

In the Matter of WILSON ATHLETIC GOODS MANUFACTURING COMPANY  
and UNITED STEELWORKERS OF AMERICA, C. I. O.

Case No. 9-R-1715.—Decided April 27, 1945

Mr. M. R. Swanson, of Chicago, Ill., and Mr. W. P. Holmes, of Ironton, Ohio, for the Company.

Mr. John Le Maur, of Huntington, W. Va., and Mr. Wm. D. Mackay, of Huntington, W. Va., for the C. I. O.

Mr. Hudson Jeffery, of Ironton, Ohio, for the Independent.

Mr. Isadore Engle, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Wilson Athletic Manufacturing Company, Ironton, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Herbert J. Nester, Trial Examiner. Said hearing was held at Ironton, Ohio, on March 13, 1945. The Company, the C. I. O., and Independent Athletic Goods Manufacturing Union, herein called the Independent, 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 reserved ruling upon the motion of the C. I. O. to dismiss the Independent's motion to intervene. For reasons hereinafter set forth, in Section II, *infra*, we hereby deny the motion.<sup>1</sup> 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:

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<sup>1</sup> The American Federation of Labor, having early in the investigation claimed an interest, was served with the Notice of Hearing but failed to submit any evidence in support of its claim or to make an appearance at the hearing.

## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANY

Wilson Athletic Manufacturing Company is a Delaware corporation located at Ironton, Ohio, where it is engaged in the operation of a manufacturing plant. The Company's purchases of raw materials for the calendar year 1944 were in excess of \$20,000, 90 percent of which material originated from points outside the State of Ohio. Finished products were manufactured during the calendar year of 1944 which were valued in excess of \$20,000 and 90 percent of which was shipped to points outside the State of Ohio.

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

## II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Independent Athletic Goods Manufacturing Union, unaffiliated, is a labor organization admitting to membership employees of the Company.<sup>2</sup>

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the C. I. O. as the exclusive bargaining representative of the Company's production and maintenance employees until the C. I. O. has been certified by the Board in an appropriate unit. The Company has recognized the Independent as such representative and has negotiated with it for the purposes of collective bargaining, but no written contract has as yet been executed.

A statement of a Field Examiner, 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>3</sup>

<sup>2</sup> The C I O moved to dismiss the Independent's motion to intervene on the ground that the Independent is company-dominated. The Trial Examiner, however, correctly ruled that evidence on this issue would not be received in this proceeding. The Independent is clearly a labor organization within the meaning of Section 2 (5) of the Act. It was formed as a result of organizational activities conducted in July 1944 by a group of employees who thereafter selected representatives from various departments to negotiate with the Company; these representatives have met on numerous occasions with the Company to discuss grievances, and they have drawn up a tentative collective bargaining contract. As yet the Independent has no constitution or bylaws, but it has recently retained counsel for the purposes of assisting it in the preparation thereof. We have, therefore, denied the C I O's motion to dismiss the Independent's motion to intervene.

<sup>3</sup> The Field Examiner reported that the C. I. O. submitted 51 authorization cards, 47 of which were dated between January 1 and February 5, 1945, and 4 of which were undated. The Independent submitted 33 authorization cards all dated in February and March 1945. The Company's pay roll contained the names of 70 persons in the alleged appropriate unit.

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 are in general agreement that all the Company's production and maintenance employees constitute an appropriate bargaining unit. At the hearing testimony was elicited with regard to the inclusion or exclusion of timekeepers, watchmen, and inspectors.

The record shows that the Company employs two timekeepers who take no part in actual production but are engaged solely in clerical work. They are regarded as being office employees. Their duties consist of recording all piece-work, and pricing all work performed on a piece-work basis; they have access to various company records. In accordance with our usual practice we shall exclude them from the unit.<sup>4</sup>

The Company employs three watchmen who are not uniformed or armed. In addition to their ordinary watchmen's duties they fire the boiler and do general maintenance work. We shall accordingly include them within the unit.<sup>5</sup>

The Company employs three inspectors who are paid by the hour and report to the forelady.<sup>6</sup> Their function is to pass on the quality of the finished goods and they are responsible for the quality of the workmanship; they report any defects or irregularities to the forelady who possesses effective authority to make recommendations effecting the status of employees or take whatever disciplinary action is called for. We shall include the inspectors within the unit.<sup>7</sup>

We find that all production and maintenance employees of the Company, including watchmen and inspectors, but excluding timekeepers and all 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 payroll period immediately preceding the date of the Direction of Election

<sup>4</sup> See *Matter of Cramp Shipbuilding Co.*, 37 N. L. R. B. 146.

<sup>5</sup> See *Matter of Grand Rapids Fibre Cord Company*, 56 N. L. R. B. 543.

<sup>6</sup> This is true in the chenille department, in the soft-leather goods department there is no forelady and the inspectors report to the plant manager

<sup>7</sup> See *Matter of Howard Aircraft Corp.*, 51 N. L. R. B. 386

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 Wilson Athletic Manufacturing Company, Ironton, Ohio, 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 Ninth Region, acting in this matter as agent for the National Labor Relations Board, 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 the election, to determine whether they desire to be represented by United Steelworkers of America, C. I. O., or by The Independent Athletic Goods Manufacturing Union, for the purposes of collective bargaining, or by neither.

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<sup>8</sup> At the hearing the parties requested that they be designated on the ballot in the manner set forth in the Direction of Election, *infra*. The request is hereby granted.