

In the Matter of INTERNATIONAL HARVESTER COMPANY TRACTOR
WORKS and FARM EQUIPMENT WORKERS ASSOCIATION DIVISION OF
A. A. I. S. & T. W. N. A. LODGE No. 1320, C. I. O.

Case No. R-537.—Decided February 10, 1938

Farm Implement Manufacturing Industry—Investigation of Representatives: controversy concerning representation of employees: stipulation as to; rival organizations; refusal by employer to recognize petitioning union as bargaining agent of its employees until question of representation is determined by Board—*Units Appropriate for Collective Bargaining:* (1) die sinkers and die trimmers; history of collective bargaining relations with employer; stipulation of parties as to; (2) all piece-work and hourly paid employees engaged in the production, maintenance and development departments; community of interest—*Elections Ordered—Certification of Representatives.*

Mr. Jack G. Evans, for the Board.

Mr. Thurlow G. Lewis, of Chicago, Ill., for the F. E. W. A.

Mr. F. D. Siefkin, of Chicago, Ill., for the Company.

Mr. John F. Cusack, of Chicago, Ill., for Employees Mutual Association.

Mr. J. G. Menier, of Cleveland, Ohio, for Local 1512.

Mr. Bliss Daffan, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On November 8, 1937, Farm Equipment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, C. I. O., herein called the F. E. W. A., filed with the Regional Director for the Thirteenth Region, Chicago, Illinois, a petition¹ alleging that a question affecting commerce had arisen concerning the representation of employees of International Harvester Company Tractor Works at Chicago, Illinois, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On December 1, 1937, the National Labor Relations Board, herein called the Board,

¹ Amended petition filed on December 15, 1937, so as to include maintenance and development employees of the Company within the unit alleged to be appropriate.

acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On December 10, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon F. E. W. A., and upon International Harvester Company Employees Mutual Association, herein called Employees Mutual Association, a labor organization claiming to represent employees directly affected by the investigation. On December 15, 1937, petition and affidavit for leave to intervene filed on behalf of Chicago Die Sinkers, Lodge No. 1512, International Association of Machinists, herein called the I. A. M., a labor organization claiming to represent employees directly affected by the investigation, was granted by the Regional Director.

Motion filed on behalf of Employees Mutual Association for a continuance of the hearing for ten days beyond December 16, 1937, was considered and denied by the Regional Director on December 15, 1937.

Pursuant to the notice, a hearing was held on December 16 and 17, 1937, at Chicago, Illinois, before Herbert Wenzel, the Trial Examiner duly designated by the Board. The Board, the Company, the F. E. W. A., the Employees Mutual Association and the I. A. M. were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The International Harvester Company is a New Jersey corporation engaged in the manufacture, sale and distribution of agriculture implements, tools, machinery, tractors and motortrucks. International Harvester Company Tractor Works is the Chicago, Illinois, plant of the corporation engaged in the manufacture and development of tractors, tractor parts, power units and engines. Approximately 47 per cent of the material used in manufacturing these products is shipped from without the State of Illinois. During 1937 there were

6,942 carload shipments from the plant and 323 truckload shipments, 90 per cent being shipped out of the State of Illinois to points throughout the world.

II. THE ORGANIZATIONS INVOLVED

Farm Equipment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all hourly paid and piece-work employees in the production, development and maintenance departments of the Company, excluding all salaried employees, foremen, assistant foremen, watchmen, clerical and office employees.

International Harvester Company Employees Mutual Association is a labor organization admitting to membership employees of the Company. It is not clear from the record exactly which categories of employees of the Company are eligible for membership in the organization.

Chicago Die Sinkers Lodge No. 1512, International Association of Machinists, is a labor organization affiliated with the American Federation of Labor, admitting to its membership all die sinkers and die trimmers in the employment of the company.

III. THE QUESTION OF REPRESENTATION

In its amended petition filed herein, F. E. W. A. alleges that it has been designated as the bargaining representative for 4500 of the 5700 employees of the Company within the unit which it claims to be appropriate. The petition further alleges that the Company will recognize F. E. W. A. when proof of a majority is established as a result of an election.

