

In the Matter of SAVAGE ARMS CORPORATION *and* INTERSTATE COPPER & BRASS WORKERS UNION, LOCAL 10, CONFEDERATED UNIONS OF AMERICA

In the Matter of SAVAGE ARMS CORPORATION *and* INTERSTATE COPPER & BRASS WORKERS UNION, LOCAL 19, CONFEDERATED UNIONS OF AMERICA

Cases Nos. 3-R-994 and 3-R-961, respectively.—Decided July 6, 1945

Mr. Warnick J. Kernan, of Utica, N. Y., for the Company.

McMahon & Crotty, by Mr. Peter J. Crotty, of Buffalo, N. Y., and Mr. Frank O. Edwards, of Rome, N. Y., for the CUA.

Messrs. Carl A. Waterman and Marvin Steenbergh, of Utica, N. Y., for the SEPA.

Mr. Willard Bliss, of Syracuse, N. Y., and Mr. Edward Landy, of Utica, N. Y., for the UE.

Mr. Bernard Goldberg, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon separate petitions duly filed by Locals 10 and 19 of Interstate Copper & Brass Workers Union, Confederated Unions of America, herein collectively called the CUA, alleging that questions affecting commerce had arisen concerning the representation of employees of Savage Arms Corporation, Utica, New York, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Eugene von Wellsheim, Trial Examiner. Said hearing was held at Utica, New York, on May 18 and 24, 1945. The Company, the CUA, Savage Employees Protective Association, herein called the SEPA, and United Electrical, Radio & Machine Workers of America, C. I. O., herein called the UE, 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 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

Savage Arms Corporation, a Delaware corporation, is engaged in the manufacture of machine guns at a plant in Utica, New York, which is the subject of this proceeding. From January 1, 1944, to April 30, 1945, the Company used in its operations at this plant raw materials valued in excess of \$1,000,000, of which more than 90 percent originated outside the State of New York. During the same period, the Company manufactured finished products valued in excess of \$3,000,000, of which more than 90 percent was shipped to points outside the State.

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

II. THE ORGANIZATIONS INVOLVED

Locals 10 and 19, Interstate Copper & Brass Workers Union, affiliated with the Confederated Unions of America, are labor organizations admitting to membership employees of the Company.

Savage Employees Protective Association, unaffiliated, is a labor organization admitting to membership employees of the Company.

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

III. THE QUESTIONS CONCERNING REPRESENTATION.

To a request by Local 10 of the CUA for recognition as the collective bargaining representative of the machine setters and leaders, the Company replied on February 27, 1945, that it had a contract with the SEPA covering such employees. The Company gave the same answer to a request at the hearing by Local 19 of the CUA for recognition as bargaining representative of the production and maintenance employees.¹

A statement of a Board agent, introduced into evidence at the hearing,

¹ The collective bargaining contract between the Company and the SEPA was executed on May 10, 1944, and provides that it shall remain in effect for 1 year from May 24, 1944, and from year to year thereafter unless either party serves notice to the contrary not less than 30 days prior to the expiration date of any contract year. Although the contract has been automatically renewed, it is not a bar to this proceeding since the initial adverse claim of representation made by Local 10 was served upon the Company prior to the effective automatic renewal date of the contract. Neither the Company nor the SEPA has made any contention that the contract is a bar.

indicates that the CUA represents a substantial number of employees in the unit hereinafter found appropriate.²

We find that questions affecting commerce have 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 CUA seeks to establish two separate units to be constituted as follows: (1) all production and maintenance employees, including day-rated and piece-rated employees, inspectors, checkers, expeditors, trouble shooters, and mill clerical employees, but excluding main office clerical employees, polishers,³ confidential employees, machine setters, leaders, assistant foremen, foremen and supervisors; (2) machine setters and leaders. The Company, the SEPA, and the UE urge that the machine setters and leaders be included in the same unit with the production and maintenance employees. The SEPA also urges, apparently with the concurrence of the Company, but over the objections of both the CUA and the UE, that main office clerical workers be included in the production and maintenance unit. There are no other disagreements among the parties respecting units or categories of employees to be included or excluded.

