

In the Matter of ALUMINUM COMPANY OF AMERICA, AND ITS WHOLLY OWNED SUBSIDIARY, THE ST. LAWRENCE RIVER POWER COMPANY and INTERNATIONAL UNION, ALUMINUM WORKERS OF AMERICA

Case No. R-631.—Decided April 11, 1938

Aluminum Manufacturing Industry—Electric Power Industry—Investigation of Representatives: controversy concerning representation of employees: stipulation as to, including agreement for election—*Unit Appropriate for Collective Bargaining:* production and maintenance employees of local plants of parent company and subsidiary, excluding supervisory and office employees; stipulation as to—*Election Ordered:* pursuant to stipulation.

Mr. John H. Dorsey, for the Board.

Mr. Andrew J. Hammer, of Massena, N. Y., and *Franchot, Runals, Cohen, Taylor & Rickert*, by *Mr. T. G. Rickert*, of Niagara Falls, N. Y., for the Companies.

Mr. J. Alfred Wilner, of Pittsburgh, Pa., for the A.W.A.

Mr. Charlton Ogburn, by *Mr. Arthur H. Reyman*, of New York City, for Local No. 19256.

Mr. Abraham L. Kaminstein, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On February 3, 1938, International Union, Aluminum Workers of America, affiliated with the Committee for Industrial Organization, herein called A. W. A., filed with the Regional Director for the Third Region (Buffalo, New York) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of the Aluminum Company of America and its wholly owned subsidiary, St. Lawrence River Power Company, herein called the Companies, at their Massena, New York, plants, and requesting 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 14, 1938, 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, ordered an investiga-

tion and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

Thereafter, the Regional Director issued and duly served notice and amended notice of hearing upon the Companies, the A. W. A., and Aluminum Workers Union, Federal Local No. 19256, affiliated with the American Federation of Labor, herein called Local No. 19256, a labor organization named in the petition as claiming members among the employees of the Companies. By virtue of Article III, Section 3, of said Rules and Regulations—Series 1, as amended, Local No. 19256 had become a party to the proceedings. Pursuant to the notice, a hearing was held on March 14, 1938, at Massena, New York, before Louis L. Jaffe, the Trial Examiner duly designated by the Board. All parties were represented by counsel and participated 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. During the course of the hearing, all parties agreed upon various stipulations which were introduced into the record.

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

FINDINGS OF FACT

Aluminum Company of America, herein called Aluminum Company, a Pennsylvania corporation, was originally incorporated as the Pittsburgh Reduction Company in 1888, and reincorporated in 1925. The present name was assumed in 1907. St. Lawrence River Power Company, a subsidiary of Aluminum Company, was incorporated in 1902 in New York. The principal office and place of business of Aluminum Company is Pittsburgh, Pennsylvania, and that of St. Lawrence River Power Company is Massena, New York.

The principal business of Aluminum Company at its Massena, New York, plant is the reduction of aluminum oxide into metallic aluminum and the fabrication of metallic aluminum into ingots, cables, cable accessories, wires, rods, bars, merchant mill, and structural mill shapes. The raw materials used in this plant, during 1937, aggregated approximately 213,633 tons of refined ore, coke, coal, fuel oil, lumber, iron, steel, steel wire, pitch, electrolytic bath materials, alloy materials, and cable insulating materials. Of these raw materials, "upwards of 91 per cent" came from points outside the State of New York. During 1937, the Massena plant of Aluminum Company produced and shipped approximately 62,981 tons of aluminum products, of which approximately 93.6 per cent was shipped to points outside New York.

The business of St. Lawrence River Power Company is the generation of hydroelectric energy by the use of water diverted from the

St. Lawrence River. During 1937, St. Lawrence River Power Company produced an average of 79,000 H. P. of electrical energy, none of which was transmitted outside New York.