At the hearing it was stipulated by the parties, in substance, that F. E. W. A., Employees Mutual Association, and I. A. M. are all labor organizations; that both F. E. W. A. and the Employees Mutual Association have large memberships among the employees of the Company; and that I. A. M. has a large membership among the die sinkers employed in department 19 of the Company. It was further stipulated that the issues raised herein are as to the majority and the right of representation as between the unions within the appropriate bargaining unit.

As a result of the stipulation, and presumably predicated upon the fact that it will be necessary to hold an election to determine representatives, no evidence as to membership among the employees in any of the three unions involved was introduced.

We find that a question has arisen concerning representatives of employees of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON
COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNITS

The F. E. W. A. claims that all hourly paid and piece-work employees engaged in the production, development and maintenance departments of the Company, excluding all salaried employees, foremen, assistant foremen, watchmen, clerical and office employees are an appropriate unit for collective bargaining purposes. I. A. M. asserted that die sinkers employed by the Company should be a separate unit. The record is not altogether clear as to the position of Employees Mutual Association but it appears from the testimony that its contention is that certain clerical and other salaried employees connected with the office of the Company, whose duties are incidental to production, should be included within the appropriate unit, and that all of the employees in the Gas Power Engineering Division of the plant should be excluded from such unit.

There are two main divisions in the plant of the Company. One division is engaged in the production of tractors, tractor parts and power units. The other, known as the Gas Power Engineering Department, is engaged in engineering, development, and experimental work for the various plants of the International Harvester Company. This department is considered a non-productive department as it produces parts only for some of the pre-production programs of the Company and for experimental models.

The pay roll of the Company of November 8, 1937, was introduced in evidence and shows that the Company is divided into 53 separate departments. It was stipulated at the beginning of the hearing that all parties agreed that employees listed in departments 6 through 53, inclusive, as shown by the pay roll, with the exceptions of departments 14 and 19, should be included within the appropriate unit; that employees listed in department 3 should not be included; and that the controversy herein is whether or not to include the employees in departments 1, 2, 4, 4A, 5, 14, and 19 within the appropriate unit.

It was also stipulated by the parties that the employees in department 19, consisting of die sinkers and die trimmers, constituted a unit appropriate for the purpose of collective bargaining,

and that these employees should be allowed to vote on a separate ballot as to whether they desire to be represented by I. A. M., F. E. W. A., or by Employees Mutual Association. Since the die sinkers and trimmers have historically been recognized as a separate craft and have bargained on that basis, and since this historic differentiation of that group is adopted by the stipulation of the parties, we conclude that this unit is appropriate.

The record shows that the employees listed on the pay roll in departments 6 through 53, with the exception of department 14, are engaged in production and are piece-work or hourly paid employees. Since there is no objection these employees will be included within the unit found appropriate.

Department 1, as shown by the pay roll,² consists of department heads, time-study department men, clerks, stock chasers, stenographers, supervisors and tool designers. F. E. W. A. contended that these employees should be excluded because they are all office employees paid on a salary basis. The Employees Mutual Association contended that the employees listed as production clerks, stock chasers, and tool designers in this department should be included because their duties are connected with production.

While it is true that these employees are in a manner connected with production, the record shows that they are considered as office employees and necessarily not subject to the same problems concerning wages, hours and working conditions as the piece-work and hourly paid employees to be included in the unit. Being salaried they are not eligible for membership in F. E. W. A., and we do not feel that the evidence warrants a conclusion that these employees should be included.

Upon the basis of all the evidence, we find that all of the employees in department 1, as shown by the pay roll, should be excluded.

Department 2: This department is designated on the pay roll as the Gas Power Engineering Department. It consists of clerks, project designers, draftsmen, foremen, supervisors, testers, chemists and department heads, all salaried employees. As far as we can ascertain from the record, the contention made by Employees Mutual Association is in accord with that of F. E. W. A. that these employees should be excluded. They are a part of the Gas Power Engineering Division of the plant and are all salaried employees.

