

In the Matter of DRISCOLL AND COMPANY and INTERNATIONAL UNION  
OF MINE, MILL AND SMELTER WORKERS, C. I. O.

*Case No. 13-R-2434.—Decided June 2, 1944*

*Messrs. Fyffe & Clarke, by Mr. Albert J. Smith, of Chicago, Ill.,  
for the Company.*

*Messrs. Hugh Crooks and A. C. Skinner, of Chicago, Ill., for the  
Union.*

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

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Union of Mine, Mill and Smelter Workers, affiliated with the C. I. O., herein called the Union, alleging that a question affecting commerce has arisen concerning the representation of employees of Driscoll and Company, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George S. Freudenthal, Jr., Trial Examiner. Said hearing was held at Chicago, Illinois, on May 18, 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. 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

Driscoll and Company, an Illinois corporation, is engaged in the business of electro plating-metal at Chicago, Illinois. During the year 1943, the Company purchased raw materials valued in excess

of \$50,000 for use at its Chicago plant, approximately 50 percent of which was shipped from points outside the State of Illinois. During the same period, the Company's sales were in excess of \$250,000 in value, approximately 10 percent of which was shipped from its Chicago plant to points outside the State of Illinois.

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

## II. THE ORGANIZATION INVOLVED

International Union of Mine, Mill and Smelter Workers, affiliated with the Congress of Industrial Organizations, 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 its employees until the Union has been certified by the Board.

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

The Union seeks a unit comprised of all employees of the Company, including watchmen and the lead man working on the night shift, but excluding office clerical employees, executives, the superintendent, foremen, and all other supervisory employees. The Company does not oppose the unit sought by the Union.

We find, therefore, that all employees of the Company at its Chicago plant, including watchmen and the lead man working on the night shift,<sup>2</sup> but excluding office clerical employees, executives, the superintendent, foremen, and all other supervisory employees who have 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.

<sup>1</sup> The Field Examiner's statement shows that the Union submitted 51 authorization cards. There are approximately 92 employees in the unit alleged by the Union to be appropriate.

<sup>2</sup> The record shows that the lead man is not a supervisory employee within the meaning of our usual definition.

## 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 Driscoll and Company, Chicago, Illinois, 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 Thirteenth 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 or not they desire to be represented by International Union of Mine, Mill and Smelter Workers, C. I. O., for the purposes of collective bargaining.

[See *infra*, 56 N. L. R. B. 1716 for Amendment to Direction of Election.]