

In the Matter of FRASER-BRACE ENGINEERING CO. INC. *and* LOCAL UNION 504, IBEW-AFL

In the Matter of FRASER-BRACE ENGINEERING CO. INC. *and* LOCAL 84, UNITED GAS, COKE & CHEMICAL WORKERS OF AMERICA (C. I. O.)

In the Matter of FRASER-BRACE ENGINEERING CO. INC. *and* INTERNATIONAL ASSOCIATION OF MACHINISTS, LOCAL 1222, AFFILIATED WITH A. F. L.

*Cases Nos. 6-R-745, 6-R-746 and 6-R-819 respectively.—Decided January 21, 1944*

*Mr. N. J. Kayser, and Mr. Arden D. Mook, of Geneva, Pa., for the Company.*

*Mr. George H. Poulson, of Erie, Pa., for the IBEW.*

*Mr. Ralph W. Tillotson, of Erie, Pa., and Mr. George L. Breiner, of Meadville, Pa., for the CIO.*

*Mr. A. G. Skundor, of New Castle, Pa., and Mr. Joseph A. Kolesar, of Meadville, Pa., for the IAM.*

*Mr. Robert A. Warner and Mr. Martin C. McIntyre, of Bradford, Pa., for the Powder Workers.*

*Mr. Joseph E. Gubbins, of counsel to the Board.*

## DECISION

AND

## DIRECTION OF ELECTIONS

### STATEMENT OF THE CASE

Upon petitions duly filed by Local Union 504, International Brotherhood of Electrical Workers, affiliated with the A. F. of L., herein called the I. B. E. W., Local 84, United Gas, Coke & Chemical Workers of America, affiliated with the C. I. O., herein called the C. I. O., and International Association of Machinists, Local 1222, affiliated with the A. F. of L., herein called the I. A. M., alleging that a question affecting commerce had arisen concerning the representation of employees of Fraser-Brace Engineering Co., Inc., Geneva, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before S. Craig Carnes, Trial Examiner. Said hearing was held at Meadville, Pennsylvania, on December 6, 1943. The Company, the

I. B. E. W., the C. I. O., the I. A. M., and Powder and High Explosive Workers Union, affiliated with the A. F. of L., herein called the Powder Workers, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon 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

Fraser-Brace Engineering Co., Inc., a New Hampshire corporation, operates a plant at Geneva, Pennsylvania, known as the Keystone Ordnance Works which is engaged in the manufacture, sale, and distribution of high explosives for the armed services of the United States Government. From the summer of 1942 until the first part of April 1943, the approximate value of the raw materials and chemicals used by the Company at its Keystone Ordnance Works was in excess of \$1,000,000, of which approximately 80 percent was shipped from points outside the Commonwealth of Pennsylvania. For the same period, the approximate value of finished products manufactured at the Keystone plant was in excess of \$3,000,000, all of which was shipped to points outside the Commonwealth of Pennsylvania. For the purpose of this proceeding, the Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

### II. THE ORGANIZATIONS INVOLVED

Local Union 504, International Brotherhood of Electrical Workers, International Association of Machinists, Local 1222, and Powder and High Explosive Workers Union of America, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Local 84, United Gas, Coke & Chemical 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 recognize any of the labor organizations involved herein as the exclusive bargaining representative of the Company's employees until certified by the Board.

A statement prepared by the Regional Director, introduced in evidence, indicates that the C. I. O., and I. A. M., the I. B. E. W., and

the Powder Workers each represents a substantial number of employees in the unit each alleges to be appropriate.<sup>1</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 DETERMINATION OF REPRESENTATIVES

The C. I. O. requests a unit consisting of production and maintenance employees, including working foremen, working line supervisors, and laboratory employees, and excluding guards, bus drivers and dispatchers,<sup>2</sup> clerical employees, and all supervisory employees who have authority to hire and discharge. The I. B. E. W. desires a unit comprised of all employees in the electrical maintenance department, excluding clerical and supervisory employees. The I. A. M. claims a unit of all automotive department employees, such as tiremen, batterymen, greasers, washers, mechanics, and helpers, excluding truck drivers, auto drivers, grader operators, shovel crane operator, guards, clerical, and supervisory employees. The Powder Workers asserts that all employees not claimed by the I. B. E. W. and the I. A. M. excluding bus drivers and dispatchers, guards, clerical, and supervisory employees, constitute an appropriate unit. The Company agrees with the units requested by the Powder Workers, the I. A. M., and the I. B. E. W. The record shows no history of collective bargaining with respect to the employees in the units here sought.

#### *The I. B. E. W.'s unit claim*

The electrical maintenance department, the unit claimed by the I. B. E. W., is composed entirely of electricians. These employees work throughout the plant and at no time are they directed or controlled by supervisors other than by those listed on the electrical

<sup>1</sup> The Regional Director's statement shows that the C. I. O. submitted 651 authorization cards, 59 dated in 1942, 546 in 1943, and 46 undated, all of which bear apparently genuine signatures, and 294 of which bear names of persons whose names are listed on the Company's pay roll for the first pay-roll period of October 1943; there are 960 employees in the alleged appropriate unit. The statement further shows that the I. B. E. W. submitted 33 photostat application for membership cards, 11 dated in 1942, and 22 in 1943, all of which bear apparently genuine original signatures, and 26 of which bear names of persons whose names are listed on the pay-roll mentioned above; there are 44 employees in the alleged appropriate unit. The statement further shows that the I. A. M. submitted 44 authorization cards dated in 1943, all of which bear apparently genuine signatures, and 30 of which bear names of persons whose names are listed on the above-mentioned pay roll; there are 60 employees in the alleged appropriate unit. The Powder Workers submitted 307 membership cards to the Regional Director and Trial Examiner, 255 of which bear apparently genuine signatures, and 112 of which bear names of persons whose names are listed on the pay roll mentioned above; there are approximately 850 employees in the alleged appropriate unit. The cards, in the main, are dated in 1942 or are undated.

