

In the Matter of INGERSOLL-RAND COMPANY and UNITED ELECTRICAL,  
RADIO & MACHINE WORKERS OF AMERICA, C. I. O.

In the Matter of INGERSOLL-RAND COMPANY and INTERNATIONAL ASSO-  
CIATION OF MACHINISTS, A. F. L.

*Cases Nos. 3-R-687 and 3-R-728, respectively.—Decided  
February 24, 1944*

*Mr. Milton A. Nixon*, for the Board.

*Mr. H. P. McFadden*, of Bethlehem, Pa., and *Mr. E. J. Smith*, of  
Painted Post, N. Y., for the Company.

*Messrs. C. W. Fairfield* and *Clyde Byrd*, of Elmira, N. Y., for the  
I. A. M.

*Messrs. Sydney Greenberg*, *Willard Bliss*, *Almon Clough*, and *Nor-  
man Heverly*, of Syracuse, N. Y., for the U. E.

*Mr. Seymour J. Spelman*, of counsel to the Board.

## DECISION

### DIRECTION OF ELECTION

AND

### ORDER

#### STATEMENT OF THE CASE

Upon petitions duly filed, respectively, by International Association of Machinists, A. F. L., herein called the I. A. M., and United Electrical, Radio & Machine Workers of America, C. I. O., herein called the U. E., alleging that questions affecting commerce had arisen concerning the representation of employees of Ingersoll-Rand Company,<sup>1</sup> Painted Post, New York, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held in Elmira, New York, on December 20, 1943. The Company, the I. A. M., and the U. E. appeared, participated, and were afforded full opportunity to be heard, to examine and

<sup>1</sup> In the petition of the U. E. and the other formal papers herein, the Company was incorrectly designated "Ingersoll-Rand Foundry, Inc." By amendment at the hearing, the designation was corrected to read "Ingersoll-Rand Company."

cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner reserved ruling upon the motion of the U. E. to dismiss the petition of the I. A. M. on the ground that the latter's *prima facie* showing of representation is insufficient. For reasons appearing hereinafter, we hereby grant said motion. The Trial Examiner reserved ruling upon the motion of the I. A. M. to dismiss the petition of the U. E. on the ground that the latter's proposed bargaining unit is inappropriate. For reasons set forth in Section IV, *infra*, said motion is hereby denied. On January 11, 1944, the I. A. M. filed a motion to reopen the record in order to introduce additional evidence regarding its showing of representation; or, in the alternative, to dismiss the petition of the U. E. for inappropriateness of unit and its own petition, without prejudice, for lack of present substantial interest. For reasons appearing hereinafter, said motion is hereby denied. On January 11, 1944, the Company filed a motion to dismiss the petition of the U. E. for inappropriateness of unit and the petition of the I. A. M. for lack of present substantial interest. Said motion is hereby denied. 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

Ingersoll-Rand Company, a New Jersey corporation, is engaged in the manufacture of air and gas compressors at a plant in Painted Post, New York. From January 1, 1943, to October 1, 1943, the Company used at its Painted Post plant raw materials valued at approximately \$8,500,000, of which approximately 80 percent was shipped from points outside the State of New York. During the same period, the Company manufactured finished products valued at approximately \$24,000,000, of which approximately 95 percent was shipped to points outside the State of New York. For the purposes of this proceeding, the Company concedes, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

##### II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio & Machine Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

International Association of Machinists is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION IN CASE NO. 3-R-687;  
THE ALLEGED QUESTION CONCERNING REPRESENTATION IN CASE NO.  
3-R-728

On September 30, 1943, the U. E. wrote to the Company claiming to represent a majority of the production and maintenance employees in the foundry at the Company's Painted Post plant and requesting a conference to discuss recognition. The Company replied on October 6, 1943, stating that it was uncertain of the U. E.'s majority status and was reserving decision thereon until the U. E. was certified by this Board. Thereupon, the U. E. filed its petition in Case No. 3-R-687, herein. In October 1943, the I. A. M. claimed to represent a majority of all production and maintenance employees at the Painted Post plant and requested recognition as their exclusive bargaining representative. The Company refused to accord said recognition, and, on December 17, the I. A. M. filed its petition in Case No. 3-R-728, herein.

A statement of a Field Examiner, introduced in evidence at the hearing, indicates that the U. E. represents a substantial number of employees in the unit it alleges to be appropriate.<sup>2</sup> However, this statement also reveals that the I. A. M. made less than a 12 percent showing of representation in the unit which it alleges to be appropriate, a showing which in our opinion is insufficient to raise a question of representation.<sup>3</sup> Subsequent to the hearing, the I. A. M. moved to reopen the record in order that it might introduce additional evidence concerning its representation. We have heretofore denied said motion, for the I. A. M. offered no substantial reason for its failure to submit this alleged additional evidence to the Field Examiner during the prehearing investigation, or to offer it in evidence at the hearing. We are not impressed with the assertion that the I. A. M. did not have sufficient time to prepare said evidence for presentation at the hearing on December 20, for, although the I. A. M. filed its petition only 3 days before the hearing, the record shows that, on October 17, the I. A. M. filed a motion to intervene on the petition filed by the U. E. in Case No. 3-R-687.

