

In the Matter of L. L. STONE, M. F. STONE, B. P. STONE, AND L. J. STONE, CO-PARTNERS, DOING BUSINESS AS WIRE & METAL MANUFACTURING COMPANY and WIRE METALS DIVISION OF LOCAL 2018, UNITED STEELWORKERS OF AMERICA, CIO

*Case No. 21-R-2842.—Decided November 30, 1945*

*Gibson, Dunn & Crutcher*, by Messrs. *J. Stuart Neary* and *William M. Martin*, of Los Angeles, Calif., for the Company.

*Mr. Gilbert C. Anaya*, of Maywood, Calif., for the Union.

*Mr. Samuel G. Hamilton*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Wire Metals Division of Local 2018, United Steelworkers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of L. L. Stone, M. F. Stone, B. P. Stone, and L. J. Stone, co-partners, doing business as Wire & Metal Manufacturing Company, Vernon, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Charles M. Ryan, Trial Examiner. The hearing was held at Los Angeles, California, on July 25, 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

L. L. Stone, M. F. Stone, B. P. Stone, and L. J. Stone are co-partners doing business as Wire & Metal Manufacturing Company, Vernon,

California. At the time of the hearing the Company was engaged wholly in the war effort. It manufactures metal and wire products under contract specifications and blueprints. The principal raw materials used by the Company are steel sheets and bright basic wire. During the year 1944, the Company purchased raw materials valued at between \$150,000 and \$200,000, of which at least \$20,000 in value were purchased outside the State of California. During the same period, finished products valued at approximately \$1,000,000 were sold to customers within the State. One of its customers, Consolidated Steel Corporation, purchased from the Company fabricated steel products valued at approximately \$400,629.78, all of which were incorporated into ships which Consolidated Steel Corporation builds for the United States Maritime Commission. This latter company has previously been found to be within the jurisdiction of the Board.<sup>1</sup>

The Company does not deny, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.<sup>2</sup>

## II. THE ORGANIZATION INVOLVED

Wire Metals Division of Local 2018, United Steelworkers 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 Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>3</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.

<sup>1</sup> See *Matter of Consolidated Steel Corporation, Ltd. (Wilmington Shipyard)*, 55 N. L. R. B. 1373.

<sup>2</sup> See *N. L. R. B. v. T. W. Phillips Gas & Oil Company*, 141 F. (2d) 304 (C. C. A. 3); *N. L. R. B. v. Edinburg Citrus Association*, 147 F. (2d) 353 (C. C. A. 5); cf. *Matter of George T. Purves, Jr.*, 61 N. L. R. B. 317; *Matter of New Market Steel Company, Inc.*, 54 N. L. R. B. 90; *Matter of Crown Cork & Steel Company, Inc.*, 53 N. L. R. B. 741.

<sup>3</sup> The Trial Examiner reported that the Union submitted 54 authorization cards; that the names of 30 persons appearing on the cards were listed on the Company's pay roll of June 1, 1945; that 7 of the cards were dated March 1945, 28 April 1945, 2 May 1945, and 17 were undated and that there were 89 employees in the unit alleged in the petition to be appropriate. The Union's designations amounted to 33.5% of the employees in the appropriate unit. At the hearing the Company requested that a cross-check of the petitioner's cards be made against the Company's pay roll dated July 25, 1945, the date of the hearing. Although a further check made by the Trial Examiner indicates that the Union's percentage dwindled, due to a rapid turnover in personnel, we find that the Union's decreased showing of representation under such circumstances remains substantial. See *Matter of Kellett Aircraft Corporation*, 53 N. L. R. B. 938.

## IV. THE APPROPRIATE UNIT

The Union seeks a unit composed of all production and maintenance employees of the Company, including the warehouseman and the shipping clerk, but excluding all office and clerical employees, the production planner, the production control employees, the tool crib attendant, truck drivers, engineering draftsmen, leadmen, engineer in charge of draftsmen, the night foreman, and all other supervisory employees. The Company contends that the production control employees, the tool crib attendant, truck drivers, engineering draftsmen, and leadmen should be included in the appropriate unit.

*Production control employees:* The production control employees include the material release clerk, production control dispatchers, and the typist. The material release clerk accounts for material received and used, its placement, and its movement throughout the plant. She also figures material requirements, keeps records, and acts as assistant to the plant manager. Upon occasion, she assembles, cuts wrappers, makes masks in the paint department, serves as shipping clerk, and assists in production. One production control dispatcher issues the cost accounting work tickets and "translates," in the order in which the manager of production wishes, the type of work that is required to be completed, by delivering the appropriate work tickets to the necessary leadmen and workers. He does some posting from the work tickets taken in at the end of the day to the control records, in order that the plant manager may know at all times where each individual job stands and how many of each kind of item have been produced. Whenever necessary he goes out on the factory floor, issues work tickets, carries messages to leadmen, moves material in order to keep machines operating and people working, loads trucks, and finds out where a particular job stands. The other production control dispatcher assists the manager of production, carries messages to the leadmen, cuts paper to size where it is necessary in production, operates a welding machine and assembles on occasion. The typist works in the production control booth under the same supervision as the other production control employees. She does clerical work pertaining to production control, and her duties are closely aligned with those of the other production control employees. Since it is evident that the production control employees are factory clericals having duties and interests similar to those of the production employees, we shall include them in the unit.<sup>4</sup>

