

In the Matter of THE A. S. ABELL COMPANY and LOCAL 31, INTERNATIONAL PRINTING PRESSMEN & ASSISTANTS' UNION OF NORTH AMERICA, AFL

*Case No. 5-R-1409.—Decided December 27, 1943*

*Messrs. Semmes, Bowen & Semmes, by William D. McMillan, E. P. Kavanaugh, and William F. Schmick, Jr., all of Baltimore, Md., for the Company.*

*Mr. E. L. Oliver, of Washington, D. C., and Messrs. Charles V. Ernest and Frank Dassori, both of Baltimore, Md., for the Pressmen.*

*Mr. Webster C. Tall, of Baltimore, Md., for the Association.*

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

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Printing Pressmen & Assistants' Union of North America, AFL,<sup>1</sup> herein called the Pressmen, alleging that a question affecting commerce had arisen concerning the representation of employees of The A. S. Abell Company, Baltimore, Maryland, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Earle K. Shawe, Trial Examiner. Said hearing was held at Baltimore, Maryland, on November 17, 1943. The Company, the Pressmen, and Sun Pressroom Employees Association, Inc., herein called the Association, 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:

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<sup>1</sup> The record indicates that "Local 31" is, in fact, the local involved herein. All papers in this proceeding are hereby amended in accordance with such designation.

54 N. L. R. B., No. 14.

## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANY

The A. S. Abell Company, a Maryland corporation, with its principal place of business located in Baltimore, Maryland, is engaged in the printing and publishing of several newspapers known as "The Sun," "The Sunday Sun," and "The Evening Sun," respectively. During the year 1942 the Company purchased raw materials from points outside the State of Maryland for use at its Baltimore plant valued at approximately \$1,500,000. During the same period the Company sold and distributed to points outside the State of Maryland newspapers valued at approximately \$121,000. The news gathering, news exchange, and news distributing activities of the Company are conducted through its main plant and through branch offices in New York City, Washington, D. C., and London, England, and through its correspondents in principal foreign news centers located throughout the world.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

Local 31, International Printing Pressmen & Assistants' Union of North America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Sun Pressroom Employees Association, Inc., is an unaffiliated labor organization, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On November 12, 1940, the Association was certified by the Board as an exclusive bargaining representative of all foremen, pressmen in charge, tension men, oilers, floormen, fly boys, baler men, paper handlers and helpers, in the Company's pressroom,<sup>2</sup> excluding machinists, machinists' helpers, electricians, porters, clerical workers, and superintendents. Thereafter, on January 3, 1941, the Company and the Association executed a contract covering the employees in the aforesaid unit, which by its terms expires on December 31, 1943.<sup>3</sup>

On or about September 1943 the Pressmen requested recognition from the Company as the bargaining representative of certain of its

<sup>2</sup> *Matter of The A. S. Abell Company*, 27 N. L. R. B 784.

<sup>3</sup> A stipulation of the parties read into the record indicates that said contract does not expire until January 10, 1944.

employees. The Company refused to grant this request, alleging, *inter alia*, that the afore-mentioned contract is a bar thereto. Since the 1941 contract is about to expire, and the Pressmen has given timely notice of its claims of representation, we find that the afore-mentioned contract does not constitute a bar to the instant proceeding.<sup>4</sup>

Statements of the Field Examiner and the Trial Examiner introduced into evidence at the hearing indicate that the Union and the Association each represents a substantial number of employees in the unit hereinafter found appropriate.<sup>5</sup>

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 Pressmen seeks a unit identical with that previously found to be appropriate by the Board,<sup>6</sup> comprised of foremen, pressmen in charge, tension men, oilers, floormen, fly boys, baler men, paper handlers, and helpers in the Company's pressroom, excluding machinists, machinists' helpers, electricians, porters, clerical workers, and superintendents. Both the Company and the Association agree generally with the foregoing unit except that both would include therein all machinists and machinists' helpers.

