

In the Matter of REPUBLIC STEEL CORPORATION and UNITED STEEL-  
WORKERS OF AMERICA, CIO, LOCAL 1743

*Case No. 3-R-725.—Decided February 28, 1944*

*Mr. E. J. Magee*, of Cleveland, Ohio, for the Company.  
*Mr. Matthew Armstrong*, of Buffalo, N. Y., for the Steelworkers.  
*Mr. William C. Lash*, of Cleveland, Ohio, and *Mr. John Anderson*,  
of Buffalo, N. Y., for the Brotherhood.  
*Mr. William Strong*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, CIO, Local 1743, herein called the Steelworkers, alleging that a question affecting commerce had arisen concerning the representation of employees of Republic Steel Corporation, Buffalo, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Buffalo, New York, on February 1, 1944. The Company, the United, and Brotherhood of Locomotive Firemen & Enginemen, herein called the Brotherhood, 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

Republic Steel Corporation, a New Jersey corporation, operates iron and steel products plants in numerous cities in the United States and

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in Canada. We are here concerned with the Company's Buffalo plant. The Company stipulated at the hearing that substantial tonnages of the raw materials used at each of its plants are received from points located outside the State containing the particular plants, and that substantial tonnages of its finished products are shipped to points outside the States in which the individual plants are located.<sup>1</sup>

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

## II. THE ORGANIZATION INVOLVED

United Steelworkers of America, Local 1743, affiliated with the Congress of Industrial Organizations, and Brotherhood of Locomotive Firemen & Enginemen are labor organizations admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Steelworkers as the exclusive bargaining representative of certain of the Company's employees on the ground that it is party to a contract with the Brotherhood covering those employees. The Brotherhood also asserts that the contract is a bar to this proceeding. The contract in question was executed on January 25, 1943, and is of indefinite duration, its terms to continue "until changed or terminated" upon written notice by any party at any time.<sup>2</sup> Notice of requested change must be given 10 days before negotiations commence. The contract further provides that if the parties fail to agree in writing upon proposed changes within 60 days after notice is first given, the entire agreement shall terminate. The contract was "open" at the time of the hearing for wage negotiations which had been in progress since December 17, 1943.

Since the contract is of indefinite duration, had been in existence at least a year, and at the time of the hearing was open subject to further negotiations, we find that it does not constitute a bar to this proceeding.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Steelworkers represents a substantial number of employees in the unit hereinafter found appropriate.<sup>3</sup>

<sup>1</sup> See also *Matter of Republic Steel Corp.* 39 N. L. R. B. 687.

<sup>2</sup> This contract was executed following the Board's certification of the Brotherhood in *Matter of Republic Steel Corp.*, 39 N. L. R. B. 687.

<sup>3</sup> The Field Examiner reported that the Steelworkers submitted 26 authorization cards 25 of which bore the names of persons appearing on the Company's pay roll of December 11, 1943, which contained the names of 51 employees in the appropriate unit. The Brotherhood submitted no proof of its representation claims other than to point to its contract and its prior certification.

We find that a question affecting commerce had 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 accord with a stipulation of the parties, that all locomotive engineers; locomotive firemen, hostlers and hostlers' helpers employed by the Company at its Buffalo plant, but excluding all 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>4</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 payroll period immediately preceding the date of the Direction of Election herein; subject to the limitations and additions set forth in the Direction.

The employees at the Buffalo plant appear to be interchangeable and work at different jobs during the year. In accord with a stipulation of the parties, we find that only those employees who worked as locomotive engineers, locomotive firemen, hostlers and hostlers' helpers and have spent at least 50 percent of their working time at those tasks between August 27, 1943, and the date of this Decision and Direction of Election, shall be eligible to participate in the election.

#### 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 Republic Steel Corporation, Buffalo, New York, 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 Third Region, acting in this matter

<sup>4</sup>This unit was found to be appropriate in *Matter of Republic Steel Corp.*, 39 N. L. R. B. 687 and 41 N. L. R. B. 406.

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 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 the United Steelworkers of America, Local 1743, affiliated with the Congress of Industrial Organizations, or by Brotherhood of Locomotive Firemen & Enginemen, for the purposes of collective bargaining, or by neither.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.