We find that all the employees in department 2, as shown by the pay roll, should be excluded from the unit found appropriate.

Department 4: This department consists of the boilerroom workers and all are hourly paid, with the exception of the chief engineer and assistant engineer. The Employees Mutual Association contended

² Pay roll of November 8, 1937, is meant whenever 'pay roll is referred to.

these employees should not be included because they are not connected with production but are a part of maintenance. We consider the latter reason sufficient for their inclusion within the unit, which already includes maintenance employees, which the parties have agreed to include by the above-mentioned stipulation.

In accordance with our decisions in other cases,³ we find that the boilerroom workers, with the exception of the chief engineer and assistant engineer, should be included in the unit.

Department 4A: This department consists of watchmen, who are designated as gatemen on the pay roll, and who have the duty of checking the employees in and out of the plant to see that nothing is taken. It is clear that these employees are closely connected with the management and have interests different from those employees to be included within the unit. In accordance with our decisions in other cases, we find that the watchmen should be excluded from the unit.⁴

Department 5: This department, known as the Physical Testing Laboratory, is a subdivision of the Gas Power Engineering Division of the plant. The employees included in this department are testers, mechanics, and drivers. Their function is to test the physical strength of the experimental models built by the Gas Power Engineering Division. The employees listed are all hourly paid and F. E. W. A. contended that they should be included in the unit. Employees Mutual Association contended that they should not be included because they are not part of production.

The employees in this department are either mechanics, drivers, or electricians, and the record is clear that, while they are not connected with production, they are subject to the same conditions of employment as the employees in the same general classifications in production that both the F. E. W. A. and the Employees Mutual Association have agreed should be included in the unit. Unquestionably their interests are much more closely related to the employees in production than they are to the salaried employees of the Gas Power Engineering Division which have been heretofore excluded from the unit. The fact that they are few in number would probably prevent them from any effective organization if they were not included within the unit found appropriate.

It appears from the pay roll that there are some of the employees listed in this department located at Phoenix, Arizona, and Hinsdale, Illinois. Neither union contended that these employees should be included within the unit and they will, therefore, be excluded.

The evidence establishes that the interests of the employees of this department, with the exception of those located at Hinsdale, Illinois,

³ See *Matter of Richardson Company and Local Union No. 4421, U. A. W. A.*, 4 N. L. R. B. 835.

⁴ See *Matter of American Sugar Refining Co and Committee for Industrial Organization* and cases cited in footnote, 4 N. L. R. B. 897.

and Phoenix, Arizona, are closely related to those of the other hourly paid and piece-work employees included within the unit and that they should be included.

Department 14: This department is known as the Experimental Machine Shop and is also a subdivision of the Gas Power Engineering Division of the plant. The employees listed on the pay roll in this department are all hourly paid machinists and the same contentions were made by the F. E. W. A. and the Employees Mutual Association as to their inclusion or exclusion in the unit as in the case of the employees in department 5.

The facts stated above with reference to the employees in department 5 are equally applicable to these employees and we, therefore, conclude that they should be included in the unit.

There was some testimony that there were hourly paid chemists connected with the Gas Power Engineering Division of the plant. All of the chemists that appear on the pay roll are listed under department 2, and the testimony shows that the employees listed in that department are salaried. However, if there are other chemists in the employ of the Company, who are hourly paid, we believe that their duties are such that they should be excluded from the appropriate unit.⁵

We, therefore, find that all of the chemists in the employ of the Company should not be included within the unit.

We find that the die sinkers and die trimmers employed in department 19 of the Company constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure those employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policy of the Act.

