

In the Matter of INSLEY MANUFACTURING COMPANY and UNITED STEEL-
WORKERS OF AMERICA, AFFILIATED WITH THE CONGRESS OF INDUSTRIAL
ORGANIZATIONS

Case No. 9-R-1299.—Decided February 24, 1944

Messrs. R. B. Dorward and F. R. Oliver, both of Indianapolis, Ind.,
for the Company.

Mr. Philip M. Curran, of Pittsburgh, Pa., and *Mr. Harry Dougherty*,
of Indianapolis, Ind., for the CIO.

Mr. Charles W. Irish, of Indianapolis, Ind., for the AFL.

Mr. David V. Easton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, affiliated with the Congress of Industrial Organizations, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Insley Manufacturing Company, Indianapolis, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Benjamin E. Cook, Trial Examiner. Said hearing was held at Indianapolis, Indiana, on January 28, 1944. The Company, the CIO, and International Association of Bridge, Structural and Ornamental Iron Workers, Local 529, affiliated with the American Federation of Labor, herein called the AFL, appeared and participated. All parties 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 an opportunity to file briefs with the Board.

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

55 N. L. R. B., No. 7.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Insley Manufacturing Company, an Indiana corporation with its principal place of business located in Indianapolis, Indiana, is engaged in the manufacture and sale of crawler cranes, shovels, and other excavating machinery. Approximately 50 percent of the raw materials used in its manufacturing processes, consisting primarily of structural steel and steel castings, and amounting to approximately \$500,000 in value, is purchased annually from points outside the State of Indiana. Approximately 90 percent of its finished products, valued at about \$2,000,000, is shipped annually to points outside the State of Indiana. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

International Association of Bridge, Structural and Ornamental Iron Workers, Local 529, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On July 28, 1942, the Company and the AFL executed a contract retroactive to July 1, covering the employees involved herein. This agreement provided, *inter alia*, for its automatic renewal after July 1, 1943, in the absence of notice given prior to June 1, 1943. The AFL, having given appropriate notice, entered into negotiations with the Company for a new contract, at which time an understanding was reached with respect to certain wage increases requiring approval by the National War Labor Board. This approval was sought in September 1943, and granted in December 1943. However, no new agreement was executed by the parties, and on November 24, 1943, the CIO had made a request for recognition as the bargaining representative. The Company refused the request, but has refrained from executing a new contract with the AFL, pending determination of the instant proceeding by the Board.

A statement of the Field Examiner, introduced into evidence at the hearing, indicated that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.¹

¹The Field Examiner reported that the CIO submitted 104 designations bearing apparently genuine original signatures of which 94 contained names appearing upon the

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 parties are agreed that a unit comprised of all production and maintenance employees of the Company, excluding foremen, clerical, salaried and office employees, and all machine-shop employees is appropriate.

The Company, however, employs three working foremen² who, the record shows, have the power to discipline and to make recommendations with respect to the status of employees under their supervision. Since these employees fall within our customary supervisory definition, we shall exclude them from the unit.

We find that all production and maintenance employees of the Company, excluding clerical, salaried, and office employees, machine shop employees, foremen, working foremen, and all 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 payroll period immediately preceding the date of the Direction of Election herein; subject to the limitations and additions set forth in the Direction.

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 Insley Manufacturing Company, Indianapolis, 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

Company's pay roll of November 28, 1943, and that said pay roll contained the names of 117 employees in the unit hereinafter found appropriate.

He further reported that the AFL submitted no evidence of its membership among the Company's employees; however its 1942 contract with the Company is sufficient to establish its interest.

² These employees are Henry O. Mindack, Tracie Shinn, and William E. Meek.

supervision of the Regional Director for the Ninth 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 any 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 Steelworkers of America, affiliated with the Congress of Industrial Organizations, or by International Association of Bridge, Structural and Ornamental Iron Workers, Local 529, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.