The record indicates that the Company has a machine shop which is contiguous to the pressroom and considered by it as a part thereof. The employees engaged in the machine shop perform all repair work and general maintenance work in the pressroom; and occasionally these employees perform similar work in the Company's mail room, stereotype department, and typographical room. The immediate supervisor of these employees is a machine shop foreman who is, in turn, under the supervision of the superintendent of the pressroom. Although these employees are a skilled group, none of them are qualified to do pressmen's work and their wages and hours of work are

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<sup>4</sup> See *Matter of M & J. Tracy, Inc.*, 12 N. L. R. B. 936-940; *Matter of Rosedale Knitting Co.*, 23 N. L. R. B. 527-529; *Matter of Wichita Union Stockyards*, 40 N. L. R. B. 369-372; Cf. also *Matter of Bull Steamship Co.*, 36 N. L. R. B. 99

<sup>5</sup> The Field Examiner reported that the Pressmen submitted dues records which indicated that it represented 24 persons whose names appear upon the Company's pay roll of October 10, 1943, said pay roll contained the names of 66 persons. He further reported that the Association submitted 4 designations containing names appearing upon the afore-mentioned pay roll and classified as machinists

The Trial Examiner reported that the Association submitted a list of its membership which indicated that it represented 39 persons whose names appear upon the Company's pay roll of October 10, 1943, and 21 persons whose names appear upon the list of company employees who have entered the armed forces

The Association also relies upon its contract with the Company dated January 3, 1941, for the establishment of its interest

<sup>6</sup> *Matter of The A. S. Abell Company*, 27 N. L. R. B. 776

different from those of the usual pressroom employees.<sup>7</sup> The record indicates that the group sought by the Pressmen has been recognized by the Board as a skilled craft, and that it has not been customary to include machinists therein. Furthermore, the jurisdiction of the Pressmen is confined solely to classifications in the group which it seeks to represent, and it does not accept machinists for membership.<sup>8</sup> The record further indicates that the contract between the Company and the Association did not include machinists and machinists' helpers within its coverage, and that the Association has been accepting them for membership only since May 1943.<sup>9</sup> In view of these circumstances, we are of the opinion that machinists and machinists' helpers are not properly a part of the pressroom unit. We shall, therefore, exclude them.

We find that all foremen,<sup>10</sup> pressmen in charge, tension men, oilers, floormen, fly boys, baler men, paper handlers and helpers, in the Company's pressroom, excluding machinists, machinists' helpers, electricians, porters, clerical workers, and superintendents 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 of representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit hereinbefore described. Both the Company and the Association request that the Company be permitted to ascertain the present address of its employees now in the armed forces of the United States for the purpose of permitting them to vote by mail. We see no reason, however, for departing from our customary practice with respect to employees in the armed forces, and, accordingly, shall limit eligibility in this group to those presenting themselves at the polls. We shall direct that the employees of the Company eligible to vote in the election shall be those who were employed during the pay-roll period immediately preceding the date of the Direction of Election

<sup>7</sup> The machinists work a 6-day week, whereas the pressroom employees work a 5-day week. Pressroom employees receive extra compensation when they work two shifts in a row, whereas machinists do not receive such extra compensation.

<sup>8</sup> The record indicates that an agreement between the Pressmen and the International Association of Machinists, herein called the I A M, which is incorporated into the Pressmen's constitution, provides that jurisdiction over machinists working in pressrooms is specifically reserved to the I A M., and a business representative of the I. A. M testified that his organization would not relinquish jurisdiction over machinists employed by the Company to the Pressmen.

<sup>9</sup> The record indicates that the contract between the Company and the Association was not amended to reflect this change in organization, and that, other than negotiations with the Company for wage increases on behalf of these employees, the Association has not been able to effect any changes in their working conditions.

<sup>10</sup> See *Matter of W F Hall Printing Company*, 51 N. L. R. B. 108.

herein,<sup>11</sup> 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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The A. S. Abell Company, Baltimore, Maryland, 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 Fifth 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 Local 31, International Printing Pressmen & Assistants' Union of North America, affiliated with the American Federation of Labor, or by Sun Pressroom Employees Association, Inc., for the purposes of collective bargaining, or by neither.

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<sup>11</sup> The Pressmen desires that October 4, 1943, be the eligibility date to be used, that date corresponding to the date of the filing of the petition herein. No substantial reason being offered in support thereof, this request is denied.