

In the Matter of PROXIMITY MANUFACTURING COMPANY and MACHINE  
PRINTERS BENEFICIAL ASSOCIATION OF THE UNITED STATES

*Case No. 5-R-1382.—Decided February 9, 1944*

*Messrs. L. P. McLendon and T. H. Brooks, of Greensboro, N. C., for the Company.*

*Mr. Eric W. Lindberg, of Cranston, R. I., and Mr. Joseph F. Castiello, of Washington, D. C., for the Union.*

*Mr. Joseph E. Gubbins, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Machine Printers Beneficial Association of the United States, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Proximity Manufacturing Company, Greensboro, North Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert A. Levett, Trial Examiner. Said hearing was held at Greensboro, North Carolina, on September 27, 1943: On December 22, 1943, pursuant to Board order and upon due notice a further hearing was held at Greensboro, North Carolina, before Robert A. Levett, Trial Examiner, for the purpose of adducing additional evidence. At both hearings 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 hearings 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

Proximity Manufacturing Company is engaged in the manufacturing and processing of cotton goods, consisting of denims, herring-

bone twills, khakis, and various print fabrics. The Company operates four plants, Proximity Cotton Mills, White Oak Cotton Mills, and Proximity Print Works, at Greensboro, and Granite Finishing Works at Haw River, North Carolina. Proximity Print Works at Greensboro, North Carolina, is the only plant directly involved in this proceeding. A substantial portion of the raw materials used by the Company at this plant originates outside North Carolina. At this plant the Company annually finishes products, valued at approximately \$12,000,000, over 90 percent of which is shipped outside North Carolina. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

Machine Printers Beneficial Association of the United States is an unaffiliated labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On or about August 30, 1943, the Union requested recognition as the exclusive bargaining agent for the employees involved herein but the Company refused to grant such recognition unless and until the Union was certified by the Board.

A statement prepared by the Regional Director, introduced in evidence, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>1</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 Union requests a unit comprised of all machine printers employed in the printing department of the Proximity Print Works, including journeymen and apprentices, but excluding all other supervisory employees above the rank of foremen. The Company takes the position that a unit smaller than plant-wide is inappropriate. Alternatively, it asserts that if the Union's request is found to be appropriate, foremen and assistant foremen should be excluded from the unit.

The Company contends that the history of collective bargaining in the plant has determined the appropriateness of a plant-wide unit.

<sup>1</sup> The Regional Director's statements shows that the Union submitted 11 authorization cards, all of which were dated in August 1943, and all of which bear apparently genuine signatures and names of persons listed on the Company's pay roll of September 14, 1943; there are 13 employees in the appropriate unit.

In support of its contention, the Company refers to two prior proceedings before the Board involving the employees of the Proximity Print Works. In the first case,<sup>2</sup> the petitioner was certified as the bargaining representative of the production and maintenance employees, but no collective bargaining agreement resulted therefrom. In the second case,<sup>3</sup> decided approximately 3 years later, the Board directed an election among the same employees; the petitioner lost the election. There has been no collective bargaining since that date. No issue was ever raised in the foregoing cases with respect to the establishment of a separate unit composed of machine printers and, since there has been no intervening history of collective bargaining on the basis of an industrial unit, there is nothing to deter the Board from making a *de novo* determination as to the propriety of a unit smaller in scope.<sup>4</sup> The Company, in further support of its contention, asserts that since all employees of the printing department are hired, supervised, and paid in the same manner, they are subject to the same rules and regulations of the Company that govern all other employees, and that because of the indispensable nature of their work, they are an integral part of the production system. The record establishes that machine printers are not only highly skilled, but that the nature of their work is such that other employees in the plant cannot successfully duplicate their operations. The history of the Union shows that it has rigidly adhered to its traditional craft lines; it does not admit to membership or seek to represent any employees except those who have met the qualifications and strict apprenticeship standards of the trade. The Company admits that the wages of the employees involved are substantially higher than those of any other group of production employees and that there is no interchange of employees between the printing department and other departments of the Company. We find that the machine printers constitute an appropriate bargaining unit.

The record shows that there is a foreman and an assistant foreman in the printing department, regarding whose disposition the parties are in conflict. In support of its assertion with respect to the inclusion of these supervisory employees, the Union introduced substantial evidence pertaining to oral and written collective bargaining agreements which it has had for many years with most of the textile printing companies in the United States. Such evidence establishes that the Union has traditionally represented for purposes of collective bargaining not only machine printers but also the foremen and assistant foremen of such employees. The Company relies on *The Maryland*

<sup>2</sup> *Matter of Proximity Print Works*, 7 N. L. R. B. 803.

<sup>3</sup> *Matter of Proximity Manufacturing Company*, 50 N. L. R. B. 90.

<sup>4</sup> *Matter of Kentucky Fluorespar Company*, 52 N. L. R. B. 227.

*Drydock* case<sup>5</sup> to support its contention as to the exclusion of supervisory employees from the unit. However, the majority of the Board stated in that case, that it recognized the fact that the practice of various craft unions, notably in the printing and maritime trades, has been to admit foremen to membership and to include them under collective agreements, and that such practice warranted an exception to the policy regarding supervisory employees therein adopted by the Board. Accordingly, we shall for the same reason include them in the unit hereinafter found to be appropriate.<sup>6</sup>

We find that all machine printers, including journeymen and apprentices, foreman and assistant foreman, employed in the printing department of the Proximity Print Works, but excluding all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, and all other employees, 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 3, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Proximity Manufacturing Company, Greensboro, North Carolina, 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

<sup>5</sup> *Matter of The Maryland Drydock Company, et al.*, 49 N. L. R. B. 733.

<sup>6</sup> See *Matter of W. F. Hall Printing Company*, 51 N. L. R. B. 640, and cases cited therein.

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 have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by Machine Printers Beneficial Association of the United States, unaffiliated, for the purposes of collective bargaining.

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