

In the Matter of BROWN SHOE COMPANY and UNITED SHOE WORKERS  
OF AMERICA, CIO

Case No. 14-R-774.—Decided October 30, 1943

*Mr. H. F. Willhite*, of St. Louis, Mo., for the Company.

*Mr. Walter Shannon*, of St. Louis, Mo., and *Mr. Charles Matthews*,  
of Vincennes, Ind., for the C. I. O.

*Mr. Tom Cory*, of St. Louis, Mo., for the A. F. L.

*Mr. Van Zimmerman*, of Mattoon, Ill., for District 50.

*Mr. Jack Mantel*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Shoe Workers of America, CIO, herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Brown Shoe Company, Vincennes, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Ryburn L. Hackler, Trial Examiner. Said hearing was held at Vincennes, Indiana, on October 7, 1943. At the commencement of the hearing, the Trial Examiner granted motions to intervene, filed by Boot & Shoe Workers International Union, herein called the A. F. L., and Shoe Workers of District 50, United Mine Workers of America, herein called District 50. The Company, the C. I. O., the A. F. L., and District 50 appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Brown Shoe Company is a New York corporation with its principal offices at St. Louis, Missouri. The plant involved in this pro-  
53 N L R. B., No. 56.

ceeding is located at Vincennes, Indiana, and is one of 15 plants owned and operated by the Company in the manufacture and sale of shoes. During the year 1942, the Company purchased and transported to its plant in Vincennes, raw materials consisting of leather and findings in excess of \$500,000 in value, of which approximately 90 percent was shipped to the Vincennes plant from points outside the State of Indiana. During the same period, the Company sold and transported finished shoes in excess of \$500,000 in value, of which approximately 95 percent was shipped to points outside the State of Indiana. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

United Shoe Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Boot & Shoe Workers International Union, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

Shoe Workers of District 50, United Mine Workers of America, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company and the CIO entered into a collective bargaining contract for the period of September 16, 1942, to September 16, 1943, after the C. I. O. was certified by the Board as the result of an election held in June 1942.<sup>1</sup> The contract provided that either party could serve notice of its termination, not less than 30 nor more than 60 days prior to the expiration date. On July 28, 1943, District 50, by letter, informed the Company that it represented a majority of the employees and requested recognition for the purposes of collective bargaining. On July 29, 1943, the Company advised the C. I. O. of the rival claim made by District 50, and gave notice to the C. I. O. of its intention to terminate their contract as provided in the termination clause. The Company also notified District 50 that it refused to grant it recognition on the ground that the Company was under contract with the C. I. O. None of the parties contends that the contract operates as a bar to this proceeding.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the C. F. O. and District 50 represent a

<sup>1</sup> *Matter of Brown Shoe Company and United Shoe Workers of America, CIO*, 42 N. L. R. B. 75.

substantial number of employees in the unit hereinafter found appropriate.<sup>2</sup>

#### IV. THE APPROPRIATE UNIT

The Company, the C. I. O., District 50, and the A. F. L. are in agreement that a plant-wide unit of production and maintenance employees constitutes an appropriate unit. The parties stipulated on the record to exclude the nurse, engineer, Employees' Assistance Fund concession attendant, general factory commissary employees, clerical employees, and all supervisory employees.

The parties are in dispute as to whether an employee, classified by the Company as a record writer, should be included or excluded from the appropriate unit. The Company and the C. I. O. agreed to exclude the record writer on the ground that she is engaged exclusively in clerical work. District 50 desires her inclusion as a production employee on the ground that she is located in the cutting room of the Company's plant. The evidence adduced at the hearing shows that the duties of the record writer include maintaining of records and advising shoe cutters as to their work assignments and the type of material to be used. The plant manager testified that the sole reason for placing the record writer in the cutting room, was one of convenience. The prior representation case<sup>3</sup> and the subsequent collective bargaining contract between the Company and the C. I. O., did not include the record writer in the bargaining unit. In view of the foregoing, we shall exclude the record writer from the appropriate unit.

We find that all production and maintenance employees of the Company at its Vincennes, Indiana, plant, excluding the nurse, engineer, Employees' Assistance Fund concession attendant, general factory commissary employees, record writers, clerical employees, and all or any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of

<sup>2</sup> The Regional Director reported that the C. I. O. submitted 358 application-for-membership cards, 98 of which were dues paying members for the weeks of September 11 and 18, 1943. Of these 98 cards, 91 bore apparently genuine signatures of persons on the Company's pay roll for September 6, 1943, which contained 354 employees in the alleged appropriate unit; 4 of the cards bore printed names of persons on this pay roll. (This report does not mean that the C. I. O. has only 98 dues paying members in the plant, but that 98 persons paid dues on the dates chosen by the Regional Director in his report.)

The Regional Director further reported that District 50 submitted 87 application-for-membership cards, 69 of which bore apparently genuine signatures of persons on the Company's pay roll for September 6, 1943; that 68 of the cards were dated from March 1943 to September 1943; 1 card being undated.

The A. F. L. submitted to the Trial Examiner three members' dues books which he checked against the Company's pay roll of September 6, 1943, and found that two of the names appearing on the three books also appeared on the Company's pay roll of September 6, 1943. The two dues books show that both employees were dues paying members up to September 25, 1943. Inasmuch as an election is to be conducted, and inasmuch as the A. F. L. has made some showing of membership, we shall accord it a place on the ballot.

<sup>3</sup> See footnote 1, *supra*.

employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

#### 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, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Brown Shoe Company, Vincennes, Indiana, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Fourteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by United Shoe Workers of America, affiliated with the Congress of Industrial Organizations, by Shoe Workers of District 50, United Mine Workers of America, or by Boot & Shoe Workers International Union, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by none of these organizations.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.