

In the Matter of ALUMINUM COMPANY OF AMERICA AND ITS WHOLLY OWNED SUBSIDIARIES, THE ALUMINUM COOKING UTENSIL COMPANY AND THE ALUMINUM SEAL COMPANY and INTERNATIONAL UNION ALUMINUM WORKERS OF AMERICA

In the Matter of ALUMINUM COMPANY OF AMERICA and INTERNATIONAL UNION ALUMINUM WORKERS OF AMERICA

*Cases Nos. R-617 and R-618.—Decided April 6, 1938*

*Aluminum Mining and Manufacturing Industry—Investigation of Representatives:* controversy concerning representation of employees: employer desires certification by Board of bargaining representative before entering into any negotiations—*Unit Appropriate for Collective Bargaining:* production and maintenance employees of five plants, excluding supervisors and clerks; no controversy as to—*Representatives:* waiver by all parties of opportunity to compare union membership cards and company pay roll at hearing—*Certification of Representatives:* upon tacit agreement by all parties of majority representation.

*Mr. Robert Kleeb*, for the Board.

*Smith, Buchanan & Ingersoll*, by *Mr. W. K. Kyle, Jr.* of Pittsburgh, Pa., for the Company.

*Mr. J. Alfred Wilner*, of Pittsburgh, Pa., for the Union.

*Mr. Richard Meigs*, of counsel to the Board.

## DECISION

AND

## CERTIFICATION OF REPRESENTATIVES

### STATEMENT OF THE CASE

On December 30, 1937, International Union Aluminum Workers of America, herein called the Union, filed with the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania) a petition alleging that a question affecting commerce had arisen concerning the representation of employees in all plants of Aluminum Company of America and its subsidiaries. Permission to withdraw this petition was requested on January 22, 1938, and was subsequently granted by the Board. On January 25, 1938, the Union filed with the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania) two petitions, one alleging that a question affecting commerce had arisen con-

cerning the representation of employees of the Aluminum Company at its plant in Logans Ferry, Pennsylvania, and the other alleging that a question affecting commerce had arisen concerning the representation of employees of the Aluminum Company at its plants in New Kensington, Pennsylvania, and Arnold, Pennsylvania, and employees of the Aluminum Company's two wholly owned subsidiaries, Aluminum Cooking Utensil Company, New Kensington, Pennsylvania, herein called the Utensil Company, and Aluminum Seal Company, Arnold, Pennsylvania, herein called the Seal Company. Each petition requested an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On February 19, 1938, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article II, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered investigations and authorized the Regional Director to conduct them and to provide for appropriate hearings upon due notice. On February 23, 1938, the Board, acting pursuant to Article III, Section 10 (c) (2), of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered a consolidation of the two cases for the purpose of hearing.

On February 25, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Aluminum Company, upon the Union, a labor organization claiming to represent employees directly affected by the investigation, and upon the American Federation of Labor, herein called the A. F. L. Pursuant to the notice, a hearing was held on March 7, 1938, at Pittsburgh, Pennsylvania, before John T. Lindsay, the Trial Examiner duly designated by the Board. The Board, the Aluminum Company, and the Union were represented by counsel and participated in the hearing. The A. F. L. did not appear or participate in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. At the beginning of the hearing, counsel for the Union requested that the two petitions filed by the Union be consolidated and amended so as to allege that all the production and maintenance employees of the Aluminum Company at its Arnold, New Kensington, and Logans Ferry plants, all such employees of the Utensil Company, and all such employees of the Seal Company constitute a single appropriate bargaining unit. No objection was raised to the request, and it was granted by the Trial Examiner. During the course of the hearing the Trial Examiner made several rulings on motions. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

Upon the entire record of the case, the Board makes the following:

## FINDINGS OF FACT

### I. THE BUSINESS OF THE COMPANY

Aluminum Company of America, a Pennsylvania corporation, is engaged, together with approximately 17 subsidiaries, in the mining, reduction, refining, manufacturing, and fabricating of aluminum. It owns and operates 13 plants throughout the United States. The present proceeding involves only the plants of the Aluminum Company located at New Kensington, Arnold, and Logans Ferry, in Pennsylvania, the plant of the Seal Company at Arnold, Pennsylvania, and the plant of the Utensil Company at New Kensington, Pennsylvania.

The principal raw material used at the Arnold, New Kensington, and Logans Ferry plants of the Aluminum Company is aluminum pig, substantially all of which is obtained from plants of the Company located outside the State of Pennsylvania. The three plants also use mill supplies, steel, copper, and various other materials, of which approximately 38 per cent are obtained outside Pennsylvania.<sup>1</sup>

The principal products manufactured at the Arnold and New Kensington plants are sheet, plate, foil tubing, and ingot, approximately 60 per cent of such products being shipped outside Pennsylvania. The principal products of the Logans Ferry plant are aluminum powder and paste, of which over 80 per cent are shipped outside Pennsylvania.

The Utensil Company uses at its New Kensington plant principally semi-fabricated aluminum, substantially all of which is obtained from the Aluminum Company's New Kensington and Arnold plants, but it also uses cartons, buffs, cleaner, and other materials, of which approximately 60 per cent are obtained outside Pennsylvania. It manufactures cooking utensils and miscellaneous products, of which 90 per cent are shipped outside Pennsylvania.

The Seal Company uses at its Arnold plant principally aluminum sheet, most of which is obtained from the Aluminum Company's Arnold and New Kensington plants, but it also uses some other raw materials, approximately 65 per cent of which are obtained outside Pennsylvania. It ships approximately 85 per cent of its finished products outside Pennsylvania.