*Tool crib attendant:* This employee dispenses small tools, parts, and perishable tools. She keeps records showing the names of the bor-

<sup>4</sup> See *Matter of Vulcan Mold and Iron Company*, 62 N. L. R. B. 1219; *Matter of Douglas Aircraft Company, Inc.*, 60 N. L. R. B. 876.

rowers, how they are returnable, and how to charge their cost to the respective jobs. She also assists in production. We shall include the tool crib attendant in the unit.

*Truck drivers:* The Company employs two truck drivers. Their main duties are to make deliveries and pick-up materials, although on occasion, rather than be subject to lay-off for any period of time, they assist in production in the plant. Since the truck drivers constitute a distinct and separate group of employees whose interests and conditions of employment are not altogether the same as those of the other employees, and since the parties are in dispute as to their inclusion, we shall exclude them from the unit.<sup>5</sup>

*Engineering draftsmen:* There are two draftsmen. Upon occasions, when they can be of assistance due to their background and experience, they engage in production work on a particular job. In the course of their regular duties they prepare drawings, based upon instructions, for the manufacturing of tooling and jigs, and they assist in the "organization of new jobs" and in the "getting them started process". Since they perform the technical duties of draftsmen and engineers, in the regular course of their employment, we shall exclude the engineering draftsmen from the unit.<sup>6</sup>

*Leadmen:* There are 10 employees classified as leadmen. They receive more pay than the production employees they supervise and direct the work of groups ranging from 5 to 20 in number. The nature of the Company's business requires that they change from one job to another when the situation demands that a particular job be completed at a certain time. Although the Company tries to avoid the practice, they are required to work as ordinary production workers while they retain their salary and classification as leadmen, when the situation so demands. While at one point the manager of production testified that leadmen do not have the authority to hire, discharge, promote, or otherwise effect changes in the status of employees, or effectively recommend such action, at another point he testified that, as a practical matter, occasionally they make such recommendations, and that in some cases their recommendations are effective. A committee composed of "the two partners," the office manager, and the manager of production, makes the final decision with respect to discharge, promotion, transfer, and disciplinary action. The leadmen rate the employees under their supervision, although the rating is reviewed by the manager of production, and this rating together with those of the members of a rating committee of employees are largely

<sup>5</sup> See *Matter of Adams-Millis Corporation, Plant Number 7*, 63 N. L. R. B. 362, *Matter of Sam Boorstein & Harry Boorstein, trading as Blue Ribbon Laundry*, 64 N. L. R. B. 645, *Matter of Kingan & Co., Incorporated*, 61 N. L. R. B. 1222, *Matter of Wilson & Company, Inc.*, 62 N. L. R. B. 895.

<sup>6</sup> See *Matter of Bear Manufacturing Company*, 63 N. L. R. B. 322.

determinative of promotions and demotions. To uphold the Company's contention that the leadmen are not supervisory employees would be to find that the majority of the approximately 150 production employees in its employ are under the sole supervision and control of one employee.<sup>7</sup> Under all the circumstances, we are convinced that leadmen are vested with sufficient *indicia* of supervisory authority to warrant their exclusion from the unit.<sup>8</sup>

We find that all production and maintenance employees of the Company, including production control employees, the tool crib attendant, the warehouseman, and the shipping clerk,<sup>9</sup> but excluding office employees, truck drivers, engineering draftsmen, the production planner, the engineer in charge of drafting, the night shift foremen, leadmen, 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 question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the payroll 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 L. L. Stone, M. F. Stone, B. P. Stone, and L. J. Stone, co-partners, doing business as Wire & Metal Manufacturing Company, Vernon, California, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) days from the date of this Direction, under the direction and supervision of the Regional Director for the Twenty-first Region, acting in this matter as agent for the National Labor Relations Board,

<sup>7</sup> The manager of production in charge of the night shift There are no foremen in the plant other than the foreman in charge of the night shift The two engineering draftsmen are supervised by the engineer in charge of drafting.

<sup>8</sup> Included in the unit, however, are employees who sometimes act as leadmen. They are classified as production workers and do not receive the leadmen's higher rate of pay.

<sup>9</sup> The parties agree to include this employee.

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 the 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 or not they desire to be represented by Wire Metals Division of Local 2018, United Steelworkers of America, CIO, for the purposes of collective bargaining.