<sup>2</sup> The Field Examiner stated that the U. E. submitted 238 membership cards, all bearing apparently genuine original signatures. Of these cards, 188 bear the signatures of persons whose names appear on the Company's pay roll of October 10, 1943, covering the unit alleged to be appropriate by the U. E., which pay roll contains the names of 355 employees. Said cards bear the following dates: 27 in 1941; 30 in 1942; 38 are undated; and the balance from February to October 1943. The U. E. has thus made approximately a 52 percent showing of representation. The Field Examiner further stated that the I. A. M. submitted 252 authorization and/or membership cards, all bearing apparently genuine original signatures. Of these cards, 198 bear the names of persons whose names appear on the Company's pay roll of October 10, 1943, covering the unit alleged to be appropriate by the I. A. M., which pay roll contains the names of 1,687 employees. Three of said cards are undated, 8 bear dates in 1939, 7 in 1940, and the balance in October and November 1943. The showing of the I. A. M. is thus less than 12 percent.

<sup>3</sup> See *Matter of American Mfg. Co.*, 41 N. L. R. B. 995; *Matter of General Motors Corporation*, 35 N. L. R. B. 80; *Matter of Union Hardware and Metals Co.*, 31 N. L. R. B. 710.

We find that a question affecting commerce has arisen concerning the representation of employees of the Company in the unit alleged to be appropriate by the U. E., within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act. We further find that no question affecting commerce has arisen concerning the representation of employees in the unit alleged to be appropriate by the I. A. M., within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

The U. E. seeks to represent a unit composed of the production and maintenance employees in the foundry at the Company's Painted Post plant. The I. A. M. and the Company contend that the appropriate unit should include all production and maintenance employees at said plant, including the employees in the main plant, lumber yard, and foundry. The parties are agreed, and we find, that auxiliary military guards, nurses, doctors, and all clerical and supervisory employees should be excluded from any bargaining unit.

At its Painted Post plant, the Company is engaged in the manufacture of air and gas compressors. The record reveals that said plant consists of: (1) a main plant comprising manufacturing buildings where the machining and assembly processes are conducted, administrative offices, an engineering department, and a powerhouse; (2) a foundry comprising a pattern shop, pattern storage department, and the foundry itself; and (3) a lumber yard where lumber material used in the manufacturing process and for crating the finished product is stored. The foundry is enclosed by a fence and is located approximately 1,200 feet from the main plant. Only a small portion of the land separating the main plant from the foundry is owned by the Company, and public highways are employed in transporting material between the two said plants.

The finished product is manufactured only on order. Blueprints and drawings for the desired product are made up in the engineering department. These prints and drawings are sent to the foundry where the mouldings and castings are manufactured. These are then transported to the machine shop of the main plant where the various machine operations are performed. The foundry and the main plant each has its own superintendent who is responsible to a general manager of the entire plant operation. There is some interchange of employees between the foundry and the main plant, but generally, an employee is kept in the job classification and plant to which he has been originally assigned.

In the foundry unit sought by the U. E., the Company employs moulders, core makers, chippers and grinders, crane operators, car-

penters, millwrights, pattern makers, chasers, shake-out men, laborers, and yardmen. All of these employees are engaged in production or maintenance work incident to the manufacture of mouldings and castings.

In view of these facts and in the absence of any collective bargaining history at the Painted Post plant, we are of the opinion that the production and maintenance employees at the foundry comprise a sufficiently homogeneous and functionally coherent group to bargain appropriately in a separate unit.<sup>4</sup> It is clear, however, that these employees might also appropriately be included in the broader unit advocated by the I. A. M. and the Company. Under these circumstances, we normally suspend our determination of the appropriate unit, or units, pending the outcome of elections in the two voting groups. However, our normal procedure is inapplicable here, since we have found in Section III, *supra*, that the showing of representation in the broader unit made by the I. A. M. is insufficient to raise a question of representation therein. We shall therefore dismiss the petition of the I. A. M. without prejudice to its right to petition at a later date in accordance with our findings herein, and we shall direct a separate election among the foundry employees. For the purpose of this election, we shall treat the I. A. M. as an intervenor and shall accord it a place on the ballot.<sup>5</sup>

Accordingly, we find that all production and maintenance employees in the foundry at the Company's Painted Post plant, excluding auxiliary military guards, nurses, doctors, clerical employees, and all supervisory employees with the authority to hire, promote, discipline, discharge, 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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

<sup>4</sup> We have frequently found appropriate bargaining units of foundry employees. See *Matter of Commerce Pattern Foundry and Machine Company*, 53 N. L. R. B. 838; *Matter of Wright Aeronautical Corporation*, 45 N. L. R. B. 1104; *Matter of France Foundry & Machine Company*, 51 N. L. R. B. 1395.

<sup>5</sup> Indeed, the I. A. M. first evidenced its interest herein by filing a motion to intervene on the petition filed by the U. E. Subsequently it filed a separate petition.

## 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 Ingersoll-Rand Company, Painted Post, New York, 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 Third 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 they desire to be represented by United Electrical, Radio & Machine Workers of America, C. I. O., or by International Association of Machinists, A. F. L., for the purposes of collective bargaining, or by neither.

## ORDER

Upon the basis of the foregoing findings of fact and upon the entire record in the cases, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Ingersoll-Rand Company, Painted Post, New York, filed by International Association of Machinists, in Case No. 3-R-728, be, and it hereby is, dismissed without prejudice.