

In the Matter of BRAEBURN ALLOY STEEL CORPORATION *and* UNITED
STEELWORKERS OF AMERICA, CIO

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STEELWORKERS OF AMERICA, CIO

*Cases Nos. 6-R-1158 and 6-R-1170, respectively.—Decided October
31, 1945*

Mr. J. Reynolds Smith, of Braeburn, Pa., for the Company.

Mr. Frank J. Donner, of Washington, D. C.; Mr. S. Harold Grossman, of Tarentum, Pa.; and Mr. John J. Brownlee, of Pittsburgh, Pa., for the Union.

Mr. Angelo J. Fiumara, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon an amended petition and an original petition separately and duly filed by United Steelworkers of America, CIO, herein called the Union, each alleging that a question affecting commerce had arisen concerning the representation of employees of Braeburn Alloy Steel Corporation, Braeburn, Pennsylvania, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Allen Sinsheimer, Jr., Trial Examiner. The hearing was held at Pittsburgh, Pennsylvania, on July 12 and 13, 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

Braeburn Alloy Steel Corporation, a Pennsylvania corporation, is engaged in the manufacture of high speed tool and die steels at its
64 N. L. R. B., No. 107.

only plant located in Braeburn, Pennsylvania. During the year 1944, the Company produced at its plant approximately 7,500,000 pounds of steel, more than 75 percent of which was sold and shipped to points outside the Commonwealth of Pennsylvania. During the same period, in excess of \$1,000,000 worth of the raw materials used in the manufacturing process originated 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

United Steelworkers 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

On April 16, 1945, the Company refused the Union's request for recognition as the exclusive collective bargaining representative of certain of its employees, whereupon the Union filed its petitions herein. At the hearing, the Company indicated that it would not recognize the Union for the units petitioned for unless the Union is certified by the Board.¹

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the units 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 UNITS

The Union seeks to establish three separate units to be constituted as follows: (1) all technical and professional employees, excluding supervisory employees; (2) all office and clerical employees, including

¹ In Case No. 6-R-1158, the Union originally petitioned for a unit composed of office, clerical, technical, professional, and dining-room employees, and in Case No. 6-R-1170, it sought a plant protection unit. At the hearing, the Union amended its petition in Case No. 6-R-1158 to exclude the dining-room employees and to allege as appropriate an office and clerical unit, and a technical and professional unit.

² The Regional Director reported that in Case No. 6-R-1158, the Union submitted 17 authorization cards; that 8 were dated in March or April 1945, and 9 were undated; that the names appearing on 15 of these cards were listed on a current pay roll containing the names of 26 office and clerical employees, 5 technical or professional employees, and 2 dining-room employees, and that, of the 15 names on the cards found on the pay roll, 12 were among the office and clerical employees and 3 were among the technical or professional employees.

The Regional Director further reported that in Case No. 6-R-1170, the Union submitted 5 authorization cards; that the names of 4 persons appearing on these cards were listed on the Company's pay roll which contained the names of 5 employees in the appropriate unit.

those employees listed in Appendix A, the chief production clerk, the assistant chief accountant, the pay-roll supervisor, the chief clerk in the accounting department, and the stenographer in the treasurer's office, but excluding employees listed in Appendix B, and supervisory employees; and (3) all plant protection employees, including the chief of guards. The Company agrees that the unit of technical and professional employees is appropriate; it is in general agreement as to the appropriateness of the office and clerical unit and the plant protection unit, except that it would also exclude the chief production clerk, the assistant chief accountant, the pay-roll supervisor, the chief clerk in the accounting department, and the stenographer in the treasurer's office from the office and clerical unit and the chief of guards from the plant protection unit.

The chief production clerk, the assistant chief accountant, the pay-roll supervisor, and the chief clerk in the accounting department: The Company would exclude each of these employees from the office and clerical unit on the ground that they are supervisory.

The chief production clerk is in charge of the Company's planning department. He devotes about 25 percent of his time in assigning and overseeing the work of the two other employees in his department, *viz*, an assistant and a clerk. The record shows that the chief production clerk hired his assistant many years ago, that he recommended a wage increase for that employee which was granted, and that he has authority effectively to recommend discharge and disciplinary action.

The assistant chief accountant heads the cost department. He has two full-time and two part-time employees working under his supervision. His recommendations as to hire and wage adjustments have been followed in the past. In addition, he has authority to discharge an employee for dishonesty, and may effectively recommend disciplinary action or the discharge of inefficient employees.

The pay-roll supervisor has three full-time and four part-time employees working under his supervision. He has authority effectively to recommend salary adjustments and the discharging or disciplining of these employees.

The chief clerk in the accounting department is responsible for the work performed by three employees who regularly work under her supervision. She also supervises the work of four employees who work for her part time. The record shows that she devotes most of her time to supervision and that she has authority effectively to recommend the hiring, discharging, and disciplining of employees under her supervision.

We find that the chief production clerk, the assistant chief accountant, the pay-roll supervisor, and the chief clerk in the accounting

department,³ are supervisory employees within the meaning of our customary definition.⁴ We shall, therefore, exclude them from the unit.