### II. THE ORGANIZATIONS INVOLVED

On June 15, 1937, International Union Aluminum Workers of America, affiliated with the Committee for Industrial Organization, granted charters to Local No. 2, which admits to its membership all

<sup>1</sup> The percentage figures used throughout this section are based upon value.

production and maintenance employees, exclusive of supervisory and office employees, of the Aluminum Company, the Utensil Company, and the Seal Company at their Arnold and New Kensington plants, and to Local No. 8, which admits to its membership all such employees at the Aluminum Company's Logans Ferry plant. Prior to June 15, 1937, the employees at the aforesaid plants were members of local unions affiliated with the American Federation of Labor.

### III. THE QUESTION CONCERNING REPRESENTATION

On December 2, 1936, the Aluminum Company entered into an agreement with various Aluminum Workers' organizations affiliated with the American Federation of Labor, acting jointly, in cooperation with the National Council of Aluminum Workers and Local Unions of the International Association of Machinists. The agreement covered six plants of the Aluminum Company, including the Logans Ferry and New Kensington plants, and by its terms was to remain in effect "until November 1, 1937, and thereafter until modified after at least thirty (30) days notice."

On September 30, 1937, the Union advised the Aluminum Company that the employees covered by the agreement of December 2 had transferred their affiliation from the A. F. L. to the Union and that a proposed revised agreement would be presented by the Union to the Aluminum Company. On December 30, 1937, the Union sent to the vice president of the Aluminum Company a letter stating that the Union represented a majority of the production employees at all the plants of the Aluminum Company and its subsidiaries and enclosing a proposed revised agreement covering all such employees. The Company, by a letter dated January 7, 1938, replied that it could not negotiate any agreement until after certification by the Board of bargaining representatives, but that after such certification it would be willing to enter into negotiations with the Union.

At the hearing, the Union claimed to represent a majority of the employees within the unit it alleged to be appropriate.

We find that a question has arisen concerning the representation of employees of the Aluminum Company, the Seal Company, and the Utensil Company.

### IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Aluminum Company and its subsidiaries described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce

among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE APPROPRIATE UNIT

The Union alleged in its petitions as amended at the hearing that all the production and maintenance employees, excluding supervisory and office employees, of the Aluminum Company at its New Kensington, Arnold, and Logans Ferry plants, of the Seal Company at its Arnold plant, and of the Utensil Company at its New Kensington plant constitute a single appropriate bargaining unit. The Union stated that timekeepers and clerical employees whose duties were confined wholly to a factory were deemed to be included in the unit which it claimed to be appropriate. No objection to the requested unit was made by any party at the hearing.

The evidence shows that all employees at the plants here involved are hired through one central employment office; that all the plants, except the Logans Ferry plant, adjoin one another; that the Logans Ferry plant is only 1 mile away from the other plants mentioned above; that employees are at times transferred among the various plants; that there is one general superintendent over all the plants; and that one vice president has final responsibility with respect to the handling of grievances at all of said plants.

We find that the production and maintenance employees of the Aluminum Company at its Arnold, New Kensington, and Logans Ferry plants, of the Utensil Company at New Kensington, and of the Seal Company at Arnold, exclusive of supervisory and clerical employees, constitute a unit appropriate for the purposes of collective bargaining, and that said unit will insure to the employees of the Aluminum Company, the Utensil Company, and the Seal Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

#### VI. THE DETERMINATION OF REPRESENTATIVES

The general superintendent of the Aluminum Company testified that 4,473 employees within the unit we have found to be appropriate were on the pay rolls of the 5 plants here involved during the pay-roll period ending January 29, 1937. He also testified that the names of many employees who had been laid off were not included on the pay rolls.

The president of Local No. 2 testified that 5,920 employees within the unit we have found appropriate had signed applications for membership in No. 2, designating the Union as their bargaining representative. The financial secretary of Local No. 8 testified that 139 employees within the unit which we have found appropriate had

signed membership cards of No. 8 which designated the Union as their bargaining representative. The membership cards of the two locals included the names of some employees who had been laid off.

The pay rolls and the membership cards were not introduced in evidence, but were available for inspection at the hearing. The Trial Examiner stated that adequate opportunity would be given the parties to inspect the pay roll and the membership cards. The parties, however, stated that they would waive such inspection. The Aluminum Company and its subsidiaries did not contest the claim of the Union that it had been designated as bargaining representative by all, or practically all, the employees of the five plants within the appropriate unit.

We find that the Union has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purpose of collective bargaining, and we will so certify.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

#### CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of the Aluminum Company of America and its two wholly owned subsidiaries, Aluminum Cooking Utensil Company and Aluminum Seal Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production and maintenance employees of the Aluminum Company at its Arnold, New Kensington, and Logans Ferry plants, of the Utensil Company at New Kensington, and of the Seal Company at Arnold, exclusive of supervisory and clerical employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. International Union Aluminum Workers of America is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

#### CERTIFICATION OF REPRESENTATIVES

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 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that International Union Aluminum Workers of America has been designated and selected by a majority of the production and maintenance employees of the plants of the Aluminum Company of America located at New Kensington, Arnold, and Logans Ferry, in Pennsylvania, and of its subsidiaries, the Aluminum Seal Company, Arnold, Pennsylvania, and the Aluminum Cooking Utensil Company, New Kensington, Pennsylvania, excluding supervisory and office employees, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9 (a) of the Act, International Union Aluminum Workers of America is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.