

In the Matter of R. C. MAHON COMPANY and LOCAL 1279, STEEL
WORKERS ORGANIZING COMMITTEE

Case No. R-497—Decided February 12, 1938

Steel Manufacturing Industry—Investigation of Representatives: controversy concerning representation of employees: rival organizations; refusal of employer to recognize petitioning union as exclusive representative of employees; majority status disputed by employer; threat of strike—Unit Appropriate for Collective Bargaining: production and maintenance employees; eligibility for membership in both rival organizations—Election Ordered

Mr. George J. Bott, for the Board.

Beaumont, Smith & Harris, by Mr. Albert E. Meder and Mr. Yates G. Smith, of Detroit, Mich., for the Company.

Miss Edna Loeb, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

On June 19, 1937, Steel Workers Organizing Committee, Local No. 1279, herem called Local 1279, filed with the Regional Director for the Seventh Region (Detroit, Michigan) a petition and on October 27, 1937, an amended petition alleging that a question affecting commerce had arisen concerning the representation of employees of R. C. Mahon Company, 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 October 19, 1937, the National Labor Relations Board, herein called the Board, 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 November 13, 1937, the Regional Director issued a notice of hearing, and on November 24, 1937, and December 7, 1937, notices of continuance of hearing. Pursuant to the notices, a hearing was held on December 13, 1937, at Detroit, Michigan, before David F. Smith, the Trial Examiner duly designated by the Board. The

Board and the Company were represented by counsel and participated in the hearing. During the hearing the Trial Examiner granted leave to International Association of Bridge, Structural, and Ornamental Iron Workers, Local No. 508, herein called Local 508, to intervene in the proceeding. A representative of Local 508 and the president and financial secretary of Local 1279 testified at the hearing. Full opportunity to be heard, to examine and to 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 on 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

R. C. Mahon Company is a Michigan corporation engaged in the fabrication and manufacture of structural steel, sheet metal equipment, rolling doors, roofing, and other sheet metal products. It operates a plant in the City of Detroit, Michigan, and has a warehouse in close proximity thereto.

The Company produces and sells from one to one and one-half per cent of the total national production of structural steel. Its sales from November 1, 1936 to October 31, 1937, amounted to \$6,088,499.62, approximately 50 per cent of which represents shipments of finished products to points outside of Michigan. During the same period the total expenditure of the Company for raw materials amounted to \$3,179,682.48, over 90 per cent of which materials were obtained from sources outside of Michigan. The principal raw material used by the Company in its manufacturing operations is steel, which is purchased at the principal steel centers outside of Michigan, and shipped by rail to the plant at Detroit, Michigan, or to places outside of Michigan for use there by the Company.

II. THE ORGANIZATIONS INVOLVED

Local No. 1279 is a labor organization affiliated with Steel Workers Organizing Committee, which in turn is affiliated with the Committee for Industrial Organization. The local apparently admits to its membership all employees of the Company, except bridgemen, clerks and office help, draftsmen, watchmen, and persons in a supervisory capacity.

International Association of Bridge, Structural, and Ornamental Iron Workers, Local No. 508, is a labor organization affiliated with

the American Federation of Labor, admitting to its membership employees who work in shops which fabricate structural steel, aluminum, bronze, or any alloy used in the building industry.

III. THE QUESTION CONCERNING REPRESENTATION

On several occasions prior to the filing of the petition in this case Local 1279 demanded recognition from the Company for purposes of collective bargaining, claiming to represent a majority of the employees of the Company. Through its president, R. C. Mahon, the Company refused to accede to the demand for recognition or to enter into negotiations with Kiser, district director of Steel Workers Organizing Committee, or with any "outsiders." At the hearing the Company denied that Local 1279 represented a majority of the Company's employees within the appropriate unit. On July 30, 1937, the members of Local 1279 voted unanimously to go on strike if Mahon did not meet with Kiser by August 4, 1937. On the appointed day, however, the members voted to call off the strike.

We find that a question has arisen concerning representation 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 UNIT

Local 1279 contends that the appropriate unit includes all employees of the Company, except erectors, clerks and office help, draftsmen, watchmen, and persons in a supervisory capacity. The record indicates that the term "erectors" is misleading and that there are two classes of employees who may be called "erectors" in a broad sense. One class consists of the "sheet metal erectors" who work in and about the plant of the Company and the City of Detroit, Michigan. Local 1279 claims to represent these workers. The other class consists of structural steel erectors commonly called "bridgemen," who are employed on steel construction and erection work throughout the United States. These "bridgemen" have little if any connection, contact, or association with persons employed regularly at the plant and warehouse. Local 1279 does not claim to represent this class of

employees, nor does Local 508. We shall therefore include sheet metal erectors within the unit and exclude bridgemen therefrom.

We find that the employees of the Company, excluding bridgemen, clerks and office help, draftsmen, watchmen, and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to said employees of the Company the full benefit of their right to self-organization and collective bargaining and otherwise effectuate the policies of the Act.

VI. DETERMINATION OF REPRESENTATIVES

Since there is doubt as to whether Local 1279 represents a majority of the employees of the Company, we find that the question concerning representation which has arisen can best be resolved by means of an election by secret ballot.

Local 508 requested that its name appear on the ballot in the event an election was directed. We shall grant this request.

The pay roll of the Company for the week ending November 9, 1937, was introduced in evidence at the hearing and all parties indicated that determination of eligibility on the basis of this pay roll would be satisfactory. Eligibility to vote will, therefore, be determined by this pay roll, provided, however, that those employees shall be entitled to vote who, although employed by the Company within the appropriate unit, drew no pay for the week for various reasons such as illness, injury, and the like, and provided further, that those workers shall not be entitled to vote who have quit or been discharged for cause since November 9, 1937.

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 R. C. Mahon Company, Detroit, Michigan, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The employees of the Company, except bridgemen, clerks and office help, draftsmen, watchmen, and supervisory employees, 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, 49 Stat. 449, 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 the purpose of collective bargaining with R. C. Mahon Company, 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 Seventh 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—Series 1, as amended, among the employees of R. C. Mahon Company who were on the pay roll of the Company for the week ending November 9, 1937, or who would have been on such pay roll except for some cause such as illness or injury, excluding bridge-men, clerks and office help, draftsmen, watchmen, and supervisory employees, and also excluding those employees who have quit or been discharged for cause since November 9, 1937, to determine whether they desire to be represented by Steel Workers Organizing Committee, Local No. 1279, or International Association of Bridge, Structural, and Ornamental Iron Workers, Local No. 508, for the purposes of collective bargaining, or by neither.