

In the Matter of THE SINGER MANUFACTURING COMPANY and UNITED
ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, LOCAL #401.
AFFILIATED WITH THE CONGRESS OF INDUSTRIAL ORGANIZATIONS

Case No. 2-R-4261.—Decided December 4, 1943

Winthrop, Stimson, Putman & Roberts, by *Mr. Arthur E. Pettit*,
of New York City, for the Company.

Mr. Samuel L. Rothbard, of Newark, N. J., for the Union.

Mr. David V. Easton, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio & Machine Workers of America, Local #401, affiliated with the Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Singer Manufacturing Company, Elizabethport, New Jersey, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Vincent M. Rotolo, Trial Examiner. Said hearing was held at Elizabeth, New Jersey, on November 1, 1943. The Company and the Union appeared, participated, and 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

The Singer Manufacturing Company, a New Jersey corporation, operates and maintains factories, warehouses, and branch offices in various States of the United States. In the course and conduct of

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its business it maintains a factory located at Elizabethport, New Jersey, with which we are concerned herein. The Elizabethport plant of the Company is normally engaged in the manufacture of sewing machines, but at the present time is engaged in war production. During the past 12 months the Company purchased for use at its Elizabethport plant raw materials valued in excess of \$1,000,000, all of which were obtained from points outside the State of New Jersey. During the same period the Company manufactured finished products valued in excess of \$1,000,000, which were 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 ORGANIZATION INVOLVED

United Electrical, Radio & Machine Workers of America, Local #401, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about September 17, 1943, the Union requested recognition from the Company as the exclusive bargaining representative of its production and maintenance employees. The Company replied to this request on or about September 22, 1943, refusing to grant such recognition until the Union received certification by the Board.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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

The Union seeks to represent a unit comprised of all production and maintenance employees of the Company, excluding foremen and assistant foremen, head or supervisory inspectors, all clerical employees (including pay-roll, stock clerks, timekeepers, office employees, stock chasers, order fillers, and multigraph operators), guards and watchmen, technicians (including engineers, draftsmen, experimental technicians, laboratory technicians, and laboratory helpers, photostat

¹ The Regional Director reported that the Union submitted 3068 authorization cards, of which 2027 were checked against a pay roll of the Company dated October 2, 1943, containing the names of 5185 employees in the unit sought by the petitioner. The result of this check indicated that all of the cards bore apparently genuine and original signatures and contained the names of persons appearing upon the afore-mentioned pay roll

operators and assistants), head set-up men, pin boys (recreation), working foremen, gang and group leaders, cafeteria employees (excluding cooks, waitresses, kitchenmen, bus boys, etc.), matrons, printers and pressmen, counter men and counter girls, garage attendants, garage helpers, mechanics, and drivers. The Company agrees generally with the foregoing inclusions and exclusions but contends that counter employees, kitchen employees, garage employees, matrons, and printing department employees, should be included within the unit and that apprentices should be excluded therefrom.

Counter employees and kitchen employees: The Company employs approximately 12 persons engaged either as lunch counter or kitchen employees. These persons prepare and serve food for consumption by the production employees. They are supervised by a manager who has charge of all kitchen and food service employees. Although these employees are carried on the same pay roll as the production employees, they have no connection with production work, and the Union has not attempted to organize them because their interests are dissimilar to those of the production and maintenance employees, and because they are eligible for membership in another labor organization. The record indicates that the Union has no representation among such employees. We are of the opinion and find that the interests of these employees are not sufficiently aligned to those of production and maintenance workers; we shall exclude them from the unit.²

Garage employees: The Company employs approximately 12 persons engaged either as passenger auto drivers, truck and trailer drivers, or garage mechanics and helpers, whom the Union would exclude from the unit. The passenger auto drivers and certain of the mechanics are under the supervision of one of the assistant superintendents; the truck and trailer drivers and the mechanics who work upon said trucks and trailers are under the supervision of the shipping department manager. None of these are in direct contact with production and maintenance workers with the possible exception of the truck and trailer drivers who take merchandise to and from the shipping department. The Union contends that the interests of these employees are not similar to those of production and maintenance employees, and that they are eligible for membership in another labor organization. For this reason, it has not attempted to organize any of these workers and has no representation among them. We are of the opinion that these employees have interests sufficiently unlike those of the production and maintenance employees to warrant their exclu-

