

In the Matter of SALISBURY AXLE DIVISION, SPICER MANUFACTURING CORPORATION and UNITED AUTOMOBILE WORKERS OF AMERICA,  
A. F. OF L.

*Case No. 11-R-998.—Decided July 18, 1946*

*Mr. Lloyd T. Haney*, of Toledo, Ohio, for the Company.

*Mr. David Previant*, of Milwaukee, Wis., for the A. F. L.

*Mr. Oliver Switzer*, of South Bend, Ind., for the C. I. O.

*Mr. Conrad A. Wickham, Jr.*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Automobile Workers of America, A. F. of L., herein called the A. F. L., alleging that a question affecting commerce had arisen concerning the representation of employees of Salisbury Axle Division, Spicer Manufacturing Corporation, Fort Wayne, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Arthur R. Donovan, Trial Examiner. The hearing was held at Fort Wayne, Indiana, on May 20, 1946. The Company, the A. F. L., and United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., herein called the C. I. O., 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. At the hearing, the A. F. L. objected to the C. I. O.'s oral motion to intervene on the grounds that no evidence was presented to show that the C. I. O. represented a substantial number of employees in the unit alleged to be appropriate. This objection is overruled.<sup>1</sup> 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. The C. I. O.'s motion for rehearing is hereby denied.<sup>2</sup>

<sup>1</sup> *Matter of The Firestone Tire & Rubber Company*, 69 N. L. R. B. 634, issued July 18, 1946; *Matter of O. D. Jennings & Company*, 68 N. L. R. B. 516, and cases cited therein.

<sup>2</sup> The C. I. O. has moved for rehearing on the grounds that the inability of the reporter to hear the testimony resulted in an incomplete and inaccurate transcript, particularly in 69 N. L. R. B., No. 83.

Upon the entire record in the case, the Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Salisbury Axle Division, Spicer Manufacturing Corporation, is a Virginia corporation having its principal offices in Toledo, Ohio. It is engaged in the manufacture and distribution of automobile axles in its plants at Toledo, Ohio, and Fort Wayne, Indiana. The present proceeding is concerned solely with the latter of the two plants.

The principal raw materials purchased by the Company are malleable iron castings, steel forgings, steel, brass, and copper. The plant at Fort Wayne, Indiana, is relatively new and has engaged in very little productive activity. Its sales during the past month were negligible. However, the products currently manufactured by it, and those to be manufactured in the future, are for use both inside and outside the State of Indiana, and are presently being, and will be, shipped both inside and outside the State.

The Company admits for the purposes of this proceeding, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

United Automobile Workers of America is a labor organization, affiliated with the American Federation of Labor, admitting to membership employees of the Company.

United Automobile, Aircraft and Agricultural Implement Workers of America is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to either the A. F. L. or the C. I. O. as the exclusive bargaining representative of its production and maintenance employees until one of them has been certified by the Board in an appropriate unit.

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.

the recording of its oral summation. It has failed, however, either specifically to set forth the alleged omissions or to indicate the manner in which it has been prejudiced thereby, despite an additional 2 weeks' extension for the filing of briefs granted at its own request. Any of these generally alleged omissions could have been properly specified in its motion or in a brief. Under such circumstances, we cannot, in good conscience, remand the case for rehearing.

## IV. THE APPROPRIATE UNIT

The parties are agreed, and we find, that the appropriate unit for bargaining purposes shall consist of all production and maintenance employees, including inspectors, shipping and receiving clerks, production follow-up men and patrolmen, but excluding office and clerical employees, laboratory employees, tool designers, and all supervisory employees.

The unions are not in agreement as to "group leaders," the A. F. L. desiring their inclusion and the C. I. O. their exclusion. The Company takes no position as to their status. The Company presently employs from 4 to 6 group leaders at its Fort Wayne plant, each of whom may have anywhere from 4 to 50 employees in his particular group. Their duties are to see that production records are kept on the production line, assist the checkers, and maintain records of the hours of the workers in the line. They wear the same identification badges as those worn by the non-supervisory employees of the Company. Although they would report an employee whose conduct might be disrupting production, such a report would result in a personal investigation of this employee by higher authority. The group leaders, themselves, have no authority to hire or discharge, or to recommend such action, or to take any disciplinary action of any kind. They are under the supervision of the Company's foremen. They are on an hourly pay basis, and, except for the fact that their wages are slightly higher, they receive the same general benefits as other production workers. We find that they are not supervisory employees within our customary meaning of the term, and shall include them in the unit.

We find that all production and maintenance employees at the Company's plant at Fort Wayne, Indiana, including all inspectors, group leaders, shipping and receiving clerks, production follow-up men and patrolmen, but excluding all office and clerical employees, laboratory employees, tool designers, 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

The C. I. O. contends that no election should be directed at this time because the number of employees employed by the Company at the time of the hearing was only 170 in the unit found to be appropriate in Section IV, *supra*, about one-fifth of the anticipated full complement in that unit. The A. F. L., however, argues that the pro-

posed unit represents a typical cross-section of the Company's personnel, and that the Board should therefore direct an election on the basis of past practice under such circumstances.

The record discloses that the Company's plants call for an ultimate expansion to 800 production employees. However, due to the uncertain industrial conditions in basic industries throughout the Nation at the time of the hearing, which directly affected its own capacity to produce, the Company could not definitely state when its expansion plans would be completed. It did state that it would probably take on an additional 100 production employees within the next 3 months, and that its employment situation would thereafter remain static for an additional 3 months, after which time, it was unable to outline its program definitively. The Company is presently producing and shipping out a limited supply of its product. In view of the uncertainty as to when its contemplated expansion will occur, and in consideration of the fact that its current personnel is producing axles and constitutes a substantial and representative group, we shall adhere to our usual policy in such cases of directing an immediate election.<sup>3</sup>

We shall, however, entertain a new petition for an investigation and certification of representatives affecting the employees involved herein within less than a year, but not before the expiration of 6 months from the date of any certification we may issue in the instant proceeding, upon proof (1) that the number of employees in the appropriate unit is more than double the number eligible to vote in the election hereinafter directed; and (2) that the petitioner represents a substantial number of employees in the expanded appropriate unit.<sup>4</sup>

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among 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 Salisbury Axle Division, Spicer Manufacturing Corporation, Fort Wayne, Indiana,

<sup>3</sup> *Matter of Tuttle Silver Company, Inc.*, 66 N. L. R. B. 238; *Matter of The General Tire & Rubber Company*, 63 N. L. R. B. 182.

<sup>4</sup> *Matter of Tuttle Silver Company, Inc.*, 66 N. L. R. B. 238; *Matter of Aluminum Company of America*, 52 N. L. R. B. 1040.

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 Eleventh 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 *United Automobile Workers of America, A. F. of L.*, or by *United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O.*, for the purposes of collective bargaining, or by neither.