

although it was filed within the 60-day period, it was filed after the execution of the amended contract, which has a lawful union-security clause. We shall accordingly dismiss the petition in Case No. 4-RC-5609.

Accordingly, as we have found that no question concerning representation exists, we shall dismiss the petitions herein.⁶

[The Board dismissed the petitions.]

MEMBERS LEEDOM and FANNING took no part in the consideration of the above Decision and Order.

able There, unlike here, no contract had been entered into by the parties during the election year. In this context, the Board directed an election on the basis of the petition, stating: "To dismiss the petition at this time would subject the Board to an immediate repetition of the proceeding as a new petition could be timely filed as soon as a decision in this case issues." Here, however, the contract between the Employer and Intervenor was amended on August 1, and the amended contract would have been a bar to any subsequently filed petitions. Therefore, unlike *Silas Mason*, in the present case, a dismissal of the July 25 petition would *not* subject the Board to an "immediate repetition of the proceedings."

In view of our finding that, in any event, the July 25 petition was untimely and should have been dismissed, we find it unnecessary to decide whether the Regional Director had authority to reinstate the July 25 petition.

⁶As we are dismissing the petitions herein, we need not reach the other issues raised by the parties in this proceeding.

Industrial Siderurgica, Inc. and United Steelworkers of America, AFL-CIO (Union de Trabajadores de Metal). *Case No. 24-RC-1432. June 29, 1964*

DECISION AND ORDER DENYING MOTION TO AMEND CERTIFICATION

On August 8, 1960, following an election conducted pursuant to a Decision and Direction of Election issued July 6, 1960,¹ United Steelworkers of America, AFL-CIO (Union de Trabajadores de Metal), herein called the Petitioner, was certified as the collective-bargaining representative, with certain exclusions not material, for "all production and maintenance employees at the Employer's steel mill and scrap yard in Palmas Ward, Catano, Puerto Rico."

On May 31, 1963, Petitioner filed a motion to amend the certified unit to include, as an accretion to the bargaining unit, production and maintenance employees employed by the Puerto Steel Company, herein called PR, in its steel fabricating plant adjoining the bar production plant of the Employer at Catano, Puerto Rico. Contrary to the Petitioner, the Employer contends that the PR operation is not an accretion to the existing unit and that the proper procedure for combining the two groups of employees would be by petition and election.

¹ Not published in printed volumes of NLRB decisions.

On August 27, 1963, the Board remanded the matter to the Regional Director for the Twenty-fourth Region, directing a hearing on the issues raised by the Petitioner's motion and the Employer's opposition thereto. A hearing was held October 2, 1963, before Hearing Officer Arnold M. Selke. His 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 this case to a three-member panel [Members Fanning, Brown, and Jenkins].

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

On December 17, 1960, the Employer executed its first collective-bargaining agreement with Petitioner. During the life of this contract, the Employer's controlling stockholders, the Garcia brothers, organized PR, retaining a controlling interest in both companies. Employer's directors and officers were named as directors and officers of PR. They continue to serve both companies. Similarly the Employer's industrial relations officer, personnel director, general manager, sales manager, and purchasing officer were named, and continue to serve in these same capacities for the newly formed company.

PR began fabricating bars in September 1960. Its single plant is situated in a building leased from the Employer immediately adjacent to the latter's bar production facility. The two steel-frame structures are joined at the roof. Their open sides afford free access between their respective working areas. Both are reached through a single plant gate and have an adjacent parking lot for the common use of employees in both operations. In addition to the parking lot, employees of the two companies also use the same cafeteria and share other plant accommodations including locker and dressing rooms and a common timeclock.

In the management and administration of their respective affairs the two enterprises are substantially integrated. Accounts and payrolls are separately maintained but by the same clerical employees. The same is true of the personnel office and records, engineering, maintenance, janitorial services, and medical aid.²

The principal issue involved here is whether the employees of PR may properly be added to the existing bargaining unit as an accretion, as sought by the Petitioner. There are a number of facts in connection with operations of the two companies that tend to support the Petitioner's view that PR's production employees, numbering 10, should be added to the existing unit now numbering approximately 153. The Employer's plant is the larger of the two. It is here that scrap steel is melted and poured into ingots which are later rolled into reinforcing bars cut to standard lengths and sold to various users, including PR, in that form. The latter sells to its own customers the

² PR formally reimburses Industrial for these services.

purchased bars which PR employees form into exact shapes according to precise customer specifications. Thus Employer's employees are engaged in the production of unshaped bars which are further fabricated by employees of PR using skills not generally applicable in the production of bars.³

On the other hand, and more compelling, are the facts that there is no interchange of employees between the two plants; that the employees in each are subject to separate immediate supervision and that while their hours, pay, fringe benefits, and other working conditions are comparable, PR's operations are not a functional part of the production and maintenance unit in Employer's plant.⁴ Each operates independently of the other; their close physical proximity must be regarded largely as a matter of convenience, not of necessity. We do not feel that the joint use of common service facilities by the two employee groups is determinative of the question of accretion. Finally, the record shows that when the Employer and Petitioner entered into their latest contract, PR was then in existence and had, apparently, a full complement of employees, yet that contract's coverage was limited to the Employer's employees and did not embrace those of PR. In these circumstances we conclude that PR's employees should not be added to the existing unit of Industrial Siderurgica employees by way of accretion.

[The Board denied the motion.]

³ *Pacific States Steel Corporation*, 134 NLRB 1325, 1327.

⁴ *Cities Service Refining Corporation*, 121 NLRB 1091, 1093; *Pacific States Steel Corporation*, *supra*; *Chrysler Corporation*, 129 NLRB 407, 411.

Bethlehem Steel Company (Shipbuilding Division) and Bethlehem-Sparrows Point Shipyard, Inc. and Industrial Union of Marine and Shipbuilding Workers of America, AFL-CIO.
Cases Nos. 2-CA-6866 and 2-CA-6867. June 29, 1964

SECOND SUPPLEMENTAL DECISION AND ORDER

In prior decisions in this matter,¹ the Board found that the Respondent violated Section 8(a) (5) of the Act by certain of its conduct occurring during 1959 bargaining negotiations with the Union. It found further that the Respondent had not violated Section 8(a) (5) of the Act by certain other conduct as alleged in the complaint. Included in the conduct not found violative of the Act was Respondent's unilateral institution of the "White Book" changes on August

¹ 133 NLRB 1347; 136 NLRB 1500.

147 NLRB No. 151.