

In the Matter of DECATUR IRON AND STEEL COMPANY (SHIPBUILDING DIVISION) and INDUSTRIAL UNION MARINE AND SHIPBUILDING WORKERS OF AMERICA, CIO

*Case No. 10-R-1322.—Decided December 15, 1944*

*Mr. John H. Peach*, of Decatur, Ala., for the Company.

*Mr. Wm. M. Thompson*, of Decatur, Ala., *Mr. W. T. Christ*, of New Orleans, La., and *Mr. R. E. Farr*, of Birmingham, Ala., for the CIO.

*Mr. C. L. Riley*, of Birmingham, Ala., *Mr. Dan A. Nottage*, of Atlanta, Ga., and *Mr. O. R. Mustain*, of Houston, Tex., for the Boilermakers.

*Miss Frances Lopinsky*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Industrial Union of Marine and Shipbuilding Workers of America, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Decatur Iron and Steel Company (Shipbuilding Division), Decatur, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Mortimer H. Freeman, Trial Examiner. Said hearing was held at Decatur, Alabama, on November 9, 1944. The Company, the CIO, and International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America, AFL, herein called the Boilermakers, appeared and participated.<sup>1</sup> 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:

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<sup>1</sup> United Brotherhood of Welders, Cutters & Helpers of America, and National Maritime Union of America, also served with notice, did not appear.

## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANY

Decatur Iron and Steel Company, an Alabama corporation, maintains its principal office and place of business at Decatur, Alabama, where normally it is engaged in the production of structural and ornamental steel. At the present time it operates a shipbuilding plant, also located at Decatur, Alabama, the only plant concerned in this proceeding. During the 12-month period preceding the election, the Company in the operation of its shipbuilding business purchased approximately \$700,000 worth of raw materials, totaling 14,000 tons, consisting mainly of steel bars, shapes, plates, and sheets, of which amount approximately 30 percent was shipped to Decatur from points outside the State of Alabama. During the same period, the Company manufactured, sold, and delivered ships valued approximately in the sum of \$2,000,000, to the United States Army. We find that the operations of the Company affect commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

Industrial Union of Marine and Shipbuilding Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America, affiliated with the American Federation of Labor, 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 CIO as the exclusive bargaining representative of its employees for the reason that it considers itself bound by contracts heretofore executed between it and United Brotherhood of Weldors, Cutters & Helpers of America, Local No. 66, herein called the Welders, and between it and National Maritime Union of America, herein called the NMU. The NMU's contract, executed in November 1943, contained a 30-day automatic renewal clause. On October 5, 1944, the NMU informed the Company, by letter, of its intention to terminate the agreement upon its anniversary date, and of its transfer of all interest in the employees of the Company to the CIO. The NMU has also filed with the Board a waiver of interest in these proceedings. Its contract is, therefore, no bar to a present determination of representatives. The Welders' contract was made effective for 1 year after March 1, 1943, terminable thereafter upon 30 days' written notice given by either party. Since a

contract of such indefinite duration is no bar to a determination of representatives,<sup>2</sup> it is unnecessary for us to pass upon a disputed contention of the CIO that the Local No. 66 of the Weldors is a defunct organization.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the CIO and the Boilermakers each represents a substantial number of employees in the unit hereinafter found appropriate.<sup>3</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 parties are in agreement that all employees of the Company in its Shipbuilding Division, excluding office and clerical employees, and supervisors within the Board's usual definition, constitute an appropriate unit. The Company contends that time-checkers, inspectors, guards, quartermen, and leadmen should be excluded from the unit. The unions would include these categories.

*Time-checkers:* There are two time-checkers employed by the Company whose principal duties are to investigate discrepancies between time cards and cost cards, and to report corrections to the pay-roll and cost departments. They work under the supervision of the chief clerk, spending an equal amount of time inside the plant and out in the yard. They keep a chart in the superintendent's office of the assignment and whereabouts of every man in the yard. Their contacts are solely with maintenance and production employees. Since in our opinion the interests and working conditions of these employees are closely akin to those of production and maintenance employees, we shall include time-checkers in the appropriate unit.<sup>4</sup>

*Inspectors:* Inspectors work under the supervision of the general superintendent. They report faulty work or quality but have no authority whatsoever over the workmen who produce it. They have no duty to make recommendations evolving from their inspections. Since their authority to make decisions extends only to the product, we shall include inspectors within the appropriate unit.<sup>5</sup>

<sup>2</sup> See *Matter of Toyad Corporation*, 52 N. L. R. B. 1241.

<sup>3</sup> The Field Examiner reported that the CIO submitted 337 cards; that the names of 405 persons were listed on the Company's pay-roll of October 7, 1944, in the appropriate unit; and that the cards were dated 43 in December 1943, 54 in the months of August through October 1944, and 240 undated. The Boilermakers submitted 36 cards all dated October 1944. We reject the CIO's contention that the Boilermakers has evidenced too small a showing to warrant its participation in this proceeding.

<sup>4</sup> See *Matter of Shartle Brothers Machine Company*, 57 N. L. R. B. 1546.

<sup>5</sup> See *Matter of Sangamo Electric Company*, 59 N. L. R. B. 364.

*Guards:* The guards are armed, uniformed, and deputized by the county sheriff. They do guard duty at the gates of the plant, examining packages carried in and out of the yard, to prevent theft. They are charged with the duty of maintaining order within the yard to the extent that they can eject inebriates or others causing disturbance. Since the guards are armed, deputized, and perform monitorial duties, we shall exclude them from the appropriate unit.<sup>6</sup>

*Leadmen and quartermen:* In a prior proceeding involving employees of the Company,<sup>7</sup> the Board found, in accordance with the agreement of all parties thereto, that leadmen were working foremen with little or no supervisory authority, and included them within the appropriate unit. The Board, however, rejected the parties' agreement to include quartermen in the unit. The Company contends that the record in the former case did not fully present the duties of leadmen and that they are, in fact, supervisory employees. The present record discloses that leadmen perform manual work only 10 percent of their time, and that although they do not have authority to hire, promote, discharge, or discipline, their recommendations with regard to changes in the status of employees working under them are given great weight. Accordingly, we shall exclude leadmen from the unit. Quartermen spend their entire time in supervision. Their recommendations concerning leadmen and their crews are accepted without independent investigation from higher officials. We find that quartermen are supervisory employees and shall exclude them from the unit.

We find that all of the employees of the Company in its Shipbuilding Division, including time-checkers and inspectors, but excluding office and clerical employees, guards, leadmen, quartermen, 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,<sup>8</sup> 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-

<sup>6</sup> See *Matter of Dempster Brothers, Inc.*, 58 N. L. R. B. 151; cf. *Matter of Firestone Tire & Rubber Company*, 59 N. L. R. B. 623.

<sup>7</sup> *Matter of Decatur Iron & Steel Company*, 45 N. L. R. B. 504.

<sup>8</sup> In our decision in 45 N. L. R. B. 504, we found that on the extent of organization then existent, a unit consisting of only welders, cutters (burners), and helpers was appropriate. We indicated, however, that we might consider a larger unit more appropriate when organization should have progressed.

roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.<sup>9</sup>

#### 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Decatur Iron and Steel Company (Shipbuilding Division), Decatur, 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 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 IUMSWA-CIO or by International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America, AFL, for the purposes of collective bargaining, or by neither.

<sup>9</sup> The CIO requests that it be designated on the ballot as IUMSWA-CIO. The request is hereby granted.