

In the Matter of ALUMINUM COMPANY OF AMERICA and LOCAL 1565,
UNITED STEELWORKERS OF AMERICA, C. I. O.

Case No. 7-R-1902.—Decided February 3, 1945

Mr. Warren Van R. Gilbert, of Monroe, Mich., for the Company.

Mr. Nicholas J. Rothe, of Detroit, Mich., for the Union.

Mr. Julius Kirle, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by Local 1565, United Steelworkers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Aluminum Company of America, Monroe, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert J. Wiener, Trial Examiner. Said hearing was held at Detroit, Michigan, on January 3, 1945. The Company and the Union 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

Aluminum Company of America, a Pennsylvania corporation, owns and operates manufacturing plants throughout the United States, among which is a plant at Monroe, Michigan, the only plant involved herein, where it is engaged in the manufacture of products for use in the war effort. During the 6-month period ending September 1,

60 N. L. R. B., No. 76.

1944, the Company purchased raw materials valued in excess of \$500,000 for use at its Monroe plant, approximately 90 percent of which was shipped to said plant from points outside the State of Michigan. During the same period, the Company manufactured at the Monroe plant products valued in excess of \$500,000, approximately 95 percent of which was shipped from said plant to points outside the State of Michigan.

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

II. THE ORGANIZATION INVOLVED

Local 1565, United Steelworkers of America, 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 temperature-control clerks and tally clerks until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit of temperature-control clerks and/or tally clerks hereinafter found appropriate.¹

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 DETERMINATION OF REPRESENTATIVES

The Union's position as modified at the hearing is that temperature-control clerks and tally clerks should be added to the production and maintenance unit represented by the Union,² or in the alternative, that temperature-control clerks and tally clerks should be set apart as single or separate bargaining units. The Company objects to the inclusion of temperature-control clerks and tally clerks in the

¹ A statement of the Regional Director reveals that the Union submitted 15 cards, all of which bore signatures listed on the Company's pay roll of November 26, 1944, which contained the names of 23 employees employed as tally clerks, and that the cards were dated in September, October, or November 1944. The statement further reveals that the Union submitted 3 cards, all of which bore signatures listed on the Company's pay roll of November 26, 1944, which contained the names of 3 employees employed as temperature-control clerks, and that the cards were dated in September or October 1944.

² On March 30, 1944, as a result of a consent election, the Union was certified as the bargaining agent of a unit of production and maintenance employees, and thereafter entered into a contract with the Company which is presently in full force and effect.

present production and maintenance unit on the grounds that they are confidential employees and have been excluded from the present production and maintenance unit. The Company, however, has no objection to a separate bargaining unit of temperature-control clerks and tally clerks.

The record reveals that temperature-control clerks check, adjust, maintain, and record temperatures on the furnaces and the metals heated therein, in accordance with a temperature range furnished to them. They are hourly paid, as distinguished from the general office clerical employees, work in the plant entirely outside of the laboratory, are trained from unskilled personnel, do not possess information directly related to the labor relations of the Company, and are under the supervision of the chief metallurgist. Their work is of a routine nature requiring little or no skill, technical knowledge or exercise of discretion. The fact that clerical employees generally were excluded from the production and maintenance unit for which the Union is the recognized representative³ as a result of the consent election, does not preclude a finding that temperature-control clerks may properly be joined to the production and maintenance unit.⁴ The Board has frequently included laboratory employees who perform routine and non-discretionary work in a production unit,⁵ and no sufficient reason here appears why temperature-control clerks whose duties appear to be similar in nature, may not be so joined. We shall, however, permit the preference of the temperature-control clerks themselves to determine, in part, whether or not they shall be added to the existing unit of production and maintenance employees, and to that end shall order an election. If at such election these employees select the Union, they will have thereby indicated their desire to be included with the production and maintenance employees, and the Union may accordingly bargain for them as part of such unit.⁶

The further question whether tally clerks herein concerned may also be permitted to join the production and maintenance group presents considerations of a somewhat different nature. Such difference is revealed by the fact that while the tally clerks in question perform their work in the production department, they do, nevertheless, have duties and responsibilities substantially different from those

³ The parties stipulated at the hearing that the bargaining unit presently recognized by the parties comprises all employees at the Monroe, Michigan, works, excluding foremen, assistant foremen, and all other supervisory employees as defined by the Board, watchmen, guards, clerical and salaried employees, and all employees who work on dies and parts of dies. The parties further stipulated that the Company has also recognized the International Union as the bargaining representative of the watchmen and guards in a separate bargaining unit.

⁴ See *Matter of John Morrell and Company*, 55 N. L. R. B. 24.

⁵ See *Matter of Edgewater Steel Company*, 56 N. L. R. B. 78, *Matter of Aluminum Company of America*, 52 N. L. R. B. 568.

⁶ See *Matter of Fairchild Engine and Airplane Corporation*, 53 N. L. R. B. 395.

of the ordinary production and maintenance employees. The tally clerks are under the supervision of the chief clerk, who is in charge of the Company's various financial and accounting departments. Their duties generally are to keep the time of the production employees in the various departments, record the number of pieces produced by the individual employee and the distribution of time required therein, which information is used in calculating bonus payments for production employees under the Company's incentive wage plan, and in addition thereto, record the movements of material in and out of the plant and between the various departments. Their duties do not appear to relate directly to the labor relations of the Company. We are of the opinion, and find, that, while the tally clerks herein concerned are not confidential employees within our customary definition, and hence may not be deprived of the privilege of collective bargaining,⁷ they have, nevertheless, duties and interests sufficiently different from those of the production and maintenance employees and the temperature-control clerks to warrant their exclusion from the production and maintenance unit.⁸ They may, however, properly function as a unit separate and apart from both the production and maintenance employees and the temperature-control clerks.

There remains for consideration the status of senior tally clerks whom the Union would include in the unit, and the Company exclude therefrom. The senior tally clerks assist in collecting and racking the timecards, direct the tally clerks, and possess the authority to make recommendations affecting their status. Senior tally clerks are under the supervision of the chief tally clerk, who in turn is under the direction of the chief clerk. Since senior tally clerks fall within the Board's customary supervisory definition, we shall exclude them from the unit.

We find that all tally clerks employed by the Company, excluding senior tally clerks, the chief tally clerk, 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.

We shall direct that separate elections by secret ballot be held among (1) the employees in the tally clerks' unit hereinabove found appropriate, and (2) the temperature-control clerks, excluding all supervisory employees with authority to hire, promote, discharge,

⁷ See *Matter of Chrysler Corporation*, 36 N L R B 157, 162. *Matter of General Motors Corporation*, 52 N L R B 649

⁸ See *Matter of Aluminum Company of America*, 52 N L R B 1040, *Matter of Douglas Aircraft Company, Inc (Long Beach Plant)*, 54 N L R B 67, *Matter of General Motors Corporation*, 51 N L R B 1366

discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 Aluminum Company of America, Monroe, Michigan, separate elections 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 Seventh 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, (1) among the employees in the tally clerks' unit found appropriate in Section IV, above, and (2) among the temperature-control clerks, 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, who are 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 elections, to determine whether or not they desire to be represented by Local 1565, United Steelworkers of America, C. I. O., for the purposes of collective bargaining.