Aluminum Company maintains sales offices in cities in 17 States, and advertises in various magazines of national circulation. The principal customers for the products manufactured by Aluminum Company at its Massena plant are public utilities and public power projects, users of aluminum cable located throughout the United States, manufacturers engaged in the production of light weight transportation and other equipment, and concerns which fabricate aluminum into various products. St. Lawrence River Power Company supplies power to Aluminum Company at its Massena plant.

It was stipulated that there now exists a question of representation affecting commerce; that the parties agree that the Board may direct an election among the production and maintenance employees of the Companies at Massena as the appropriate unit; that all classes of maintenance and production employees on the pay-rolls of the Companies and working as of the pay-roll date of February 2, 1938, and such of their regular employees who may not have been on the pay rolls on such date but who may have been reemployed up to the date of the election, shall be eligible to vote at the election.

The Companies request that the form of the election ballot provide an opportunity for unaffiliated employees to express their wishes. Counsel for Local No. 19256 objected to the provision for a third place on the ballot. In accordance with our usual practice, we will allow employees to vote for either of the two labor organizations or for neither.¹

Upon the basis of the record and the stipulations, we find that a question has arisen concerning representation of employees of the Companies; that such question, occurring in connection with the operations of the Companies described above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and with foreign countries, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce; and that the production and maintenance employees of the Companies, excluding supervisory and office employees, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of the Companies the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

Upon the basis of the above findings and stipulations, the Board will order an election to determine whether the production and main-

¹ *Matter of Interlake Iron Corporation and Amalgamated Association of Iron, Steel, and Tin Workers of North America, Local No. 1657, 4 N. L. R. B., 55.*

tenance employees desire to be represented by International Union, Aluminum Workers of America, or by Aluminum Workers Union, Federal Local No. 19256, affiliated with the American Federation of Labor, or by neither.

DIRECTION OF ELECTION

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

DIRECTED that, as part of the investigation directed by the Board to ascertain representatives for the purposes of collective bargaining with Aluminum Company of America, and its subsidiary, St. Lawrence River Power Company, at their Massena, New York, plants, an election by secret ballot shall be conducted within twenty (20) days from the date of this Direction, under the direction and supervision of the Regional Director for the Third Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, and in accordance with the stipulations entered into in this case, among the production and maintenance employees on the pay rolls of the Companies and working as of the pay-roll date of February 2, 1938, and such of their regular employees who may not have been on the pay rolls on such date, but who may have been reemployed up to the date of the election, exclusive of supervisory and office employees, to determine whether they desire to be represented by International Union, Aluminum Workers of America, or Aluminum Workers Union, Federal Local No. 19256, for the purposes of collective bargaining, or by neither.

[SAME TITLE]

AMENDMENT TO DECISION AND DIRECTION OF ELECTION

April 25, 1938

On April 11, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled proceeding, the election to be held within twenty (20) days from the date of the Direction under the direction and supervision of the Regional Director for the Third Region (Buffalo, New York) to determine whether the employees of Aluminum Company of America and its wholly owned subsidiary, St. Lawrence

River Power Company, desire to be represented by International Union, Aluminum Workers of America, herein called A. W. A., or by Aluminum Workers Union, Federal Local No. 19256, affiliated with the American Federation of Labor, herein called Local No. 19256, or by neither.

On April 22, 1938, A. W. A. filed a petition with the Board requesting that the election be deferred indefinitely, or that it be allowed to withdraw its petition, or that it be permitted to withdraw its name from the ballot. Upon consideration of this petition the Board denies the request to postpone the election or to revoke its Direction of Election. In accordance with the last request of A. W. A. the Board believes that the Direction of Election should be amended to provide that employees will decide merely whether or not they desire to be represented by Local No. 19256. The Board hereby amends the Direction of Election issued on April 11, 1938, by striking therefrom the words "to determine whether they desire to be represented by International Union, Aluminum Workers of America, or Aluminum Workers Union, Federal Local No. 19256, for the purposes of collective bargaining, or by neither", and substituting therefor the words "to determine whether or not they desire to be represented by Aluminum Workers Union, Federal Local No. 19256, affiliated with the American Federation of Labor, for the purposes of collective bargaining".