We find that the production, maintenance and development employees of the Company, excluding all salaried employees, foremen, assistant foremen, watchmen, chemists, die sinkers and die trimmers, clerical and office employees, and employees located at Hinsdale, Illinois, and Phoenix, Arizona, constitute a unit appropriate for the purposes of collective bargaining, and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policy of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

Neither the F. E. W. A. nor the Employees Mutual Association introduced evidence as to membership among the employees in the

⁵ See *Matter of Southern Chemical Cotton Company and Textile Workers' Organizing Committee*, 4 N. L. R. B. 131.

unit found appropriate. We find that an election by secret ballot is necessary to determine the proper representative for collective bargaining and thus resolve the question concerning representation.

No evidence was introduced by any of the unions as to membership among the die sinker and die trimmer employees of the Company. Therefore, a separate election will be ordered among the die sinkers and die trimmers employed in department 19 of the Company to determine whether they desire to be represented by I. A. M., F. E. W. A., or by Employees Mutual Association, or by none.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of International Harvester Company Tractor Works, Chicago, Illinois, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. Die sinkers and die trimmers employed in department 19 of the Company constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. All piece-work and hourly paid employees of the Company engaged in production, maintenance and development, excluding all salaried employees, foremen, assistant foremen, watchmen, chemists, die sinkers and die trimmers, clerical and office employees, and employees at Hinsdale, Illinois, and Phoenix, Arizona, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

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 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with the International Harvester Company Tractor Works of Chicago, Illinois, an election by secret ballot shall be conducted within fifteen (15) days from the date of this Direction under the direction and supervision of the Regional Director for the Thirteenth Region, acting in this matter as agent for the National Labor Relations Board and subject to Article III, Section 9, of said Rules and Regulations:

1. Among the die sinkers and die trimmers employed by International Harvester Company Tractor Works at its Chicago, Illinois, plant, on its November 8, 1937, pay roll, but excluding those who have since quit or have been discharged for cause, to determine whether they desire to be represented by the Farm Equipment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, affiliated with the Committee for Industrial Organization, Chicago Die Sinkers Lodge No. 1512, International Association of Machinists, affiliated with the American Federation of Labor, or by International Harvester Company Employees Mutual Association, for the purposes of collective bargaining, or by none;

2. Among all of the piece-work and hourly paid employees of the Company engaged in production, maintenance and development, excluding all salaried employees, foremen, assistant foremen, watchmen, chemists, die sinkers and die trimmers, clerical and office employees, and employees at Hinsdale, Illinois, and Phoenix, Arizona, who were employed by the Company on its November 8, 1937, pay roll, but excluding those who have since quit or have been discharged for cause, to determine whether they desire to be represented by the Farm Equipment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, affiliated with the Committee for Industrial Organization, or by International Harvester Company Employees Mutual Association, for the purposes of collective bargaining, or by neither.

[SAME TITLE]

AMENDMENT TO DECISION

AND

DIRECTION OF ELECTION

February 23, 1938

On February 10, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled matter.

On February 17, 1938, International Harvester Company Tractor Works Employees Mutual Association, herein called Employees Mutual Association, filed with the Board its Motion and Petition to amend the Decision and Direction of Election. Among other things, said Motion and Petition requests that the Decision and Direction of Election be amended so as to show that Employees Mutual Association did not object to the inclusion of the hourly paid employees in department 4 of the Company in the unit found appro-

priate. In this respect said Motion and Petition is granted. The Board has carefully considered all the other requests contained in said Motion and Petition and they are hereby denied.

The Board hereby amends its Decision and Direction of Election by striking the last two sentences on page 6, under subdivision V entitled "The Appropriate Unit", paragraph beginning "*Department 4*", and substituting therefor, "The F. E. W. A. desired to include these employees in the unit and the Employees' Mutual Association did not object to such inclusion."

A request has also been made by the Regional Director that said Direction of Election be amended so as to designate the petitioning union as the "Farm Equipment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, affiliated with the C. I. O.", and that the International Harvester Company Employees' Mutual Association be designated as "I. H. C. Tractor Works Employees' Mutual Association".

