

In the Matter of UNITED STATES METALS REFINING COMPANY and  
INTERNATIONAL UNION OF MINE, MILL AND SMELTER WORKERS,  
C. I. O.

*Case No. 4-R-1868.—Decided November 5, 1945*

*Sullivan & Cromwell*, by *Mr. Charles S. Hamilton, Jr.*, of New York City, for the Company.

*Mr. David Mandel*, of Perth Amboy, N. J., and *Mr. Clarence Talsman*, of Newark, N. J., for the Smelter Workers.

*Mr. A. Vincent Busby*, of Newark, N. J., for the Chemical Workers.

*Mr. John A. Nevros*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by International Union of Mine, Mill and Smelter Workers, C. I. O., herein called the Smelter Workers, alleging that a question affecting commerce had arisen concerning the representation of employees of United States Metals Refining Company, Carteret, New Jersey, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Herman Lazarus, Trial Examiner. The hearing was held at New Brunswick, New Jersey, on October 16, 1945. The Company, the Smelter Workers, and Local 72, International Chemical Workers Union, A. F. of L., herein called the Chemical Workers, 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

United States Metals Refining Company, a New Jersey corporation with its plant at Carteret, New Jersey, is engaged in the smelting and refining of copper ores, concentrates, blisters and other copper materials. The Company annually processes over \$50,000,000 worth of raw materials, including copper ores, concentrates and blisters, at least 90 percent of which is shipped to the Carteret plant from points outside the State of New Jersey. The Company annually ships processed material of a value of more than \$60,000,000, 90 percent of which is shipped to points outside the State of New Jersey.

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 and Smelter Workers, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Local 72, International Chemical Workers Union, 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 August 29, 1945, the Smelter Workers advised the Company by letter that it represented a majority of the Company's employees in a claimed appropriate unit and requested recognition. The Company, on or about September 8, 1945, refused recognition because of its contract with the Chemical Workers.<sup>1</sup>

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Smelter Workers represents a substantial number of employees in the unit it alleges to be appropriate.<sup>2</sup>

<sup>1</sup> The collective bargaining contract provides that it is to remain in effect for a period of 1 year from October 21, 1943, and from year to year thereafter unless either party serves notice to the contrary not less than 30 days prior to the expiration date of any contract year. The contract was automatically renewed in 1944 and apparently again in 1945. However, the contract is not a bar to this proceeding since the Smelter Workers' claim of representation was made upon the company prior to the effective automatic renewal date of the contract in 1945. Neither the company nor the Chemical Workers made any contention that the contract is a bar.

<sup>2</sup> The Field Examiner reported that the Smelter Workers submitted 903 authorization cards, of which 815 were dated in August 1945, 82 in September 1945, and 6 were undated, in an alleged appropriate unit consisting of 1583 employees. The Chemical Workers did not present any evidence of representation but relies upon its contract as evidence of its interest in the instant proceeding.

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 UNITS

We find, in accordance with the agreement of the parties, that the following units are appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

(1) All hourly paid production and maintenance employees, all hourly paid clerical employees, and all employees in the patrol department, excluding supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees or effectively recommend such action.

(2) All salaried employees in the chemical laboratory and in the metallurgical laboratory, excluding supervisory employees with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees or effectively recommend such action.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by elections by secret ballot among the employees in the appropriate units 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 United States Metals Refining Company, Carteret, New Jersey, 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 Fourth 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 units 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 elections, to determine whether they desire to be represented by International Union of Mine, Mill and Smelter Workers, affiliated with the Congress of Industrial Organizations, or by Local 72, International Chemical Workers Union, affiliated with the American Federation of Labor, 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 Elections.