The stenographer in the treasurer's office: The Company would exclude Ella Pole, the stenographer in the treasurer's office from the office and clerical unit as a confidential employee, while the Union would include her. She spends about 25 percent of her time as an assistant secretary to the treasurer. In the performance of her duties, she receives confidential memoranda relating to labor relations, particularly with reference to changes in wage rates; she also has access to personnel records containing such confidential information as comments concerning the work of employees and reports on disciplinary action. Since it is clear that Ella Pole is in a position to obtain advance knowledge of the Company's position concerning confidential matters pertaining to labor relations, we shall exclude her from the unit as a confidential employee.

The chief of guards: The Company would exclude John Scheitle, the chief guard, from the plant protection unit on the ground that he is a supervisory employee, while the Union would include him. The duties of John Scheitle, in addition to those performed by him as a guard during the day turn,⁵ consist, in the main, of arranging the work schedules of guards, receiving and filing the written reports of the guards, investigating any reported matters that warrant such action, checking time clocks, instructing new guards, and transmitting to the guards any new orders issued by the assistant general superintendent who supervises the plant protection department. He has authority to grant time off to the guards under him, and may lay them off for breach of duty. In addition, the record shows that his recommendations as to the hiring of two or three guards and the discharging of one guard were followed after an investigation by the assistant general superintendent. Under all the circumstances, we are satisfied that Scheitle is a supervisory employee within our customary definition. We shall exclude him.⁶

We find, in accordance with the agreement of the parties, that all technical and professional employees at the Company's Braeburn,

³ These include: F. D. Chambordon, William Menk, Edward McLaughlin, and Ruth Lord, respectively.

⁴ The Board customarily defines "supervisory employee" as one with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action. The Union requested that the Board modify its definition so as to delete therefrom the phrase "or otherwise effect changes in the status of employees, or effectively recommend such action" Since it is obvious that the Union's request seeks to alter the test of "supervisory employee" long established and adhered to by the Board, it is denied.

⁵ Guards are employed on three shifts, one guard is on the day turn, two are on the second turn, and two are on the third turn. They are neither militarized nor deputized.

⁶ See *Matter of Missouri Valley Bridge and Iron Co.*, 53 N. L. R. B. 1207.

Pennsylvania, plant, excluding the foreman,⁷ and all 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.

We further find that all office and clerical employees at the Company's Braeburn, Pennsylvania, plant, including those listed in Appendix A, but excluding dining-room employees, employees listed in Appendix B, the stenographer in the treasurer's office,⁸ the chief production clerk, the assistant chief accountant, the pay-roll supervisor, the chief clerk in the accounting department, and all 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.

We also find that all plant protection employees at the Company's Braeburn, Pennsylvania, plant, excluding the chief of guards, and all 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 elections by secret ballot among the employees in each of the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

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 Braeburn Alloy Steel Corporation, Braeburn, 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

⁷ C. R. Klingensmith, assistant metallurgist.

⁸ Ella Pole.

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 elections to determine whether or not they desire to be represented by United Steelworkers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

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

APPENDIX A

Max D. McElroy—Expediter in Sales Department
 Agnes McCarthy—Order and Filing Clerk in Sales Department
 John Zabersky—Production Clerk in Production Order Department
 Elizabeth Walker—Production Clerk in Production Order Department
 C. B. McFerron—Production Clerk in Production Order Department
 Valeda Hruscienski—Typist and clerk in warehouse
 Thelma Bayne—Typist and clerk in mill office
 Dorothy Lamb—Clerk in accounting department
 Elizabeth McMasters—Billing Clerk in Accounting Department
 Elsie Shellhammer—PBX Operator and typist
 Virginia Shearer—Clerk in Accounting department
 Mary Hicks—Clerk in Accounting department
 Mary Jane Weaver—Clerk in Accounting department
 Anna Raymond—Clerk in Accounting department
 Verna Gordon—Clerk in Accounting department
 Stella Gawlik—Clerk in Accounting department
 Andrew Becker—Janitor in offices
 Alexander Sorocho—Accountant
 Thelma Lowdermilk—Clerk in treasurer's office
 Audrey Blake—Clerk in treasurer's office

APPENDIX B

T. H. McGraw, Jr.—General Manager of plant
 Norman A. Stotz—Vice president in charge of Sales
 E. L. Moberg—Assistant General Sales Manager

Helen K. Nixon—Chief Clerk in Sales Office

John A. Nelson—Vice president in charge of Metallurgy

J. F. Connor—Superintendent of Chemical Laboratory

A. J. Fazio—Assistant General Superintendent

Philip Lekinsky—Purchasing Agent

L. J. Claire—Treasurer

C. J. Molt—Chief Accountant

Jane Trout—Executive Secretary to vice president in charge of Sales
and General Manager

Nora Shellhammer—Secretary to the Treasurer and Assistant Pur-
chasing Agent

All employees in the industrial relations department