

In the Matter of ALUMINUM COMPANY OF AMERICA, JONES MILLS WORKS and INTERNATIONAL COUNCIL OF ALUMINUM WORKERS UNION, A. F. OF L.

*Case No. 15-R-1135.—Decided July 3, 1944*

*Mr. James M. Vann*, of Hot Springs, Ark., for the Company.

*Mr. Herman Trontwein*, of Malvern, Ark., and *Messrs. C. W. Mowery, Glen R. Northrup, and H. G. Violand*, of Hot Springs, Ark., for the A. F. of L.

*Mr. James Dickerson*, of New Kensington, Pa., and *Mr. O. L. Kemp*, of Malvern, Ark., for the C. I. O.

*Mr. Louis Cokin*, of counsel to the Board.

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE.

Upon petition duly filed by International Council of Aluminum Workers Union, A. F. of L., herein called the A. F. of L., alleging that a question affecting commerce had arisen concerning the representation of employees of Aluminum Company of America, Jones Mills Works, Jones Mills, Arkansas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before LeRoy Marceau, Trial Examiner. Said hearing was held at Hot Springs, Arkansas, on June 1, 1944. At the commencement of the hearing the Trial Examiner granted a motion of International Union of Aluminum Workers of America, C. I. O., herein called the C. I. O., to intervene. The Company, the A. F. of L., and the C. I. O. appeared, participated, and were afforded full opportunity to be heard, to-examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing the C. I. O. moved to dismiss the petition. The Trial Examiner reserved ruling. The motion is hereby denied. The Trial Examiner's ruling 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

Aluminum Company of America is a Pennsylvania corporation operating a plant at Jones Mills, Arkansas, where it is engaged in the manufacture of aluminum. During 1943 the Company purchased raw materials valued in excess of \$100,000, for use at its Jones Mills plant, over 10 percent of which was shipped to it from points outside the State of Arkansas. During the same period the Company sold products from its Jones Mills plant valued in excess of \$100,000, practically all of which was shipped to points outside the State of Arkansas.

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

#### II. THE ORGANIZATIONS INVOLVED

International Council of Aluminum Workers Union is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

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

#### III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the A. F. of L. as exclusive collective bargaining representative of the employees at the Jones Mills plant until the A. F. of L. is certified by the Board.

On November 1, 1942, the Company and the C. I. O. entered into an exclusive collective bargaining contract covering plants of the Company not involved herein. The contract provided that it would cover employees in plants of the Company not originally covered for whom the C. I. O. may be certified during the term of the agreement. On February 17, 1943, the Regional Director certified the C. I. O. as the exclusive representative at the Jones Mills plant as a result of a consent election. The contract further provides that it shall remain in effect until April 30, 1944, and thereafter unless 30 days' notice of a desire to modify is given by either party thereto. Inasmuch as the original term of the contract expired on April 30, 1944, and it is now subject to termination by 30 days' notice, we find that it does not constitute a bar to a determination of representatives at this time.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the A. F. of L. represents a sub-

stantial 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

We find, in substantial agreement with a stipulation of the parties, that all production and maintenance employees at the Jones Mills plant of the Company, excluding office, technical, and salaried employees, watchmen, guards, confidential employees, timekeepers, cost clerks, and pay-roll clerks, and 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>2</sup>

#### V. THE DETERMINATION OF REPRESENTATIVES

We find that the question concerning representation which has arisen can best be resolved by means of an election by secret ballot. The A. F. of L. urges that the pay roll of June 1, 1944, be used to determine eligibility to vote. Inasmuch as no persuasive reason appears for departing from our usual practice, we shall direct that those eligible to vote shall be 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 Aluminum Company of America, Jones Mills Works, Jones Mills, Arkansas, 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 Fif-

<sup>1</sup> The Field Examiner reported that the A. F. of L. presented 359 authorization cards bearing names of employees on the May 3, 1944, pay roll of the Company. The C. I. O. relies upon its contract as evidence of its interest in the instant proceeding. There are about 915 employees in the appropriate unit.

<sup>2</sup> This is substantially the same unit as provided for in the contract between the Company and the C. I. O.

teenth 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 who have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by International Council of Aluminum Workers Union, A. F. of L., or by International Union of Aluminum Workers of America, C. I. O., for the purposes of collective bargaining, or by neither.