

**Amax Aluminum Extrusion Products, Inc. and Aluminum Workers International Union, AFL-CIO, Petitioner.** Case 26-RC-3114

July 30, 1968

**DECISION AND CERTIFICATION OF REPRESENTATIVE**

BY MEMBERS FANNING, JENKINS, AND ZAGORIA

Pursuant to a Stipulation for Certification Upon Consent Election, approved March 6, 1968, an election by secret ballot was conducted on April 10, 1968, under the direction and supervision of the Regional Director for Region 26 among the employees in the appropriate unit. At the conclusion of the election, the parties were furnished a tally of ballots which showed that of approximately 61 eligible voters, 65 cast ballots, of which 35 were for, and 25 were against, the Petitioner. There were 5 challenged ballots. Thereafter, the Employer filed timely objections to conduct affecting the results of the election.

In accordance with the National Labor Relations Board Rules and Regulations, the Regional Director conducted an investigation and, on May 23, 1968, issued and duly served upon the parties his Report on Objections in which he recommended that the objections be overruled and that the Petitioner be certified as the collective-bargaining representative of the employees involved. Thereafter, the Employer filed timely exceptions to the Regional Director's Report on Objections and a supporting brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

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

1. The Employer is engaged in commerce within

the meaning of the Act, and it will effectuate the policies of the Act to assert jurisdiction herein.

2. The Petitioner is a labor organization claiming to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of the employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. The parties stipulated, and we find, that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All production and maintenance employees of the Employer at its Hernando, Mississippi, plant, including general plant employees and die repairman; excluding metallurgical inspectors, office clerical employees, factory and receiving clerical employees, shipping clerical employees, technical and professional employees, guards, and supervisors as defined in the Act.

The Board has considered the objections, the Regional Director's Report, the Employer's exceptions and brief, and hereby adopts the Regional Director's findings and recommendations.<sup>1</sup>

Accordingly, as the tally shows that the Petitioner has obtained a majority of the valid ballots cast, we shall certify it as the collective-bargaining representative of the employees in the appropriate unit.

**CERTIFICATION OF REPRESENTATIVE**

It is hereby certified that Aluminum Workers International Union, AFL-CIO, has been designated and selected by a majority of the employees in the unit found appropriate herein as their representative for the purposes of collective bargaining, and that, pursuant to Section 9(a) of the Act, the said labor organization is the exclusive representative of all employees in such unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment.

<sup>1</sup> The Employer urges, as Objection II-C, that we set aside the election because of the Board agent's conduct in investigating unfair labor practice charges against the Employer between shifts of the split-shift election. We decline to do so. Only three employees were interviewed, all off the Employer's premises, and there is no evidence other employees saw the interviewing, or became aware of it. We find the evidence insufficient to establish that the conduct of the Board agent affected the results of the election. See, e.g., *Bullard v. NLRB*, 253 F. Supp. 391 (D.C.D.C.), *International Union of Electrical, Radio and Machine Workers (Athbro Precision Engineering Corp.) v. NLRB*, 67 LRRM 2361 (decided January 17, 1968)(D.C.D.C.) Nonetheless, we feel constrained to observe that, in most circumstances, it would be better practice for the Board agent con-

ducting an election to refrain from investigating unfair labor practice charges between shifts of the election. It has long been Board policy that elections be conducted in as "laboratory" an atmosphere as possible, and, where feasible, this could best be accomplished if the conduct of the election were kept separate from the investigation of unfair labor practice charges, which charges, of course, may eventually prove baseless. We agree with the Regional Director that Objection III is without merit, but do not rely on his finding that the employees had ample opportunity to make inquiries concerning the St. Charles contract. Except as above noted, the Employer's exceptions in our opinion, raise no material or substantial issues of fact or law which would warrant reversal of the Regional Director's findings and recommendations or require a hearing.