

In the Matter of YORK CORPORATION and METAL TRADES DEPARTMENT,  
AMERICAN FEDERATION OF LABOR

Case No. 4-R-1596.—Decided April 9, 1945

*Mr. Marion F. Dick*, of York, Pa., and *Mr. William H. Howe*, of Washington, D. C., for the Company.

*Mr. Walter M. Appleby*, of Media, Pa., and *Mr. R. Richard Ebersole*, of York, Pa., for the MTD.

*Mr. Judson E. Ruch*, of York, Pa., for the Independent.

*Mr. George Q. Lynch*, of Washington, D. C., for the PML.

*Mr. Paul Bisgyer*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Metal Trades Department, American Federation of Labor, herein called the MTD, alleging that a question affecting commerce had arisen concerning the representation of employees of York Corporation, York, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Herman Lazarus, Trial Examiner. Said hearing was held at York, Pennsylvania, on January 30, 1945. Pursuant to an order issued by the Board on February 26, 1945, the record herein was reopened and a further hearing was held before the said Trial Examiner at York, Pennsylvania, on March 2, 1945. The Company, the MTD, Ice Machinery Independent Employees Association, herein called the Independent, and Pattern Makers League of North America, herein called the PML, appeared and participated at both hearings. 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 hearings are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

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

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

York Corporation is a Delaware corporation normally engaged in the development, design, and manufacture of refrigeration and air conditioning accessories and supplies. At present, the Company is also engaged in the manufacture of certain types of ordnance for the use of the armed forces, and equipment for prime Government contractors and the Maritime Commission. It operates two manufacturing plants in York, Pennsylvania, known as the Grantley and West York plants with which we are solely concerned, and branch organizations in various cities both in and out of the Commonwealth of Pennsylvania.

During the fiscal year ending September 30, 1944, the Company used at its Grantley and West York plants, raw materials valued at approximately \$7,700,000, 90 percent of which was obtained from sources outside the Commonwealth of Pennsylvania. During the same period, it sold products finished at said plants valued at approximately \$34,000,000, about 73 percent of which was shipped to points outside the State.

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

#### II. THE ORGANIZATIONS INVOLVED

Metal Trades Department, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

Ice Machinery Independent Employees Association is an unaffiliated labor organization admitting to membership employees of the Company.

Pattern Makers League of North America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

By letter dated October 27, 1944, the MTD notified the Company that it represented a substantial number of the Company's employees, and requested a conference for the purpose of negotiating a collective bargaining agreement. The Company did not reply to this letter.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the MTD and the PML each represents a substantial number of employees in the unit each alleges to be 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 MTD seeks a unit of all hourly paid production and maintenance employees at the Company's Grantley and West York plants and subdivisions thereof, excluding all journeymen pattern makers and their apprentices, and supervisory employees. The PML requests a unit of journeymen pattern makers and their apprentices employed in the pattern shop.<sup>2</sup> While the Independent and the Company agree to the propriety of a production and maintenance unit they, nevertheless, would include pattern makers therein contending that, for 7 years, these employees have been effectively bargained for by the Independent as part of such a comprehensive unit.

In or about the early part of 1938, the Company recognized the Independent as the exclusive bargaining representative of all its non-supervisory, hourly rated employees, including pattern makers. Thereupon, on the basis of this unit, the Independent and the Company entered into their first contract for a term of 1 year which was followed by successive yearly agreements. The last contract was executed on December 28, 1943.

The record discloses that during the course of collective bargaining between the Independent and the Company the pattern makers were apparently satisfied with the representation accorded them by the Independent, participating in numerous benefits secured through the latter's efforts. The Independent obtained, among other things, five general wage increases in which the pattern makers shared, and one solely granted to them, and as recently as December 1944, the pattern

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<sup>1</sup> The Field Examiner reported that the MTD submitted 940 authorization cards, and that the Company's pay roll of December 6, 1944, contained the names of 2,337 employees in the unit the MTD alleges to be appropriate.

The Field Examiner also reported that the PML submitted 10 membership applications and dues books, and that the aforesaid pay roll contained the names of 13 employees in the unit the PML alleges to be appropriate.

The Independent relies upon its contract of December 28, 1943, to establish its interest in this proceeding. This agreement is not raised as a bar herein.

