

In the Matter of MICHIGAN PAPER COMPANY OF PLAINWELL and PAPER
WORKERS ORGANIZING COMMITTEE, C. I. O.

Case No. 7-R-1947.—Decided March 15, 1945

Mr. Sylvester J. Phenev, for the Board.

Mr. Dwight L. Stocker, of Plainwell, Mich., and *Mr. E. W. Stone*, of Allegan, Mich., for the Company.

Messrs. Neil Chesebro and *Charles Mitchell*, of Kalamazoo, Mich., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Paper Workers Organizing Committee, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Michigan Paper Company of Plainwell, Plainwell, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Walter Wilbur, Trial Examiner. Said hearing was held at Kalamazoo, Michigan, on February 15, 1945. The Board, the Company, and the Union 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Michigan Paper Company of Plainwell is a Michigan corporation operating a plant at Plainwell, Michigan, where it is engaged in the manufacture of book, writing, and wrapping paper. Over 50 percent

of the raw materials used by the Company is shipped to it from points outside the State of Michigan. During 1944 the Company manufactured products valued in excess of \$2,000,000, 80 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 ORGANIZATION INVOLVED

Paper Workers Organizing Committee is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On January 15, the Union requested the Company to recognize it as the exclusive bargaining representative of its employees. The Company refused this request until such time as the Union is certified by the Board.

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

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 production and maintenance employees of the Company, including watchmen, the janitor, and the chief electrician, but excluding clerical and supervisory employees, constitute an appropriate bargaining unit. The only controversy with respect to the unit concerns watchmen, the janitor, and the chief electrician. The Company would exclude them from the unit.

The Company employs three watchmen who are neither armed, uniformed, nor militarized. They perform custodial functions usually performed by watchmen rather than the specialized type of work performed by plant-protection employees. Under the circumstances, we shall include them in the unit.

The Company employs one janitor whose duties are confined to cleaning the Company's offices. Although he works in the Company's offices, it appears that his interests are more closely aligned with those

¹ The report of the Field Examiner shows that the Union submitted 104 authorization cards. There are approximately 237 employees in the appropriate unit.

of the production and maintenance employees than those of the clerical employees. We shall include him in the unit.

The chief electrician is paid on a salary basis, and the record indicates that he has the same authority as other supervisory employees who are admittedly excluded from the unit. We shall, accordingly, exclude the chief electrician from the unit.

We find that all production and maintenance employees of the Company, including watchmen and the janitor, but excluding clerical employees, chief electrician, 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 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.

We find, in accordance with the desires of the parties, that students working under temporary permits are ineligible to vote in the election.

The Company stated at the hearing that 68 of its employees are presently in the armed forces of the United States and requested that in the event the results of the election hereinafter to be directed could be affected by that number of votes, provision should be made for the voting of the employees in military service. With respect to employees in the armed forces, it has been our customary practice to declare eligible only those who present themselves in person at the polls.²

In the *Mine Safety Appliances Co.* case,³ we reconsider fully our policy in that respect, and reaffirmed our previous finding that it is not administratively practicable to poll employees on military leave by mail. No further reason appears in the instant case to depart from our established policy. Our inability to poll all the employees on military leave, however, will not necessarily operate to give permanent status to a bargaining representative chosen in their absence. When it is demonstrated that service men have returned to their employment in sufficient numbers so that they comprise a substantial percentage of the employees in an appropriate unit in which we have

² See *Matter of Wilson & Co, Inc*, 37 N. L. R. B. 944.

³ 55 N. L. R. B. 1190.

certified a collective bargaining representative, a new petition for the investigation and certification of a bargaining agent may be filed with the Board. In this manner employees in the armed forces who were unable to cast a vote will be afforded an opportunity to affirm or change the bargaining agent selected in their absence.

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 Michigan Paper Company of Plainwell, Plainwell, Michigan, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) 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 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 election, to determine whether or not they desire to be represented by Paper Workers Organizing Committee, C. I. O., for the purposes of collective bargaining.