

IN the Matter of E. D. EVANS, ROBERT KERSEY AND W. F. SPENCER, JR.  
DOING BUSINESS AS ROCHESTER METAL PRODUCTS *and* INTERNATIONAL  
MOLDERS AND FOUNDRY WORKERS UNION OF NORTH AMERICA, AFFILI-  
ATED WITH THE AMERICAN FEDERATION OF LABOR

*Case No. 13-R-2086.—Decided December 18, 1943*

*Mr. Earl G. DeFur*, Muncie, Ind., for the Company.

*Mr. Gilmond Hart*, of Muncie, Ind., for the Union.

*Miss Olive N. Barton*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION,  
STATEMENT OF THE CASE

Upon an amended petition duly filed by International Molders and Foundry Workers Union of North America, affiliated with the American Federation of Labor, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of E. D. Evans, Robert Kersey and W. F. Spencer, Jr.,<sup>1</sup> doing business as Rochester Metal Products, Rochester, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George S. Freudenthal, Trial Examiner. Said hearing was held at Rochester, Indiana, on November 2, 1943. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on 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

E. D. Evans, Robert Kersey and W. F. Spencer, Jr., doing business as Rochester Metal Products, an Indiana partnership, is engaged at its

<sup>1</sup> At the hearing, on motion of the Union, the notice of hearing and other formal papers herein were amended to show this, the Company's correct designation.

only plant at Rochester, Indiana, principally in the manufacture of bomb parts on subcontract for the Great States Corporation of Shelbyville, Indiana. About 20 percent of its facilities is devoted to manufacturing stove castings, which are shipped to Ray-Glo, Inc., also at Shelbyville, Indiana. During the year ending September 30, 1943, the Company received raw materials valued in excess of \$25,000, 40 percent of which was shipped from points outside the State of Indiana. During the same period, the finished products were valued at more than \$50,000. The munitions produced by the Company, after being assembled at Shelbyville, are turned over to the United States Navy and shipped throughout the United States, and about 90 percent of the stoves made for Ray-Glo are shipped outside the State of Indiana.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

International Molders and Foundry Workers Union of North America is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On September 20, 1943, the Union<sup>2</sup> in a letter to a partner in the Company claimed to represent a majority of the employees of the Rochester Foundry Company and was referred to the plant superintendent, who on October 1, 1943, refused to recognize the Union, pending Board certification.

A statement of the Regional Director introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit herein found appropriate.<sup>3</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.

<sup>2</sup> The letter was written by Gilmond Hart of the Union's International organization, the petitioner herein. We find no merit to the Company's contention that no question of representation has been properly raised because the Union's Local 246 was not chartered until September 27, 1943.

<sup>3</sup> The Regional Director reported that the Union submitted 44 membership cards, 43 of which carry apparently genuine original signatures corresponding with names on the Company's pay roll of October 8, 1943, which pay roll contains the names of 49 persons in the alleged appropriate unit.

## IV. THE APPROPRIATE UNIT

In accordance with the agreement of the parties, we find that all production and maintenance employees of the Company at its Rochester, Indiana, plant, including watchmen, but excluding office and clerical employees, foremen and 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

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the 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.

The Union has requested that it be designated on the ballot as International Molders and Foundry Workers Union of North America, Local 246, affiliated with the A. F. of L. The request is hereby granted.

## 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, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with E. D. Evans, Robert Kersey and W. F. Spencer, Jr., doing business as Rochester Metal Products, Rochester, Indiana, 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 Thirteenth 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 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 or not they desire to be represented by International Molders and Foundry Workers Union of North America, Local 246, affiliated with the A. F. of L., for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.