

In the Matter of FRICK COMPANY *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (U. A. W.-C. I. O.)

Case No. 6-R-1157.—Decided September 11, 1945

Mr. L. I. Rice, of Martinsburg, W. Va., and *Messrs. D. L. Benedict, S. F. Workman*, and *S. S. Snively*, all of Waynesboro, Pa., for the Company.

Mr. Paul Silver, of Cleveland, Ohio, and *Messrs. F. L. Innis, Louis Didisse*, and *Linwood L. Smith*, all of Waynesboro, Pa., for the Union.

Mr. David V. Easton, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a first amended petition duly filed by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (U. A. W.-C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Frick Company, Waynesboro, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before W. G. Stuart Sherman, Trial Examiner. Said hearing was held at Waynesboro, Pennsylvania, on June 28, 1945. The Company and the Union 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

Frick Company is a Pennsylvania corporation with its office and principal place of business located at Waynesboro, Pennsylvania. It

is a parent company, wholly owning Knickerbocker Stamping Company, a West Virginia corporation, with its plant located at Parkersburg, West Virginia; and Mack Machine Company of Pennsylvania, a Pennsylvania corporation with its plant and main office located at Philadelphia, Pennsylvania. We are concerned herein with the Company's operations at Waynesboro, where it is engaged in the manufacture, sale, and distribution of refrigerating and air-conditioning machinery, sawmills, grain threshers, peanut pickers, and accessories and parts for the above-named types of machinery. During the past year the Company made purchases of raw and other materials for use at its Waynesboro plant values in excess of \$500,000, of which approximately 40 percent originated from sources outside the Commonwealth of Pennsylvania. During the same period, the total value of sales of products manufactured at the Waynesboro plant exceeded \$500,000 in value, of which more than 50 percent was sold and shipped to points outside the Commonwealth.

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

II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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 UNITS

The Union seeks a unit comprised of all production and maintenance employees of the Company, including shop clerical employees, inspectors, timekeepers, janitors, guards and watchmen, and

¹ The Field Examiner reported that the Union submitted 277 application cards, and that there were 628 employees in the unit sought.

working foremen, but excluding office clerical employees (including employees of the planning and stock record department), technical employees (including employees of the engineering and drafting departments), messengers, temporary employees² and supervisory employees within the meaning of the Board's customary definition; at the hearing, the Union took the position that, if the above unit is inappropriate, insofar as it encompasses timekeepers, guards, and watchmen, it seeks, in the alternative, separate units of such employees. The Company contends that shop clericals, inspectors, timekeepers, office janitors, guards and watchmen, and working foremen should be excluded from the production and maintenance unit, and apparently objects to the establishment of separate units embracing timekeepers, and guards and watchmen.

Shop clerical employees: The Company employs several persons in a clerical capacity in its shipping and receiving department and in its inspection department. These employees are carried on the factory pay roll, and receive their orders and instructions from the foreman of the department in which they work. In addition to their clerical duties, they effect the delivery of materials and parts to various stations in the plant in order to expedite production. We are of the opinion and find that their duties, interests, and responsibilities warrant their inclusion within a unit of production and maintenance employees.

Inspectors: The Company employs several persons in its inspection department classified as inspectors or learners. These employees examine work for imperfections, and have authority to reject faulty work. They are paid on an hourly basis and may be assigned anywhere in the plant. They have no disciplinary power over fellow employees, nor do they have access to confidential information affecting labor relations. We shall include these employees within the production and maintenance unit.³

Timekeepers: The Company employs approximately 10 timekeepers who are paid on an hourly basis and are carried on the factory pay roll. In addition to their timekeeping duties which entail the keeping of daily records of the hours of employees, and job and overtime records, they write up requests for materials for department foremen and are responsible for the delivery of these materials to the departments. Thus, they are responsible to the personnel manager insofar as their calculations and reports affect the earnings of employees, and

² The Company and the Union agree that the term "temporary employees" refers to persons hired by the Company for the summer season who work under work permits obtained from school or local civic authorities.

³ See *Matter of Sangamo Electric Company*, 59 N. L. R. B. 364.

In view of our finding with respect to shop clerical employees, we need not discuss the other categories of employees in the inspection department. All, with the exception of the chief inspector, are included within the production and maintenance unit.

to the foreman of the department, with respect to those matters affecting it. In view of their dual responsibilities we are of the opinion and find that timekeepers are properly part of the production and maintenance unit.⁴

Janitors: The Company's objection to the inclusion of office janitors within the production and maintenance unit sought by the Union is predicated upon the fact that in the performance of their janitorial duties they have access to the main offices wherein confidential files are kept; this objection does not apply to factory janitors. The record indicates that office janitors are hourly paid employees on the factory pay roll who perform the duties usual to this classification, and that the proper performance of their duties does not authorize them to "go through" the Company's confidential files. We shall include all janitors in the production and maintenance unit.⁵

Working foremen: As previously noted, the Union seeks the inclusion of working foremen in the production and maintenance unit. The record indicates that all persons classified by the Company as foremen, whether or not they perform manual work, have authority to make recommendations affecting the status of subordinates, and that the Company attaches weight to these recommendations. Under these circumstances we find that all foremen are supervisory employees, and shall exclude them.

Watchmen and guards: The record indicates that the Company employs seven uniformed and armed guards, and three watchmen. All have recently been demilitarized, but all are presently deputized. They exercise monitorial functions with respect to other employees. In conformance with our customary policy,⁶ we shall establish a separate unit for these employees.

We find that the following groups of employees of the Company constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

1. All production and maintenance employees, including shop clerical employees, inspectors, timekeepers, and all janitors, but excluding office clerical employees (including employees of the Planning and Stockroom Department), technical employees (including employees of the Engineering and Drafting Department), messengers, watchmen and guards, temporary employees, all foremen, 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.

2. All deputized guards and watchmen, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or

⁴ See *Matter of Dahlstrom Metallic Door Company*, 61 N. L. R. B. 1160.

⁵ See *Matter of Joseph Bancroft & Sons*, 60 N. L. R. B. 1053.

⁶ See *Matter of Standard Steel Spring Company*, 62 N. L. R. B. 660.

otherwise effect changes in the status of employees, or effectively recommend such action.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by separate elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, and subject to the limitations and additions set forth in the Direction.⁷

DIRECTION OF ELECTIONS

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 Frick Company, Waynesboro, Pennsylvania, separate elections 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 Sixth 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 units 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 or not they desire to be represented by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (U. A. W.-C. I. O.), for the purposes of collective bargaining.

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

⁷ The request of the Union that it be designated on the ballot otherwise than as herein set forth, is hereby referred to the Regional Director, to whom the Board has delegated discretionary authority in matters relating to the conduct of the election.