

In the Matter of INDIANA FOUNDRY CORPORATION *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW-CIO

*Case No. 9-R-1395.—Decided May 19, 1944*

*Mr. W. C. Spurgeon and Mr. R. E. Shirley, of Muncie, Ind., for the Company.*

*Mr. Andrew Jacobs, of Indianapolis, Ind., Mr. William E. Kent, of Anderson, Ind., and Mr. Fred Grendy, of Muncie, Ind., for the UAW-CIO.*

*Mr. Clarence O. Davidson, of Anderson, Ind., for the Association.*

*Mr. William Strong, of counsel to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, UAW-CIO, herein called the UAW-CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Indiana Foundry Corporation, Muncie, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Allen Sinsheimer, Jr., Trial Examiner. Said hearing was held at Muncie, Indiana, on April 25, 1944. The Company, the UAW-CIO, and Indiana Foundry Corporation Employees Association, herein called the Association, 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Indiana Foundry Corporation, an Indiana corporation, manufactures, in Muncie, Indiana, iron, brass, bronze, and aluminum castings

of an annual value of approximately \$288,000, about 90 percent of which is sent ultimately into other States. In its production the Company uses raw materials valued annually at approximately \$50,000, 70 percent of which comes from sources 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

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, and Indiana Foundry Corporation Employees Association, are labor organizations admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the UAW-CIO as the exclusive bargaining representative of certain of the Company's employees until the UAW-CIO has been certified by the Board in an appropriate unit.

The Association asserts that its contract with the Company is a bar to this proceeding. The contract in question was executed on March 28, 1943, for a 1-year term, continuing thereafter for an indefinite term, subject to termination upon 30 days' notice by either party. The UAW-CIO notified the Company on February 29, 1944, of its majority representation claim. Since the contract is in effect for an indefinite term, subject to termination upon 30 days' notice, it does not constitute a bar to a present determination of representatives.<sup>1</sup>

A statement of a Board agent, introduced into evidence at the hearing, indicates that the UAW-CIO represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</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.

## IV. THE APPROPRIATE UNIT

We find, in substantial agreement with a stipulation of the parties, that all production and maintenance employees in the Company's Muncie, Indiana, plant, including watchmen, but excluding clerical

<sup>1</sup> A prior petition filed by the UAW-CIO was dismissed by the Regional Director on the ground that it was prematurely filed in view of the contract term. Case No. 9-R-1228.

<sup>2</sup> The Field Examiner reported that the UAW-CIO submitted 65 authorization cards, 49 of which bore the names of persons appearing on the Company's pay roll of March 22, 1944, which contained the names of 108 employees in the appropriate unit. The Association relies on its contract with the Company as evidencing its interest in the employees involved.

and office employees, militarized guards, employees who receive more than half of their pay from agencies or instrumentalities of the United States Government, part-time employees who have other regular employment, business, or attend school, the superintendent, assistant superintendent, foremen and working foremen, the chief inspector, 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 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 Indiana Foundry Corporation, Muncie, 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 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 the 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 UAW-CIO, or by I. F. C. Employees Assoc.,<sup>3</sup> for the purposes of collective bargaining, or by neither.

<sup>3</sup> The labor organizations desire to appear on the ballot as shown in the text. The requests are granted.