

In the Matter of PASS & SEYMOUR, INC. and DISTRICT 50, UNITED  
MINE WORKERS OF AMERICA

*Case No. 3-R-1054.—Decided October 11, 1945*

*Bond, Schoeneck & King*, by *Mr. Lyle Hornbeck*, of Syracuse, N. Y.,  
for the Company.

*Mr. Frank Podsiodlik* and *Mr. Andrew Hizney*, of Syracuse, N. Y.,  
for the Union.

*Mr. John E. Lawyer*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE.

Upon petition duly filed by District 50, United Mine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Pass & Seymour, Inc., Solvay, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene von Wellsheim, Trial Examiner. The hearing was held at Syracuse, New York, on August 3, 1945. The Company and the Union appeared at and participated in the hearing, and 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 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

Pass & Seymour, Inc., a New York corporation, has its principal office and plant at Solvay, New York, where it is engaged in the manufacture of electric wiring devices and insulators. During the period from July 1, 1944, to June 30, 1945, the Company used at its Solvay,

New York, plant raw materials of a value exceeding \$250,000, of which approximately 80 percent was obtained from points outside the State of New York. During the same period, the Company manufactured at its Solvay, New York, plant finished products of a value exceeding \$250,000, of which approximately 80 percent 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 ORGANIZATION INVOLVED

District 50, United Mine Workers of America, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive collective bargaining representative of the employees involved herein until such time as it is certified by the Board.

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

We find, in substantial accordance with the agreement of the parties, that all production and maintenance employees of the Company, including watchmen and model makers, but excluding office and clerical employees, clerks in the shipping department, timekeepers, foremen's clerks, production control clerks, nurses, personnel department clerks, German War Prisoners,<sup>2</sup> engineers and draftsmen (exclusive of the so-called engineers in the powerhouse), expeditors or stock chasers, executives, working foremen, assistant foremen, 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, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.<sup>3</sup>

<sup>1</sup> The Field Examiner reported that the Union presented 204 authorization cards, and that there are approximately 444 employees in the appropriate unit.

<sup>2</sup> German War Prisoners are employed intermittently by the Company and are merely casual workers.

<sup>3</sup> The unit found above is substantially the same as that found appropriate in a prior proceeding. See *Matter of Pass & Seymour, Inc.*, 51 N. L. R. B. 1135.

## V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of 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.

## 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 Pass & Seymour, Inc., Solvay, 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 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 District 50, United Mine Workers of America, for the purposes of collective bargaining.

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