

In the Matter of PETROLEUM IRON WORKS COMPANY and STEEL
WORKERS ORGANIZING COMMITTEE

Case No. R-255.—Decided September 29, 1937

Steel Products Manufacturing Industry—Investigation of Representatives: controversy concerning representation of employees; refusal by employer to recognize union as exclusive representative; resentment and dissatisfaction among employees—*Unit Appropriate for Collective Bargaining:* eligibility for membership in union; all employees except supervisory and clerical employees, watchmen, and policemen; no controversy as to—*Representatives:* proof of choice; membership in union; signature of cards authorizing union as bargaining agency—*Certification of Representatives:* after investigation but without election.

Mr. Peter Di Leone for the Board.

Mr. L. B. Coppinger, of Houston, Texas, for the Company.

Mr. Samuel S. Davidson, of Youngstown, Ohio, for Steel Workers Organizing Committee.

Mr. Joseph Friedman, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On July 1, 1937, Steel Workers Organizing Committee, herein called the Union, filed with the Regional Director for the Eighth Region (Cleveland, Ohio) a petition alleging that a question affecting commerce had arisen concerning the representation of the employees, except supervisory and clerical employees, watchmen, and policemen, of Petroleum Iron Works Company, Petroleum, in the Township of Hubbard, Ohio, herein called the Company, and requesting an^t investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On August 6, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director to conduct an investigation and to provide for an appropriate hearing; and the Board further ordered, pursuant to Article III, Section 10 (c) (2) and Article II,

Section 37 (b) of the Rules and Regulations—Series 1, as amended, that the case be consolidated for the purpose of hearing with the case arising upon a charge against the Company alleging unfair labor practices filed by the Union simultaneously with the petition herein.

The Union having signified to the Regional Director its intention of withdrawing the charge which it had filed against the Company, the Regional Director, on August 20, 1937, issued a notice of a hearing on the petition only, to be held at Youngstown, Ohio, on August 30, 1937, copies of which were duly served upon the Company and the Union. Pursuant to the notice, a hearing was held at Youngstown, Ohio, on August 30, 1937, before Frank Bloom, the Trial Examiner duly designated by the Board. The Board, the Company, and the Union were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all the parties. No motions or exceptions to the rulings of the Trial Examiner were made during the course of the hearing.

Upon the entire record in the case the Board makes the following:

FINDINGS OF FACT

I. THE COMPANY AND ITS BUSINESS

Petroleum Iron Works Company, an Ohio corporation, having its principal office and place of business in the unincorporated settlement of Petroleum, in the Township of Hubbard, Ohio (Post Office address, Sharon, Pennsylvania), is engaged in the fabrication of tanks, stills, annealing boxes, and other equipment made of steel plate, and of barrels, drums, and other containers made of steel sheets. The total number of its employees is approximately 400.

The Company has one subsidiary, Petroleum Iron Works of Pennsylvania, which has its principal office and place of business in Sharon, Pennsylvania. The Company is itself a subsidiary of American Republics Corporation, a Delaware corporation, with its principal office and place of business in Wilmington, Delaware. The proceedings in this case, however, concern only the employees of the Ohio corporation at its Petroleum, Ohio, plant.

The principal raw materials utilized by the Company are steel plate, steel sheets, steel shapes, weld rods, pipe and fittings, rivets, and paint. Total purchases of raw materials by the Company during the period from July 1, 1936 to June 30, 1937, aggregated \$1,797,466.47 in value, of which 40 per cent were delivered to its plant from outside Ohio by truck and railway transportation.

Its finished products are made to special order. The tanks and other equipment requiring field erection, unless erected by the customer, are erected at all points outside Ohio by its subsidiary, Petroleum Iron Works Company of Pennsylvania. The Company maintains a branch sales office in New York City for the sale of its finished products. Total sales of its finished products during the period from July 1, 1936 to June 30, 1937, aggregated \$2,281,762.87 in value, of which from 55 to 60 per cent were shipped outside Ohio, largely to New York, Pennsylvania, Illinois, and Montana.¹

II. THE UNION

Steel Workers Organizing Committee is a labor organization affiliated with the Committee for Industrial Organization. It admits to membership all employees of the Company, except supervisory and clerical employees, watchmen, and policemen.

