

In the Matter of ALUMINUM ORE COMPANY and INTERNATIONAL COUNCIL OF ALUMINUM WORKERS' UNIONS, AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR

Case No. 15-R-1357.—Decided October 11, 1945

Messrs. Duncan C. Smith and L. B. Moreland, of Mobile, Ala., for the Company.

Mr. R. O. Ross, of Birmingham, Ala., and Mr. J. S. Niquette, of Mobile, Ala., for the petitioner.

Mr. R. M. Poarch, of Birmingham, Ala., and Mr. Lawrence H. Marine, of Mobile, Ala., for the intervenor.

Mr. Mozart G. Ratner, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Council of Aluminum Workers' Unions, A. F. of L., herein called the petitioner, alleging that a question affecting commerce had arisen concerning the representation of employees of Aluminum Ore Company, Mobile, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before T. Lowry Whittaker, Trial Examiner. The hearing was held at Mobile, Alabama, on August 7, 1945. The Company, the petitioner, and United Steelworkers of America, Local Union No. 320, C. I. O., herein called the intervenor, 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 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 Ore Company, a wholly owned subsidiary of Aluminum Company of America, is a Delaware corporation having its executive

offices in St. Louis, Missouri. The Company operates a plant at Mobile, Alabama, where it is engaged in processing natural bauxite into aluminum oxide. This plant is alone involved in this proceeding. Approximately 80 percent of the raw materials used at the Mobile, Alabama, plant is shipped from points outside the State of Alabama. Approximately 90 percent of the finished products is shipped to points outside the State of Alabama.

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' Unions, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

United Steelworkers of America, Local Union No. 320, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

Prior to June 1944, the petitioner was the exclusive bargaining representative of the employees at the Mobile plant. On June 13, 1944, following an election¹ the Aluminum Workers of America, affiliated with the Congress of Industrial Organizations, hereinafter called the A. W. A., was certified as exclusive bargaining representative of the employees. Shortly before the certification the A. W. A., pursuant to agreement, merged with the intervenor, and, following the certification, the Company recognized the intervenor as successor to the A. W. A. On April 12, 1945, petitioner advised the Company that it represented a majority of the employees in the unit and requested recognition. The Company refused to recognize the petitioner until it had been certified by the Board.

On November 1, 1942, the A. W. A. had executed a master contract with the Company covering all plants for which the A. W. A. was the exclusive bargaining representative. On May 4, 1944, the A. W. A. and the Company had begun negotiations for a new master contract. The parties had agreed that pending consummation of a new agreement the existing contract would remain in effect.

Upon succeeding the A. W. A. as bargaining representative, at the Mobile, Alabama, plant, the intervenor agreed with the Company to apply the master contract of November 1, 1942, to the Mobile plant, pending consummation of a new master agreement which would like-

¹156 N. L. R. B. 498.

wise cover the Mobile plant. On June 6, 1945, following a resolution of numerous disputed issues by the National War Labor Board,² a new master agreement was executed which in terms applied to the Mobile plant.

The intervenor contends that the pendency of disputed questions before the War Labor Board for a period almost coextensive with its certification should bar a present determination of representatives under the doctrine enunciated in *Matter of Allis-Chalmers Manufacturing Company*, 50 N. L. R. B. 306. However, it is apparent that the contracting union, since its designation by the Board as exclusive bargaining representative, has obtained many substantial benefits for the employees at Mobile, Alabama; has fully enjoyed its rights under the certification; and has had ample opportunity to demonstrate its efficacy as bargaining representative.³ Consequently we find that an election at the present time will best effectuate the policies of the Act.

A statement of a Field Examiner, introduced into evidence at the hearing, indicates that petitioner represents a substantial number of employees in the unit hereinafter found appropriate.⁴

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

In accordance with a stipulation of the parties and in substantial accord with our prior determinations,⁵ we find that all production and maintenance employees at the Company's Mobile plant, including analysts, samplers, and laborers in the laboratory department, order clerks and laborers in the stores department, and head janitor, but excluding guards, office and clerical employees, all other employees of stores, laboratory, meter, and dispensary departments, shift engineers in the powerhouse, and all or any 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.

² The history of submission of these matters to the National War Labor Board is detailed in *Matters of Aluminum Company of America*, 61 N. L. R. B. 239 and 251. Final clarification of the Directives of the National War Labor Board was made on or about April 19, 1945.

³ See *Matter of Aluminum Company of America*, *supra*.

⁴ The Field Examiner reported that the petitioner submitted 378 cards, all of which bore apparently genuine original signatures, that the names of 278 persons appearing on the cards were listed on the Company's pay roll of June 10, 1945, which contained the names of approximately 548 employees in the appropriate unit, and that the cards were dated as follows: February 1945—1, April 1945—240, May 1945—13, and 24 were undated.

⁵ *Matters of Aluminum Ore Company*, 56 N. L. R. B. 498, and 31 N. L. R. B. 99.

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 Aluminum Ore Company, Mobile, 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 Fifteenth 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 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' Unions, affiliated with the American Federation of Labor, or by United Steelworkers of America, Local Union No. 320, affiliated with the Congress of Industrial Organizations, 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.