

In the Matter of R. W. POINTER, D/B/A POINTER-WILLAMETTE Co. and  
UNITED STEELWORKERS OF AMERICA, CIO

*Case No. 19-R-1553.—Decided October 26, 1945*

*Messrs. A. H. Hitz and G. O. Manwaring, of Billings, Mont. for the Company.*

*Mr. A. M. Kacz, of Billings, Mont., for the CIO.*

*Mr. John T. Curtis, of Spokane, Wash., and Mr. Harvey E. Lynde, of Billings, Mont., for the IAM.*

*Mr. Sidney Grossman, of counsel to the Board.*

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by the United Steelworkers of America, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of R. W. Pointer, d/b/a Pointer-Willamette Co., Billings, Montana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John E. Hedrick, Trial Examiner. The hearing was held at Billings, Montana, on July 2, 1945. The Company, the CIO, and the International Association of Machinists, Lodge No. 622, AFL, herein called the IAM, 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

The Pointer-Willamette Co., under the proprietorship of R. W. Pointer, with principal offices at Portland, Oregon, is engaged in the manufacture of 20-ton machinery trailers for the U. S. Army Engi-  
64 N. L. R. B., No. 85.

neers at its Billings, Montana, plant, with which this proceeding is concerned. It also maintains a manufacturing plant at Edmonds, Washington, and a sales and service office at Spokane, Washington. The principal raw material used by the Company at its Billings plant is steel, almost all of which is secured from sources outside the State of Montana. The Company's production at its Billings plant, during the fiscal year ending July 1, 1945, approximated \$8,000,000 in value; all of its finished products were shipped to points outside the State of Montana.

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.

International Association of Machinists, Lodge No. 622, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

## III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the CIO as the exclusive bargaining representative of certain of its employees. The IAM contends that an existing contract constitutes a bar to this proceeding.

As a result of a consent election held in April 1944 under Board auspices, the IAM was certified as the bargaining representative of the Company's employees. On August 6, 1944, the Company and the IAM entered into a collective bargaining agreement effective for a period of 1 year from May 15, 1944, and automatically renewable annually for an additional 1-year period in the absence of written notice of any desired change by either of the contracting parties 30 days prior to the anniversary date. Neither the Company nor the IAM served such notice upon the other. The 1944 agreement was therefore automatically renewed on April 15, 1945, and consequently constitutes a bar to this proceeding unless the CIO filed its petition or otherwise notified the Company of its representation claim prior to such date.<sup>1</sup> The record discloses that the CIO never directly notified the Company of its representation claim. Although it mailed its petition to the Regional Office on April 14, 1945, the petition was not received and docketed by the Regional Office until April 16, 1945, after the contract

<sup>1</sup> See *Matter of Portland Lumber Mills*, 56 N. L. R. B. 1336; *Matter of Indianapolis Power & Light Company*, 62 N. L. R. B. 1279.

had been automatically renewed. We therefore find that the renewal of the 1944 agreement precludes a present determination of representatives. Accordingly, we shall dismiss the petition filed by the CIO.

### ORDER

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of R. W. Pointer, d/b/a Pointer-Willamette Co., Billings, Montana, filed by United Steelworkers of America, CIO, be, and it hereby is, dismissed.

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