Prior to the commencement of this proceeding, two affiliates of the MTD, International Union of Operating Engineers, Local No. 831, and United Brotherhood of Carpenters and Joiners of America, Local No. 1833, filed separate representation petitions with the Pennsylvania Labor Relations Board on June 15, 1944, and October 9, 1944, respectively, each alleging as appropriate a unit of employees falling within its respective jurisdiction. While the State proceedings are still pending, they are not urged as a bar herein.

<sup>2</sup> The pattern shop is located at the Grantley plant and is under the same superintendent as the foundry.

makers approved an application for a wage increase submitted by this organization in their behalf to the National War Labor Board.<sup>3</sup> Moreover, at their instance, the Independent has successfully handled their complaints.<sup>4</sup>

Evidence adduced at the hearing further indicates that pattern makers have manifested a continuous interest in the Independent and its affairs. At the time of its organization, 5 out of 13 pattern makers in the Company's employ voluntarily joined the Independent and, through the years, others joined so that by 1944, 10 had become members. The PML, however, had as members only 1 pattern maker from March 1938 to 1940, and 3 from 1941 to 1944.<sup>5</sup> It is undisputed that pattern makers have solicited members for the Independent, attended its meetings, successfully proposed at a 1938 meeting that they be transferred for union representation purposes from the wood shop group to the foundry group, and about 3 years ago selected a pattern maker as an assistant delegate to represent them on the Board of Delegates, which is charged with negotiating contracts and, under the agreements between the Company and the Independent, with prosecuting grievances on appeal prior to arbitration.<sup>6</sup>

It is clear from the record that throughout the history of collective bargaining with the Company pattern makers deliberately merged their interests with those of other production and maintenance employees, and sanctioned their representation by the Independent. Under the foregoing circumstances, and in view of the fact that pattern

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<sup>3</sup> The application also included requests for wage increases for other employees. It is now pending before the National War Labor Board.

<sup>4</sup> These complaints concerned the position of patterns in core boxes, a question of policy regarding older pattern makers, and the proper "set-up" of a crane in the pattern storage room.

There is conflicting testimony as to whether or not the pattern makers, as a group, ever dealt informally with the Company. Clarence Rau, a witness for the PML, testified that on three or four occasions when wage increases were granted pattern makers employed by other companies, he and three other employees sought increases from their foreman, and that each time an increase was granted all pattern makers. This testimony was disputed by two pattern makers who Rau alleged accompanied him. These individuals testified that on only one occasion did they accompany Rau and ask their foreman for an increase, and then they merely spoke for themselves. According to the testimony of Joseph Moody, the Company's Manager of Industrial Relations, an increase was granted on December 11, 1938, to the four employees mentioned by Rau. In this state of the record we are not persuaded that the pattern makers, as a group, informally dealt with the Company.

<sup>5</sup> Except for filing a petition for certification in 1937, which it withdrew, the PML, it appears, did not seek until lately to represent the Company's pattern makers. Apparently as a result of its recent organizing efforts, the PML now claims 10 pattern makers as members, and the Independent, 3.

Since 1938, the Company has normally employed 13 pattern makers in its pattern shop. <sup>6</sup> The assistant delegate referred to is William Wellmann. He was selected by pattern makers and a few other employees and, with their acquiescence, has continued to act in such representative capacity. The record reveals that, except from August 1944 to February 1945, when he worked in another part of the plant, Wellmann was employed most of his time as a pattern maker in the pattern shop.

making is integrated with the Company's other operations, we are of the opinion that a separate pattern makers' unit is inappropriate.<sup>7</sup> Accordingly, we shall include pattern makers in the production and maintenance unit.

We find that all hourly paid production and maintenance employees at the Company's Grantley and West York plants and subdivisions thereof, including journeymen pattern makers and their apprentices, but excluding general foremen, foremen, assistant foremen, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommended 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.<sup>8</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 York Corporation, York, Pennsylvania, 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 Fourth 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

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<sup>7</sup> Cf. *Matter of General Electric Company (Lynn River Works and Everett Plant)*, 58 N. L. R. B., 57, and see *Matter of Harnischfeger Corporation*, 55 N. L. R. B. 909

<sup>8</sup> The MTD requests that its name appear on the ballot as set forth in the Direction

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 The Metal Trades Department, A. F. of L., or by Ice Machinery Independent Employees Association, for the purposes of collective bargaining, or by neither.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.