<sup>2</sup> In the *Matter of Fraser-Brace Engineering Co., Inc.*, 48 N. L. R. B. 1052, a unit comprised of bus drivers and dispatchers was certified by the Board.

maintenance department pay roll.<sup>3</sup> So far as appears, there is no interchange of employees between the electrical maintenance department and other departments of the Company. The employees of the department in question are identified with a well-defined and skilled craft which has a long history of bargaining on a craft basis. The nature of the work performed and skill required by electricians are essentially different from that of ordinary production and maintenance employees. It thus appears that the employees of the electrical maintenance department could properly function as a separate bargaining unit or as part of a plant-wide unit, such as the C. I. O. seeks to establish. Accordingly, our determination of the unit issue with respect to these employees will depend, in part, upon their own desires as expressed in the election hereinafter directed among them.

*The I. A. M.'s unit claim*

The unit sought by the I. A. M. is comprised of several classifications of employees in the Company's automotive department. The department is housed in three separate buildings, one of which is used for servicing tires and batteries and dispensing gasoline; the other two buildings are used to service and repair various types of automotive equipment. The department in question is under individual supervision. The duties of the employees in the automotive department are similar in nature to those usually associated with garage work. These employees are confined to and perform their duties in the three buildings mentioned above, and there is no interchange of employees between the automotive department and other departments of the Company. Upon the basis of the entire record, it appears that the automotive department employees might properly function as a separate unit or as part of an industrial unit. Accordingly, our determination of the unit issue with respect to these employees will depend, in part, upon their own desires as expressed in the election hereinafter directed among them.

As stated above, the Powder Workers would exclude from the production and maintenance unit which it seeks, the various classifications of employees which the I. B. E. W. and the I. A. M. desire to represent, whereas the C. I. O. would include them in such unit. Since we have found that the units requested by the I. B. E. W. and the I. A. M. may function as separate units, we shall exclude such employees from the industrial voting group.

There remains for consideration the question whether working foremen and working line supervisors should be included in the voting groups; the C. I. O. would include such employees while the other

<sup>3</sup> The record shows that two electricians are permanently assigned to the TNT division for emergency purposes. However, they are under the supervision of electrical maintenance department foremen, and are therefore properly a part of the electrical group in which an election is hereinafter directed.

parties took no position. The record shows that while these employees spend a substantial part of their time in performing manual duties, they, nevertheless, have the authority to effect changes in the status of employees under their supervision. We find that working foremen and working line supervisors are supervisory employees, and as such, we shall exclude them from the voting groups.

We shall direct that separate elections by secret ballot be held among employees of the Company within each of the groups listed below 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. There shall be excluded from each of such voting groups, in addition to others specifically mentioned herein, all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action. The respective voting groups shall be as follows:

(1) All employees of the electrical maintenance department excluding clerical employees, to determine whether they desire to be represented by Local Union 504, International Brotherhood of Electrical Workers, affiliated with the A. F. of L., or by Local 84, United Gas, Coke & Chemical Workers of America, affiliated with the C. I. O., or by neither.

(2) All employees of the automotive department, such as tiremen, batterymen, greasers, washers, mechanics, and helpers on cars, trucks and tractors, parts clerk, and other garage employees, excluding auto drivers, truck drivers, grader operators, shovel crane operator,<sup>4</sup> and clerical employees to determine whether they desire to be represented by International Association of Machinists, Local 1222, affiliated with the A. F. of L., or by Local 84 United Gas, Coke & Chemical Workers of America affiliated with the C. I. O., or by neither.

(3) The remaining production and maintenance employees, including laboratory employees, but excluding clerical employees, guards and bus drivers and dispatchers, to determine whether they desire to be represented by Local 84 United Gas, Coke & Chemical Workers of America, affiliated with C. I. O., or by Powder and High Explosive Workers Union, affiliated with the A. F. of L., or by neither.

As stated above, there will be no final determination of the appropriate unit or units pending the results of the elections.

#### 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

<sup>4</sup>It appears that duties of auto drivers, truck drivers, grader operators, and shovel crane operator are dissimilar to those of other employees in the automotive department in that they all operate motor vehicles and are therefore properly excluded from a voting group of the latter employees.

Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Fraser-Brace Engineering Co., Inc., Geneva, 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 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 following groups of employees of the Company 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, as well as all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action :

(1) All employees of the electrical maintenance department, excluding clerical employees, to determine whether they desire to be represented by Local Union 504, International Brotherhood of Electrical Workers, affiliated with the A. F. of L., or by Local 84, United Gas, Coke & Chemical Workers of America, affiliated with the C. I. O., for the purposes of collective bargaining, or by neither; and

(2) All employees of the automotive department, such as tiremen, battery men, greasers, washers, mechanics, and helpers on cars, trucks, and tractors, parts clerk, and other garage employees, excluding auto drivers, truck drivers, grader operators, shovel crane operator, and clerical employees, to determine whether they desire to be represented by International Association of Machinists, Local 1222, affiliated with the A. F. of L., or by Local 84, United Gas, Coke & Chemical Workers of America, affiliated with the C. I. O., for the purposes of collective bargaining, or by neither; and

(3) All remaining production and maintenance employees, including laboratory employees, but excluding clerical employees, guards, and bus drivers and dispatchers, to determine whether they desire to be represented by Local 84, United Gas, Coke & Chemical Workers of America, affiliated with the C. I. O., or by Powder and High Explosive Workers Union, affiliated with the A. F. of L., for the purposes of collective bargaining, or by neither.