The CUA contends that the machine setters and leaders are minor supervisors and hence should not be included in the same unit with production and maintenance employees. Each machine setter is in charge of a group of machines which he sets up for operators and also keeps in adjustment and repair. In addition, he also spends a small part of his time instructing operators in the proper handling of the machines. Although the evidence of the duties of the various leaders appearing on the Company's pay roll is incomplete, it appears that generally the leader shares in, and in varying degrees, directs, the work of a group of employees under the supervision of foremen and assistant foremen. The Company considers neither the machine setters nor the leaders to be members of its supervisory hierarchy which does not extend below the rank of assistant foreman. The SEPA and UE likewise do not consider these employees to be supervisors. Both

² The Field Examiner reported that in the proposed machine setters and leaders unit, which comprises about 407 employees, Local 10 submitted 205 authorization cards dated in February and March 1945, and the UE submitted 130 authorization cards, of which 120 were dated in the years 1942, 1943, and 1944 and 10 were undated.

The Field Examiner further reported that in the proposed production and maintenance unit excluding machine setters and leaders, Local 19 submitted 973 authorization cards; that the names of 872 persons appearing on these cards were also listed on the Company's pay roll, which contained the names of 2,983 persons in the appropriate unit; and that the cards were dated in April and March 1945. The UE submitted 2,314 authorization cards, of which 254 were undated and the remainder were dated as follows: 29 in 1945, 612 in 1944, 181 in 1943, 1,234 in 1942, and 4 in 1941. No check of these authorization cards was made against a company pay roll. The SEPA relies on its contract referred to in footnote 1, *supra*, to establish its interest.

³ The polishers are presently represented by a union affiliated with the American Federation of Labor.

machine setters and leaders have been covered by the collective bargaining contracts for non-supervisory employees to which the Company and the SEPA have been parties since 1939. Further, machine setters and leaders are on the same seniority list with, and enjoy the same privileges as, production workers. Although the hourly rate for machine setters and leaders is higher than the rate for production workers, and their respective incentive bonus systems are different, such differences do not in our opinion indicate any lack of community of interest between the groups, especially in view of the fact that the weekly earnings of the production workers are greater than those of the machine setters and leaders. The machine setters have duties analogous to those of set-up men who, we have frequently found, are not supervisory employees.⁴ While there is some conflict in the testimony respecting the powers of leaders to make effective recommendations concerning the status of members of their groups, we are of the opinion that they are not supervisors within the Board's customary definition. We find that neither the machine setters nor the leaders are supervisory employees and we shall include them in the production and maintenance unit.

Main office clerical workers

The Company's main office at the plant is housed in one entire building and part of an adjoining building. The clerical workers employed there perform the usual type of office work. The SEPA desires to include these clerical workers in the same unit with production and maintenance employees because they have been so included in the collective bargaining contracts with the Company since 1939. As a general rule, the Board has, except in unusual circumstances, excluded office clerical employees from a unit of production and maintenance employees even where there has been a history of collective bargaining for both groups on a single unit basis. This rule is based on the Board's considered opinion that the commingling of office clerical with production and maintenance employees in a single unit is not conducive to effective collective bargaining in view of the significant dissimilarity in their work, working conditions, and interests.⁵ Since no adequate reason has been advanced in the instant proceeding for any departure from this rule, we shall exclude the main office clerical workers from the unit.

We find that all production and maintenance employees at the Company's plant in Utica, New York, including day-rated and piece-rated employees, inspectors, checkers, expeditors, trouble shooters, mill clerical employees, machine setters and leaders, but excluding main office clerical employees, polishers, confidential employees, foremen, assistant foremen

⁴ *Matter of Chicago Rawhide Manufacturing Company*, 59 N. L. R. B. 1234; *Matter of Ahlberg Bearing Company*, 56 N. L. R. B. 1794; *Matter of Goodman Manufacturing Company*, 58 N. L. R. B. 531; *Matter of Guiberson Corporation*, 59 N. L. R. B. 1091.

⁵ *Matter of E. I. du Pont de Nemours & Company, Inc.*, 62 N. L. R. B. 146.

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

We shall direct that the questions concerning representation which have 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.⁹

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 Savage Arms Corporation, Utica, New York, 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 Third 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 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 Interstate Copper & Brass Workers Union, affiliated with the Confederated Unions of America, or by United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, or by Savage Employees Protective Association, for the purposes of collective bargaining, or by none of these organizations.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Election.

⁹ The separate requests of the CUA to appear on the ballot as Interstate Copper & Brass Workers Union, affiliated with Confederated Unions of America, and of the UE to appear on the ballot as United Electrical, Radio & Machine Workers of America (UE-CIO), are hereby referred to the Regional Director for determination.