of duties as those performed by the production employees. In accordance with our usual practice, we find that all part-time employees regularly employed by the Company are eligible to vote in the election directed herein.<sup>4</sup>

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 Standard Nut and Bolt Company, Valley Falls, Rhode Island, 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 First 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 said pay-roll period because they were ill or on vacation

<sup>4</sup> See *Matter of Wagner Folding Box Corporation*, 49 N. L. R. B. 346; *Matter of New Idea, Inc.*, 49 N. L. R. B. 619.

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 or not they desire to be represented by United Electrical, Radio and Machine Workers of America, affiliated with the C. I. O., for the purposes of collective bargaining.