

In the Matter of UNION IRON WORKS *and* UNITED STEELWORKERS OF AMERICA, CIO

*Case No. 6-R-1340.—Decided April 25, 1946*

*Mr. W. Pitt Gifford*, of Erie, Pa., for the Company.

*Mr. John W. Grajciar*, of Sharon, Pa., and *Mr. John H. Graney*, of Erie, Pa., for the CIO.

*Mr. Walter M. Appleby*, of Media, Pa., and *Mr. Robert Camp*, of Erie, Pa., for the AFL.

*Mr. Phil E. Thompson*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Union Iron Works, Erie, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph Lepie, Trial Examiner. The hearing was held at Erie, Pennsylvania, on March 6, 1946. The Company, the CIO, and the International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America, AFL, herein called the AFL, 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 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

Union Iron Works is a Pennsylvania corporation engaged in the manufacture of boilers, pressure vessels, and other steel fabricated products at its plant in Erie, Pennsylvania. During the year 1945,

the Company purchased raw materials valued in excess of \$400,000, of which approximately 85 percent was shipped to its Erie plant from points outside the Commonwealth of Pennsylvania. During the same period the Company's finished products were valued in excess of \$1,000,000, over 90 percent of which was shipped outside the Commonwealth of Pennsylvania.

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 is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America, is a labor organization, affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

Pursuant to a consent election on July 17, 1941, the AFL was certified as the exclusive bargaining representative of a plant-wide unit of production and maintenance employees. On June 17, 1944, the AFL and the Company signed a written bargaining contract which, by its terms, was to continue in force for a period of 1 year, and from month to month thereafter until either party should give 30 days' notice of its intention to terminate or modify the agreement. On November 5, 1945, the AFL gave the Company written notice of its desire to negotiate a new contract.

On December 21, 1945, the Company received a written request from the CIO for recognition as the exclusive bargaining representative of its production and maintenance employees. The Company replied that its contract with the AFL precluded such recognition, whereupon, on January 16, 1946, the CIO filed its petition herein. On February 26, 1946, the Company and the AFL signed a new contract, which the AFL now seeks to interpose as a bar to this proceeding.

We find that neither the contract of June 17, 1944, nor the contract of February 26, 1946, bars a present determination of representatives inasmuch as the former was subject to termination by either party upon 30 days' notice after June 17, 1945, and the latter was executed subsequent to the claim and petition of the CIO.<sup>1</sup>

A statement of a Board agent, introduced into evidence at the

<sup>1</sup> *Matter of Minneapolis Honeywell Regulator Company*, 62 N. L. R. B. 808, *Matter of West Virginia Coal & Coke Corporation*, 64 N. L. R. B. 767.

hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</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

The parties are in substantial agreement that the appropriate unit should consist of all hourly paid production and maintenance employees, excluding office clerical and supervisory employees. The CIO, however, seeks to include the powerhouse employees, janitors, watchmen and guards, shop clerks and storeroom keepers in the unit; the AFL and the Company would exclude the disputed employees upon the ground that they have been excluded from the production and maintenance unit established in their prior bargaining agreements.

We agree with the contention of the Company and the AFL. Inasmuch as the disputed employees were, in fact, excluded from the unit in earlier bargaining agreements, we do not deem it necessary to determine whether or not these groups could effectively bargain in the unit petitioned for, and we see no reason why we should not adhere to our usual practice and not disturb the unit established in the collective bargaining relations between the Company and the AFL. Accordingly, we shall exclude these disputed categories. However, our finding in this respect shall not preclude a later determination based upon a new petition and a sufficient showing of representation, that these employees may be offered an opportunity to vote as to their inclusion in the unit herein found appropriate.<sup>3</sup>

We find that all hourly paid production and maintenance employees of the Company at its Erie, Pennsylvania plant, but excluding powerhouse employees, storeroom keeper, watchmen, guards, janitors, shop clerks, office clerical, and all or any 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 employees

<sup>2</sup> The Field Examiner reported that the CIO submitted 55 authorization cards. There are approximately 105 employees in the appropriate unit.

The AFL relies on its contract with the Company for its interest in this proceeding.

<sup>3</sup> *Matter of American Cyanamid & Chemical Corporation*, 62 N. L. R. B. 925, *Matter of Petersen & Lytle*, 60 N. L. R. B. 1070.

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 Union Iron Works, Erie, Pennsylvania, 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 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 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 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 they desire to be represented by the United Steelworkers of America, CIO, or by International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America, AFL, for the purposes of collective bargaining, or by neither.