

In the Matter of MASSEY CONCRETE PRODUCTS COMPANY and UNITED
STEELWORKERS OF AMERICA, CIO

Case No. 10-R-1138.—Decided May 6, 1944

Mr. Wilburt H. Desmond, of Birmingham, Ala., for the Company.
Messrs. R. E. Farr and *W. J. Shewmake*, of Birmingham, Ala., for
the Union.

Mr. Joseph E. Gubbins, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Steelworkers of America, affiliated with the C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Massey Concrete Products Company, Birmingham, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John H. Garver, Trial Examiner. Said hearing was held at Birmingham, Alabama, on April 10, 1944. 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. Subsequent to the hearing the Company filed a motion for the correction of certain errors in the transcript. No objection having been made, the motion is hereby granted and the transcript is ordered corrected accordingly. 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

Massey Concrete Products Company, a Delaware corporation, operates a plant at Birmingham, Alabama, where it is engaged in the

manufacture of pre-cast concrete railroad supplies; the Birmingham plant is the only plant involved herein. Annually, the Company uses raw materials valued in excess of \$100,000 at its Birmingham plant, a substantial portion of which is shipped to the plant from points outside the State of Alabama. During the past 9 months, the Company has shipped finished products valued in excess of \$225,000 from its Birmingham plant to points outside the State of Alabama. Such finished products are used in the maintenance and operation of the Southern Railway, Seaboard Airline Railway, Louisville and Nashville Railroad, Nashville Chattanooga & St. Louis Railway, Central of Georgia Railway, Illinois Central R. R., and the various branches and subsidiaries of the aforementioned railroads.

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

II. THE ORGANIZATION INVOLVED

United Steelworkers of America, is a labor organization affiliated with the Congress of Industrial Organizations, 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 its production and maintenance employees until the Union has been certified by the Board.

A statement prepared by a Field Examiner, introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

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

In substantial accordance with the stipulation of the parties, we find that all production and maintenance employees of the Company at its Birmingham, Alabama, plant, on hourly and daily rate, but excluding clerical employees and supervisory employees who have authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action,² consti-

¹ The Field Examiner reported that the Union submitted 26 authorization cards. The Company's pay roll of March 25, 1944, shows that there are approximately 28 employees in the unit alleged by the Union to be appropriate.

² The record shows that J. F. Campbell, Lee Gregory, and Walter Harris are such supervisory employees and they shall be excluded from the unit.

tute 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.

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 Massey Concrete Products Company, Birmingham, Alabama, 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 Tenth 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 election, to determine whether or not they desire to be represented by United Steelworkers of America, affiliated with the C. I. O., for the purposes of collective bargaining.