III. THE APPROPRIATE UNIT

The Company has approximately 400 employees, of whom 100 are supervisory and clerical employees, watchmen, and policemen, leaving approximately 300 employees who are eligible for membership in the Union. The Union maintains that all the employees eligible for membership therein constitute a unit appropriate for collective bargaining. The Company raises no objection to the bargaining unit claimed by the Union and has indicated its willingness to bargain collectively with the Union as the sole bargaining agent, if the Board determines that the Union has been designated as representative by a majority of the employees in the unit.

In order to insure to the Company's employees the full benefit of their right to self-organization and collective bargaining, and otherwise to effectuate the policies of the Act, we find that all the employees of the Company, except supervisory and clerical employees, watchmen, and policemen, constitute a unit appropriate for the purposes of collective bargaining.

IV. THE QUESTION CONCERNING REPRESENTATION

In June 1936, the Union began a campaign for membership among the employees of the Company. By May 1937, the Union claimed a substantial number of members there. Beginning May 12, 1937, and continuing until May 20, 1937, there was correspondence between the Union and the Company in which in substance the Union requested recognition as the bargaining agent of only its members among the employees of the Company and the Company refused to grant any recognition until the Board certified the Union as the repre-

¹ Almost all the facts concerning the Company and its business are taken from a stipulation which was introduced in evidence at the hearing. Board's Exhibit No. 2.

sentative of the Company's employees.² The Union now claims to represent a considerable majority of the Company's employees in the appropriate unit. There is no other labor organization claiming membership among the Company's employees. The present refusal of the Company to recognize the Union tends to create resentment and dissatisfaction among the employees who are members of the Union. We find that a question has arisen concerning the representation of the employees of the Company in the appropriate unit.

V. THE EFFECT OF THE QUESTION OF REPRESENTATION ON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company 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.

VI. THE EXCLUSIVE BARGAINING AGENCY

The bargaining unit stated above included at the time of the hearing approximately 300 employees. The Union introduced in evidence original application cards for membership signed by 238 employees in the appropriate unit, designating the Union as their representative for the purposes of collective bargaining.³ Three of the Union's organizers testified that almost all the cards were signed in their presence at the gates to the plant by the employees of the Company as they were entering or leaving the plant. Counsel for the Company raised no objection to the admission of the cards in evidence; nor did he question their authenticity or object to any particular card on any ground, although he was afforded the opportunity of inspecting the cards. Similarly, though afforded the opportunity, he did not cross-examine any of the Union's witnesses or offer any evidence in behalf of the Company. The record is thus barren of any evidence tending to raise a doubt as to the clear membership majority established by the evidence introduced by the Union. The Board has inspected all the cards and has not detected any irregularities. We find that a majority of the employees in the appropriate unit have designated the Union as their representative for the purposes of collective bargaining, and that, by virtue of Section 9 (a) of the Act, the Union is the exclusive representative of all the employees in the appropriate unit. No secret ballot is necessary, and we will certify the Union as the exclusive representative of all the employees in the appropriate unit.

² Petitioner's Exhibits Nos. 3, 4, 5, 6, 7, and 8.

³ Petitioner's Exhibits Nos 1 and 2.

CONCLUSIONS OF LAW

On the basis of the above findings of fact, the Board makes the following conclusions of law:

1. All the employees of Petroleum Iron Works Company, except supervisory and clerical employees, watchmen, and policemen, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the employees in the aforesaid unit, within the meaning of Section 9 (c) of the National Labor Relations Act.

3. Steel Workers Organizing Committee, having been designated for the purposes of collective bargaining by the majority of the employees in the aforesaid unit, is, by virtue of Section 9 (a) of the National Labor Relations Act, the exclusive representative of all the employees in such unit for the purpose of collective bargaining in respect of rates of pay, wages, hours of employment, and other conditions of employment.

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, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that Steel Workers Organizing Committee has been designated and selected by a majority of all the employees of Petroleum Iron Works Company, excluding supervisory and clerical employees, watchmen, and policemen, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, Steel Workers Organizing Committee 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.