

In the Matter of BAKELITE CORPORATION and UNITED GAS, COKE & CHEMICAL WORKERS OF AMERICA, C. I. O.

Case No. 4-R-1258.—Decided November 23, 1943

Mr. William C. Treanor, of New York City, for the Company.
Messrs. Samuel L. Rothbard and David Elliot, of Newark, N. J., for the C. I. O.

Mr. Sanford Looker, of Bound Brook, N. J., for the Independent.
Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Gas, Coke & Chemical Workers of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Bakelite Corporation, Bound Brook, New Jersey, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene M. Purver, Trial Examiner. Said hearing was held at Brunswick, New Jersey, on November 8, 1943. At the commencement of the hearing the Trial Examiner granted a motion of Independent Union of Bakelite Workers, herein called the Independent, to intervene. The Company, the C. I. O., and the Independent appeared at and participated in the hearing, and 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 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

Bakelite Corporation is a New Jersey corporation operating a plant at Bound Brook, New Jersey, where it is engaged in the manufac-
53 N. L. R. B., No. 152.

ture of bakelite and vinylite plastics and allied products. The Company purchases raw materials for use at its Bound Brook plant valued in excess of \$500,000, annually, over 50 percent of which is shipped to it from points outside the State of New Jersey. During the same period the Company manufactures products valued in excess of \$500,000, over 50 percent of which is shipped to points outside the State of New Jersey. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

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

Independent Union of Bakelite Employees is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 23, 1943, the C. I. O. requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request.

On September 24, 1943, the C. I. O. filed its petition herein. Thereafter the Company and the Independent entered into an exclusive bargaining contract. Inasmuch as the C. I. O. filed its petition prior to the execution of the contract, we find that the contract does not constitute a bar to the instant proceeding.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the C. I. O. represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, in agreement with a stipulation of the parties, that all hourly paid production, maintenance, and auxiliary employees at the Bound Brook plant of the Company, excluding office and clerical employees, guards, salaried employees who perform administrative, professional, or technical duties, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect

¹The Regional Director reported that the C. I. O. presented 488 application membership cards bearing apparently genuine signatures of persons whose names appear on the October 16, 1943, pay roll of the Company. There are approximately 1,513 employees in the appropriate unit. The Independent did not present any evidence of membership among the employees in the unit but relies upon a prior certification by the Regional Director as evidence of its interest among such employees.

changes in the status of 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 find that the question concerning representation which has arisen can best be resolved by means of an election by secret ballot. The C. I. O. urges that the pay roll of September 24, 1943, be used to determine eligibility to vote. Inasmuch as no reason appears as to why we should depart from our usual practice, we shall direct that the employees eligible to vote shall be those within 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.

The Company employs approximately 55 persons whom the parties agree are part-time employees in that they work less than 32 hours per week.² The C. I. O. and the Independent urge that they be deemed ineligible to vote. The Company took no position with respect to their eligibility. The part-time employees are school boys, housewives, and employees who have regular employment elsewhere. All of the part-time employees work a scheduled number of hours per week on given days and are not hired for any specific task but to perform regular production and maintenance duties. Employees who do sufficient work to give them an interest in the conditions of employment also have a sufficient interest in the outcome to entitle them to vote in an election. The principle is no less applicable in the case of part-time employees who also happen to have regular employment elsewhere, for this circumstance alone, can neither destroy nor reduce the rights which such employees would otherwise have to participate in the selection of a bargaining representative.³ We, therefore, find that the part-time employees employed by the Company at its Bound Book plant should be eligible to vote in the election.

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 Bakelite Corpora-

² There are about five other employees who work more than 32 hours a week but less than the number of hours of employees who work a full workweek.

³ *Matter of Wagner Folding Box Corporation*, 49 N. L. R. B., 346.

tion, Bound Brook, New Jersey, 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 Fourth 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 any who have since quit or been discharged for cause and who have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by United Gas, Coke & Chemical Workers of America, C. I. O., or by Independent Union of Bakelite Workers, for the purposes of collective bargaining, or by neither.