

In the Matter of INTERNATIONAL SMELTING AND REFINING COMPANY  
and INTERNATIONAL UNION OF MINE, MILL & SMELTER WORKERS,  
CIO

*Case No. 21-R-2653.—Decided August 17, 1945*

*Mr. Edward W. Rice, of Globe, Ariz., and Mr. P. D. I. Honeyman, of Inspiration, Ariz., for the Company.*

*Messrs. Orville Larson and Claud Lovelett, of Globe, Ariz., for the CIO.*

*Mr. Everett M. Mayne, of Miami, Ariz., for the AFL.*

*Mr. Harold M. Humphreys, 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 & Smelter Workers, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of International Smelting and Refining Company, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George H. O'Brien, Trial Examiner. Said hearing was held at Globe, Arizona, on June 4, 1945. The Company, the CIO, and International Brotherhood of Electrical Workers Local B-518, AFL, herein called the AFL, appeared and participated.<sup>1</sup> All parties were afforded full opportunity to be heard,<sup>2</sup> 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.

<sup>1</sup> The Trial Examiner granted the AFL's motion to intervene, without objection.

<sup>2</sup> On June 8, 1945, the International Brotherhood of Electrical Workers, AFL, requested that the hearing be set aside, on the ground that it was not properly notified of the proceeding herein. We find no merit in this request. The intervenor is a local of the International, and up to April 1, 1945, was the contractual bargaining representative of the employees involved herein. It was duly served with notice of hearing, and thereafter, appeared through its representative, made no objection to the proceeding, and was afforded full opportunity to present its case. Accordingly, the request is hereby denied.

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

## FINDINGS OF FACT

### I. THE BUSINESS OF THE COMPANY

International Smelting and Refining Company, a subsidiary of Anaconda Copper Mining Company, operates a plant at Inspiration, Arizona, known as its Miami plant, where it is engaged in the business of copper smelting. Most of the raw materials used in the Company's operations are purchased outside the State of Arizona. During the year 1944, the Company shipped from this plant 131,410,892 pounds of blister copper to points outside the State of Arizona.

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

### II. THE ORGANIZATIONS INVOLVED

International Union of Mine, Mill & Smelter Workers, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

International Brotherhood of Electrical Workers, Local B-518, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

### III. THE QUESTION CONCERNING REPRESENTATION

On or about January 26, 1945, the CIO gave written notice to the Company, requesting recognition as collective bargaining representative of the Company's employees in the electrical department. The Company replied on or about January 29, 1945, declining such recognition until the CIO has been certified by the Board in an appropriate unit.<sup>3</sup>

A statement of a Board agent, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.<sup>4</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.

<sup>3</sup> The AFL's contract, terminating April 1, 1945, is not asserted as a bar to this proceeding.

<sup>4</sup> The Field Examiner reported that the CIO submitted 6 dues record cards; and that the names of the 6 persons appearing on the cards were listed on the Company's pay roll of February 3, 1945, which contained the names of 19 employees in the alleged appropriate unit.

The AFL submitted 11 authorization cards. The names of 9 persons appearing on the cards were contained in the aforesaid pay roll.

## IV. THE APPROPRIATE UNIT

In substantial accordance with the agreement of the parties and upon the entire record, we find that the Company's electricians, the electrician helper, cranemen, motormen, the charge trammer, and the silica trammer,<sup>5</sup> excluding supervisory employees, foremen, 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.<sup>6</sup>

## 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with International Smelting and Refining Company (Miami plant), Inspiration, Arizona, 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 Twenty-first 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

<sup>5</sup> This unit includes Charles A. Keaton.

<sup>6</sup> The Board has previously found the same unit to be appropriate. See *Matter of International Smelting and Refining Company*, 42 N. L. R. B. 1364.

rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by International Union of Mine, Mill & Smelter Workers, CIO, or by International Brotherhood of Electrical Workers, Local B-518, AFL, for the purposes of collective bargaining, or by neither.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.