

In the Matter of THE INGALLS SHIPBUILDING CORPORATION and METAL TRADES DEPARTMENT, AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR REPRESENTED BY PASCAGOULA METAL TRADES COUNCIL¹

Case No. 15-R-1077.—Decided March 20, 1944

Mr. D. W. Strickland, of Birmingham, Ala., and *Mr. A. W. Krebs*, of Pascagoula, Miss., for the Company.

Mr. W. W. Clements, *Mr. Leroy Alled*, and *Mr. C. E. Alexander*, all of New Orleans, La., and *Mr. J. C. Neef*, of Pascagoula, Miss., for the Union.

Mr. William Strong, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Metal Trades Department, affiliated with the American Federation of Labor, represented by Pascagoula Metal Trades Council, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Ingalls Shipbuilding Corporation, Pascagoula, Mississippi, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Laurence H. Whitlow, Trial Examiner. Said hearing was held at New Orleans, Louisiana, on February 18, 1944. The Company and the Union 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. The Company moved for dismissal of the petition. For reasons stated more fully below, the motion is denied.² All parties were afforded an opportunity to file briefs with the Board.

¹ The name of the Union was amended at the hearing

² See Section III, *infra*.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company, a Delaware corporation, is engaged at Pascagoula, Mississippi, in the production of ships for the United States Government. At the present time the Company has under construction 10 ships, each valued in excess of \$2,500,000. All steel and most other raw materials used in the construction of ships is obtained by the Company from sources outside the State of Mississippi.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Metal Trades Department, affiliated with the American Federation of Labor, Represented By Pascagoula Metal Trades Council, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of the Company's checkers.

The Company asserts that the Union should not be permitted to represent the employees involved for the reasons that the Union represents the production and maintenance employees, that the checkers were excluded from the production and maintenance unit, that the checkers are part of the managerial forces, that the checkers exercise powers and control over production costs and the pay checks of production and maintenance workers, that the interests of the checkers are adverse to those of the production and maintenance employees, and that representation of the checkers and the production and maintenance employees by the same labor organization "will immeasurably increase the opportunities of collusion" between the two groups of workers. The Company does not contend that the checkers have no right to collective bargaining under the Act; it merely seeks for the reasons given to bar the Union from acting as the checkers' representative in that respect and moves for dismissal of the petition.

The Union does not ask the inclusion of the checkers in the production and maintenance employees unit, but seeks their inclusion in a separate unit. Neither the Union's prior position nor our exclusion of the checkers from the production and maintenance unit³ bars their inclusion in a separate unit at present.⁴

³ See *Matter of The Ingalls Shipbuilding Corporation*, 21 N L R B 789. In that case we excluded the "cost department clerks and checkers." The Company asserts that the checkers involved here were included in that phrase.

⁴ See *Matter of General Motors Corporation*, 51 N L R B 1366; *Matter of Packard Motor Car Company*, 47 N L R B 932.

While it is the duty of the checkers, who are employed in the Company's cost department, to gauge for size the welds produced by the welders, to check the total amount of welding performed, and to make appropriate record entries which are used as the basis for computing the welders' pay, the checkers exercise no supervisory functions over the welders in the sense of directing their work. It is clear, and the Company does not dispute, that the checkers are not so closely related to management that a unit of checkers would be inappropriate for the purposes of collective bargaining.⁵ Nothing in our experience leads us to conclude that the exercise of rights under the Act is incompatible with full and honest performance of duties by employees. Nor are we persuaded that representation of checkers and welders by the same labor organization will militate against such a result. Moreover, the remedy for inefficiency, disregard or neglect of duty, collusion or other improper acts on the part of checkers⁶ or other employees lies implicitly in the power of the Company to discipline and discharge employees. We see no reason, therefore, why the same labor organization may not, if chosen by these employees, represent both them and other employees of the Company.⁷ None of the Company's contentions present a bar to this investigation of representatives.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.⁸

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 Union seeks a unit composed of all production checkers, excluding all supervisors. The Company asserts that an appropriate unit should consist of all checkers employed by the cost department to check welding, burning and chipping footages, excluding depart-

⁵ See *Matter of New England Shipbuilding Corporation*, 49 N L R B 480; *Matter of Cramp Shipbuilding Company*, 46 N L R B 115; *Matter of Bethlehem Steel Company*, 46 N L R B 1166; *Matter of McDonnell Aircraft Corporation*, 49 N L R B 897; *Matter of Bohn Aluminum & Brass Corporation*, 47 N L R B 1229; *Matter of Bethlehem Steel Company*, 52 N L R B, No 29; *Matter of General Motors Corporation, etc.*, 51 N L R B 1366; *Matter of United Aircraft Products*, 41 N L R B 501; See also *Matter of North American, Inc.*, 44 N L R B 1372; *Matter of Union Parts Manufacturing Company, Inc.*, 41 N L R B 1173; *Matter of Pierson Machine Company*, 43 N L R B 1169; *Matter of Gardner-Denver Company*, 44 N L R B 1192; *Matter of Westinghouse Electric & Manufacturing Company, etc.*, 44 N L R B 1071

⁶ There is some evidence in the record of improper acts of some checkers

⁷ See *Matter of Armour & Company*, 54 N L R B, No 230; *Matter of Bethlehem Steel Company, etc.*, 46 N L R B 1166; *Matter of McDonnell Aircraft Corporation*, 49 N L R B 897

⁸ The Field Examiner reported that the Union submitted 63 membership cards and that there are 75 employees in the alleged appropriate unit.

mental clerks, tally clerks, rate setters, chief checkers, chief rate setters, leadermen, and all other supervisory employees.⁹ There appears to be no difference between the positions of the parties, the variation being primarily a matter of language, since the Union is interested in the checkers employed by the cost department who check the production of welders, measure and gauge welds, and record the footages.

While the Company asserts that it does not dispute the right of the checkers to engage in concerted activity under the Act, and that the sole objection of the Company is to representation of the welder checkers by the Union, the Company nevertheless also contends that they are a part of management.

In brief, it is the duty of the checkers to gauge for size the welds produced by the welders, to check the total amount of welding performed, and to make appropriate record entries which are used as the basis for computing the welders' pay. Each checker checks the work of from 15 to 20 welders, but does not set rates for work; that is the function of rate setters. Checkers exercise no supervisory functions over the welders in the sense of directing their work. We have heretofore had occasion to consider like contentions as to the duties and functions of other categories of employees engaged in generally similar work.¹⁰ Nothing in the instant case leads us to a contrary conclusion. We find therefore that checkers do not exercise functions or have powers which would make them ineligible to bargain collectively in a separate unit.

We find that all production checkers employed by the Company, excluding all other employees and all 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.

⁹ As stated above, the Company does not seek to deny collective bargaining rights to the checkers. It merely seeks to bar the Union from acting as their representative in that respect.

¹⁰ See, for example, cases cited in footnote 5, *supra*.

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 The Ingalls Shipbuilding Corporation, Pascagoula, Mississippi, 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 Fifteenth 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 Metal Trades Department, affiliated with the American Federation of Labor, represented by Pascagoula Metal Trades Council, for the purposes of collective bargaining.