

talk itself becomes a campaign speech such as is prohibited by the rule. Under all the circumstances, we find that the Board's rule against campaign speeches made to employees on company time within 24 hours of an election has been violated. We shall therefore set aside the results of the January 28, 1954, election and direct that a new election be conducted.

[The Board set aside the election held on January 28, 1954.]

[Text of Direction of Election omitted from publication.]

AMERICAN CAN COMPANY *and* INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL, Petitioner. Case No. 15-RC-1063. June 3, 1954

DECISION AND DIRECTION OF ELECTIONS

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before William Fox, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. International Association of Machinists, AFL, herein called IAM; United Steelworkers of America, CIO, herein called Steelworkers; and Federal Labor Union No. 22454, AFL, herein called Federal Union; are labor organizations which claim to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. IAM seeks to represent a unit composed of all production and maintenance employees at the Employer's New Orleans, Louisiana, plant. The parties are in agreement as to the composition of the unit, except for the inclusion of inspectors. Steelworkers desires their inclusion because it customarily includes inspectors in contracts with the Employer covering production and maintenance employees and because the inspectors' work and interests are comparable to those of production employees. The Employer, IAM, and Federal Union would exclude them on the ground that they have been excluded from the historical production and maintenance bargaining unit, represented since 1941 by Federal Union.

The Employer is engaged in the manufacture of metal containers. It employs 20 inspectors whose duties include testing and inspecting parts of the manufactured article during

the production process to assure a quality product. The wages of inspectors are generally higher than the wages of unskilled production employees, ranging from \$1.46 to \$1.76 an hour as compared to \$1.335 to \$1.51 for production workers generally. At present about 50 percent of the inspectors were promoted from among the production employees and the remainder were hired from outside the plant. Those inspectors promoted from the bargaining unit retain seniority rights in the department from which they transferred and have the right to transfer back to the same department in the event of layoff. The inspectors work under supervision separate from the production workers and constitute a separate department. They have authority to shut down machines without consulting with their superior, but have no authority to hire, discipline, or transfer employees or effectively to recommend such action. They do not determine the cause for any defective product or suggest any corrective action. They work the same shifts and hours as production employees and participate in the same vacation, pension, and group insurance benefits.

In the absence of bargaining history, we would include these inspectors in the production and maintenance unit.¹ However, as they have been excluded from the production and maintenance unit for almost 14 years, we believe that they should not be included in that unit without first being given the opportunity to vote separately as to whether they desire to be part of it.²

Accordingly, we shall make no unit finding at this time, but shall direct elections in the following voting groups of employees at the Employer's New Orleans, Louisiana, plant, excluding from each voting group all guards, professional and technical employees, and supervisors as defined in the Act:

1. All production and maintenance employees, excluding employees of the lithograph department, tool- and die-makers, machinists, millwrights, sheet metal workers, welders, blacksmiths and their apprentices, office and plant clerical salaried employees, and watchmen.

2. All Inspectors.

If the employees in voting group (2) vote against the Steelworkers, they will be taken to have indicated their desire to be and will be excluded from the production and maintenance unit. If they vote for the Steelworkers, their ballots will be pooled with those in voting group (1) and the two groups together will constitute a single appropriate unit and the Regional Director is instructed to issue a certification of representatives or a certificate of results as dictated by the outcome of the election in that unit.

[Text of Direction of Elections omitted from publication.]

¹Clarostat Mfg. Co., Inc., 105 NLRB 20.

²The Ryan Aeronautical Co., 76 NLRB 356, 359.

³As IAM and Federal Union have made no showing of interest in voting group 2, we shall place only Steelworkers' name on the ballot for voting group 2.