It appearing to the Board that these organizations are commonly known to the employees under the respective designations requested, the Board hereby amends its Direction of Election by striking therefrom the words "affiliated with the Committee for Industrial Organization", wherever they occur, and substituting therefor the words, "affiliated with the C. I. O."; by striking from the Decision the name "International Harvester Company Employees' Mutual Association" wherever it occurs, and substituting therefor the name "International Harvester Company Tractor Works Employees' Mutual Association"; and by striking from the Direction of Election the name "International Harvester Company Employees' Mutual Association" wherever it occurs, and substituting therefor the name "I. H. C. Tractor Works Employees' Mutual Association".

[SAME TITLE]

CERTIFICATION OF REPRESENTATIVES

March 15, 1938

On February 10, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Elections in the above-entitled case. An Amended Decision and Direction of Elections was issued on February 21, 1938. The Direction of Elections, as amended, directed that elections by secret ballot be conducted (1) among the die sinkers and die trimmers employed by International Harvester Company Tractor Works at its Chicago, Illinois, plant, hereinafter called the Company, on its November 8, 1937, pay roll, to determine whether they desired to be represented by the Farm Equip-

ment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, affiliated with the C. I. O., or Chicago Die Sinkers Lodge No. 1512, International Association of Machinists, affiliated with the American Federation of Labor, or by I. H. C. Tractor Works Employees Mutual Association; (2) among all of the piece-work and hourly paid employees of the Company engaged in production, maintenance and development, excluding all salaried employees, foremen, assistant foremen, watchmen, chemists, die sinkers and die trimmers, employees located at Phoenix, Arizona, or Hinsdale, Illinois, and clerical and office employees, as shown by the November 8, 1937, payroll, to determine whether they desired to be represented by the Farm Equipment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, affiliated with the C. I. O. or by I. H. C. Tractor Works Employees Mutual Association.

Pursuant to the Decision and Direction of Elections, as amended, separate elections by secret ballot have been conducted among the eligible employees in the two units described above under the direction and supervision of Leonard C. Bajork, the Regional Director for the Thirteenth Region (Chicago, Illinois). On March 1, 1938, the said Regional Director, acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued and duly served upon the parties an Intermediate Report on the elections. No objections or exceptions to the Intermediate Report have been filed by any of the parties.

As to the balloting and its results, the Regional Director reported as follows:

NUMBER (1)

Total Number Eligible.....	60
Total Number of Ballots Cast 57—Necessary to Elect.....	29
Ballots for the Farm Equipment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, Affiliated with the C. I. O.....	18
Ballots for the Chicago Die Sinkers Lodge No. 1512, Inter- national Association of Machinists, Affiliated with the A. F. of L.....	34
Neither.....	1
Protested Ballots.....	0
Blank Ballots.....	0
Void Ballots.....	0
Total Ballots Cast.....	57

NUMBER (2)

Total Number Eligible.....	6365
Total Number of Ballots Cast 5496—Necessary to Elect.....	2749

Ballots for the Farm Equipment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, Affiliated with the C. I. O.....	3265
Ballots for I H. C Tractor Works Employees Mutual Association.....	1821
Neither.....	349
Protested Ballots.....	56
Blank Ballots.....	8
Void Ballots.....	7
Total Ballots Cast.....	5496

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, 49 Stat. 449, and pursuant to Article III, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED:

(1) That Chicago Die Sinkers Lodge No. 1512, International Association of Machinists, affiliated with the American Federation of Labor, has been designated and selected by a majority of the die sinkers and die trimmers employed by the International Harvester Company Tractor Works, Chicago, Illinois, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, Chicago Die Sinkers Lodge No. 1512, International Association of Machinists, affiliated with the American Federation of Labor, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(2) That the Farm Equipment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, affiliated with the C. I. O., has been designated and selected by a majority of the piece-work and hourly paid employees of the International Harvester Company Tractor Works, Chicago, Illinois, engaged in production, maintenance and development, excluding all salaried employees, foremen, assistant foremen, watchmen, chemists, die sinkers and die trimmers, employees located at Phoenix, Arizona, and Hinsdale, Illinois, and clerical and office employees, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, the Farm Equipment Workers Association, Division of Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 1320, affiliated with the C. I. O., is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.