

MARIO MERCADO E HIJOS d/b/a CENTRAL RUFINA *and* UNION DE TRABAJADORES DE FACTORIA DE LA INDUSTRIA AZUCARERA, LOCAL 1805, ILA-AFL, Petitioner. Case No. 24-RC-527. June 16, 1953

### DECISION AND ORDER

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before George L. Weasler, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organizations involved claim to represent certain employees of the Employer.

3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

On March 22, 1951, Confederacion General de Trabajadores de Puerto Rico, OOI, herein called the Intervenor, was certified as the collective-bargaining representative of the Employer's production and maintenance employees and railway and maintenance-of-ways personnel.<sup>1</sup> Thereafter, the Employer negotiated a collective-bargaining agreement with the Intervenor and its affiliate, Union de Trabajadores de Factoria de la Industria Azucarera Local #35, herein called Local #35. This agreement, which was executed on January 20, 1952, by both the Intervenor and Local #35, was to run until December 31, 1952, and thereafter for annual periods absent 90 days' notice to modify or terminate. The Employer and the Intervenor contend that, as neither party gave timely notice to modify or terminate this agreement, it was automatically renewed and constitutes a bar to a present determination of representatives. The Petitioner asserts, however, that the contract is not a bar because a schism has occurred in Local #35, creating a doubt as to the identity of the representative of these employees.

On July 6, 1952, the officers of Local #35 scheduled a meeting for the purpose of determining whether or not to disaffiliate from the Intervenor and affiliate with the International Longshoremen's Association, AFL, herein called the ILA. At the meeting, which was attended by approximately 250 out of the Local #35 total membership of 300, resolutions were adopted to disaffiliate from the Intervenor and affiliate with the ILA. The new organization was designated as Local 1805, the Petitioner herein, the officers of Local #35 succeeded to similar positions in the Petitioner, and most of the members of Local #35 joined the Petitioner. Thereafter, the Petitioner sought to bargain with the Employer for a new contract. In the latter part of January 1953, however, the Employer refused to

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<sup>1</sup>24-RC-135.

discuss a new agreement with the Petitioner on the ground that its contract with the Intervenor and Local #35 had been automatically renewed. On February 6, 1953, the Petitioner filed the instant petition.

The Intervenor is the certified bargaining representative of the employees covered by the current contract with the Employer. Furthermore, it participated in the negotiation and the execution of the contract with the Employer and is ready and willing to carry out the terms thereof. Under these circumstances, we find, as contended by the Intervenor and the Employer, that the contract is a bar. Accordingly, we shall dismiss the instant petition.

[The Board dismissed the petition.]

Chairman Herzog took no part in the consideration of the above Decision and Order.

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HYTRON RADIO & ELECTRONICS CO. (A DIVISION OF COLUMBIA BROADCASTING SYSTEM, INC.) *and* INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS, CIO, Petitioner

HYTRON RADIO & ELECTRONICS CO. (A DIVISION OF COLUMBIA BROADCASTING SYSTEM, INC.) *and* INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS, CIO, Petitioner. Cases Nos. 1-RC-3156 and 1-RC-3188. June 16, 1953

### DECISION AND ORDER

Upon separate petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before Joseph Lepie, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with these cases to a three-member panel [Members Houston, Styles, and Peterson].

Upon the entire record in these cases, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organizations involved claim to represent employees of the Employer.<sup>1</sup>

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<sup>1</sup>The Petitioner in both cases will herein be called the IUE. In Case No. 1-RC-3156, the Hytron Employees Union of Massachusetts, herein called the Independent, intervened. In Case No. 1-RC-3188, the Independent and United Electrical, Radio & Machine Workers of America (UE), herein called the UE, intervened.