² *Matter of General Motors Corporation, Oldsmobile Division*, 45 N. L. R. B. 11.

sion from a unit of such employees. Accordingly, we shall exclude them.³

Matrons: The Company employs approximately 21 persons engaged as matrons, whose main function is to take care of the women's dressing rooms located in the main production building of the Company. Two of these employees are paid upon a weekly basis; the balance are paid by the hour. Each of them is carried on the pay roll of the department in which the dressing room is located, and is under the supervision of the manager of that department. The Union seeks to exclude these employees on the ground that they inform the department manager of various infractions of the rules taking place in the dressing room. However, the Union admits porters to membership who perform similar functions and who also might be required to report rule infractions taking place in the men's wash rooms. In the absence of any specific prohibition against the admission of these employees to membership, we are of the opinion that the matrons should be treated in the same manner as the porters and, like them, should be included within the industrial unit. We shall, therefore, include them.⁴

Printing department: The Company employs approximately 17 persons in its printing department who are classified as pressmen, proofreaders, compositors, monotype operators, printing pressfeeders, or offset platemakers. Several of these employees are apparently members of a craft labor organization which accepts for membership only those persons engaged in the printing trades. For this reason the Union has not attempted to organize these employees, and desires their exclusion from the industrial unit. We are of the opinion that the interests of such employees are dissimilar from those of the production and maintenance workers, and we shall, therefore, exclude them from the industrial unit.⁵

Apprentices: The Company would exclude from the unit approximately 29 apprentices, whereas the Union would include them. These employees work in the factory, are hourly paid, and are under the supervision and direction of the department heads of the respective departments in which they are apprenticed. These employees are required to devote 8000 hours to machine tool and bench work in the

³ *Matter of Central Maine Power Company*, 45 N. L. R. B. 328 (garage employees excluded); *Matter of Hillside Fluorspar Mines*, 45 N. L. R. B. 295 (truck drivers excluded); *Matter of Tampa Florida Brewery, Inc.*, 42 N. L. R. B. 642 (garage mechanics excluded); *Matter of DeLaval Separator Company*, 42 N. L. R. B. 1267 (chauffeurs excluded).

⁴ *Matter of International Shoe Company*, 14 N. L. R. B. 1140; *Matter of Selby Shoe Company*, 15 N. L. R. B. 489.

⁵ *Matter of DeLaval Separator Company*, *supra*; *Matter of The Yale & Towne Manufacturing Company*, 44 N. L. R. B. 1259.

factory and must attend the Singer Evening School where they receive special instruction as tool makers, die makers, pattern makers, or machinists. Upon completion of the required hours of work in the factory and the course given at the Company's school, they become journeymen and are given positions in the tool making, die making, pattern making, and machine shop departments of the Company. During their apprenticeship they receive varying rates of pay in accordance with the length of service and experience acquired. Since these employees perform regular jobs in the production departments of the Company at the end of their apprenticeship period, and since they are continuously under the supervision and discipline of regular production and maintenance supervisors during their training period, we are of the opinion that their interests are closely aligned to those of the regular production and maintenance workers. Under these circumstances we shall include them within the unit.⁶

In accordance with the foregoing, we find that all production and maintenance employees of the Company, including apprentices and matrons, but excluding foremen and assistant foremen, head and supervisory inspectors, clerical employees (including pay-roll clerks, stock clerks, timekeepers, office employees, stock chasers, order fillers, multigraph operators), guards and watchmen, technicians (including engineers, draftsmen, experimental technicians, laboratory technicians, and laboratory helpers, photostat operators and assistants), head set-up men, pin boys (recreation), working foremen, gang and group leaders, kitchen and counter employees (including cooks, waitresses, kitchenmen, bus boys, counter men and counter girls, printing department employees (including printing pressmen, proofreaders, compositors, monotype operators, printing pressfeeders, and offset platemakers), garage employees (including passenger car drivers, truck and trailer drivers, mechanics and helpers), and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect 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 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.

⁶ *Matter of Bell & Howell Company*, 49 N. L. R. B. 42.

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Singer Manufacturing Company, 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 Second 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 or not they desire to be represented by United Electrical, Radio & Machine Workers of America, Local #401, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.