

In the Matter of ALLIS-CHALMERS MANUFACTURING COMPANY, LA
CROSSE WORKS and CONGRESS OF INDUSTRIAL ORGANIZATIONS, CIO

Case No. 18-R-1239.—Decided June 29, 1945

Mr. W. J. McGowan, of Milwaukee, Wis., for the Company.

Mr. F. J. Michel, of Milwaukee, Wis., for the C. I. O.

Mr. James Ashe, of St. Paul, Minn., and *Mr. Gil Brunner* of Milwaukee, Wis., for the I. A. M.

Miss Aida Casanas, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Congress of Industrial Organizations, CIO, herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Allis-Chalmers Manufacturing Company, La Crosse, Wisconsin, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Clarence A. Meter, Trial Examiner. Said hearing was held at La Crosse, Wisconsin, on April 13, 1945. The Company, the C. I. O., and the International Association of Machinists, Lodge No. 1109, affiliated with the American Federation of Labor, herein called the I. A. M., which intervened at the hearing, 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.

At the hearing the I. A. M. moved to dismiss the petition on the grounds: (1) that the conflicting petition of a C. I. O. affiliate in Case No. 18-R-1232¹ creates confusion and doubt as to the true identity of the union herein

¹ The petition in the instant case was filed on March 2, 1945. Previously thereto, a petition in Case No. 18-R-1232 covering the same employees, was filed by United Farm Equipment and Metal Workers of America, C. I. O. The two cases were consolidated for purposes of the hearing, but on April 11, 1945, 2 days before the hearing, the Regional Director approved withdrawal of the petition in Case No. 18-R-1232

seeking certification; and (2) that the C. I. O.'s petition is not filed in good faith, inasmuch as the C. I. O. contemplates that if it wins the election sought by it in this proceeding, it will later determine by a privately-conducted "run off" election whether the employees shall be represented by the United Farm Equipment and Metal Workers of America, C. I. O., or by United Automobile Workers, C. I. O.

Since the petition in Case No. 18-R-1232 was withdrawn prior to the hearing, there is no basis for the I. A. M.'s first contention. As to the second ground of the motion, as appears hereinafter, the petitioner seeks certification in the name of a newly chartered local industrial union. If the C. I. O. wins the election, that local union and no other labor organization will be entitled to the benefits of the certification, which, of course, cannot be transferred to a different organization without the Board's approval and consent. Any question which may arise as to a change in the affiliation or identity of the certified organization, requiring amendment of the certification, must be raised in appropriate supplemental proceedings and cannot be determined on the present record. This proceeding confers no right upon the C. I. O. to award the Board's certification to one or the other of its international unions by any "run off" election or other private procedure. The motion to dismiss the petition is, therefore, denied. 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.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Allis-Chalmers Manufacturing Company is a Delaware corporation engaged in the general manufacture of machinery, having its principal office and place of business at Milwaukee, Wisconsin. It operates 9 plants located in the States of Wisconsin, Pennsylvania, Ohio, Illinois, Massachusetts, California, and Indiana. We are concerned herein with the La Crosse Works of the Company located in the city of La Crosse, Wisconsin. The La Crosse Works normally produces agricultural implements⁹ such as plows and harrows, which are designed for use with the Company's farm tractors. During the year 1944, the Company purchased raw materials for use at its La Crosse Works valued in excess of \$1,250,000, of which at least 75 percent was shipped to the plant from points outside the State of Wisconsin. During the same period, the Company's sales of finished products manufactured at the La Crosse Works amounted in value to at least \$4,500,000, of which approximately 85 percent was shipped to points outside the State of Wisconsin.

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

II. THE ORGANIZATIONS INVOLVED

Congress of Industrial Organizations, C. I. O., is a labor organization² admitting to membership employees of the Company.

International Association of Machinists, Lodge No. 1109, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The C. I. O. requested recognition from the Company as the exclusive bargaining agent for its production and maintenance employees. The Company replied that the I. A. M. was previously certified by the Board as exclusive bargaining representative of its employees and that it will continue to recognize the I. A. M. until otherwise ordered by the Board.³

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. represents a substantial number of employees in the unit hereinafter found appropriate.⁴

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

In accordance with the stipulation of the parties we find that all production and maintenance employees of the Company's La Crosse Works, including assistant inspectors, checkers and production clerks, but excluding office and clerical employees, inspectors, time-study men and their assistants, head timekeepers and their assistants and clerks, engineering department employees, superintendents and general foremen, foremen and assistant foremen whose time is charged to supervision, and any other supervisory employees with authority to hire; promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively

² At the hearing the C. I. O. representative, Regional Director of the C. I. O. for Wisconsin, testified that he had applied to the C. I. O. for an industrial charter to be issued to the local organization of employees at this plant, and that he intended to move that the name of this local be placed upon the ballot as soon as its charter should be issued.

³ On October 15, 1943, the Company and the I. A. M. entered into a contract which was to remain in full force and effect until April 15, 1945. The parties do not contend that this contract constitutes a bar to the present proceeding.

⁴ The Field Examiner reported that the C. I. O. submitted 419 authorization cards which bore apparently genuine original signatures; that the names of 377 persons appearing on the cards were listed on the Company's pay roll of March 1, 1945, which contained the names of about 760 employees in the appropriate unit; and that the cards were dated as follows: 1 in December 1944, 139 in January 1945, 248 in February 1945, 9 in March 1945, and 22 undated.

The I. A. M. introduced into evidence a list containing the names of 582 members in good standing who are allegedly employed by the Company in the requested unit.

recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.⁵

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.

On April 23, 1945, the C. I. O. filed with the Board a written motion dated April 18, 1945, which was purportedly served upon the Company and the I. A. M., wherein it requests that it be designated on the ballot, and in any certification hereinafter issued, as Congress of Industrial Organizations (CIO), Local No 1424. No opposition to this motion has been stated by either of the other parties to the proceeding. The motion is hereby granted.⁶

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 Allis-Chalmers Manufacturing Company, La Crosse Works, La Crosse, Wisconsin, 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 Eighteenth 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 Congress of Industrial Organizations (CIO), Local No. 1424, or by International Association of Machinists, Lodge No. 1109, A. F. of L., for the purposes of collective bargaining, or by neither.

⁵ This unit is substantially the same as the unit found appropriate by the Board in *Matter of Allis-Chalmers Manufacturing Company*, 50 N L R B 237.

⁶ See footnote 2, *supra*.