

In the Matter of CON P. CURRAN PRINTING COMPANY and AMALGAMATED LITHOGRAPHERS OF AMERICA, LOCAL NO. 5, AFL

Case No. 14-R-905.—Decided July 11, 1944

Messrs. F. M. Curlee and Richard F. Moll, of St. Louis, Mo., for the Company.

Mr. Benjamin M. Robinson, of New York City, for the Amalgamated.

Mr. Anthony W. Daly, of Alton, Ill., for the Photo-Engravers.

Mr. William R. Cameron, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Amalgamated Lithographers of America, Local No. 5, AFL, herein called the Amalgamated, alleging that a question affecting commerce had arisen concerning representation of the employees of Con P. Curran Printing Company, St. Louis, Missouri, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Keith W. Blinn, Trial Examiner. Said hearing was held at St. Louis, Missouri, on April 10 and 11, 1944. The Company, the Amalgamated, and St. Louis Photo-Engravers' Union No. 10, of the International Photo-Engravers' Union of North America, A. F. of L., herein called the Photo-Engravers, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.¹ 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. Pursuant to notice, a hearing

¹ Notice of Hearing was also served upon the Allied Printing Trades Council of St. Louis and Vicinity, an organization which includes as its affiliates the Photo-Engravers and other unions respectively representing typesetters or compositors, electrotypers and stereotypers, pressmen and assistants, and employees of binderies and finishing departments. Representatives of the Allied Printing Trades Council were present at the hearing but did not participate.

for the purpose of oral argument was held before the Board at Washington, D. C., on June 13, 1944. Counsel for the Amalgamated and for the Photo-Engravers appeared and presented argument.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Con P. Curran Printing Company, a Missouri corporation, is engaged in the general printing business at its plant located in St. Louis, Missouri. During the year 1943, the Company purchased raw materials, consisting principally of paper stock, ink, metal, and chemicals, amounting in value to substantially more than \$100,000, of which more than 50 percent was obtained from points outside the State of Missouri. During the same period the Company's sales of finished products exceeded \$100,000; more than 70 percent of such sales represented shipments to points outside the State of Missouri.

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

II. THE ORGANIZATIONS INVOLVED

Amalgamated Lithographers of America, Local No. 5, and St. Louis Photo-Engravers' Union No. 10, of the International Photo-Engravers' Union of North America, are labor organizations affiliated with the American Federation of Labor, each admitting to membership certain employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated December 28, 1943, the Amalgamated notified the Company of its claim to represent the Company's employees engaged in lithographic work, and requested a collective bargaining conference. The Company refuses to grant such recognition.

The record discloses that for 31 years the Amalgamated Lithographers of America has been engaged in a jurisdictional dispute with the International Photo-Engravers' Union of North America concerning lithographic platemakers, that this dispute has for a number of years been before the American Federation of Labor, the parent body with which both organizations are affiliated, and that numerous conferences have been held and other attempts made to settle it, but without success. It was stated at the hearing that at the present time the dispute is being held "in status quo" for the duration of the present emergency. We have in numerous cases refused to entertain a petition where the question at issue resolved

itself into a jurisdictional dispute between unions both of which are affiliated with the same parent body.² However, where, as in the present case, the record indicates that the parent organization is incapable of adjudicating the controversy, and effective resolution of the existing conflict cannot be had without resort to the administrative processes of the Act, we have accepted jurisdiction and proceeded to a determination of the question concerning representation.³

A statement of the Field Examiner, introduced in evidence at the hearing, indicates that the Amalgamated and the Photo-Engravers each represents a substantial number of employees in the unit which it claims to be appropriate.⁴

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 Amalgamated seeks a unit composed of all the Company's employees who perform work in connection with the lithographic, or offset, printing process, including employees engaged in the operation of offset presses, in the preparation of lithographic plates, and in the preparation of copy for lithographic reproduction. The Photo-Engravers seeks a unit composed solely of the employees in the Company's platemaking department. Both unions agree that the classifications of file clerk, proofreader and lay-out, porters, clean-up men, and non-working foremen should be excluded from, and that working foremen should be included in, the unit found appropriate. The Amalgamated also would exclude, as not engaged in the lithographic process, an employee in the platemaking department classified as a photo-engraver, and an employee classified as an electrotyper; the Photo-

² See *Matter of Food Machinery Corporation, Anderson-Barngrover Division*, 53 N. L. R. B. 499; *Matter of Tamm Aircraft Company*, 48 N. L. R. B. 505; *Matter of Weyerhaeuser Timber Company*, 16 N. L. R. B. 902

³ See *Matter of The W. H. Kistler Stationery Company*, 51 N. L. R. B. 978, in which the jurisdictional dispute involved was that of the Amalgamated with the International Printing Pressmen and Assistants Union of North America, A. F. of L., concerning lithographic employees. See also *Matter of Harbison-Walker Refractories Company, Lower Woodland Plant*, 44 N. L. R. B. 343; *Matter of Harbison-Walker Refractories Company*, 43 N. L. R. B. 936

⁴ The Field Examiner reported that the Amalgamated had submitted 24 authorizations, 2 being undated and the balance dated from November 1943 through February 1944, of which 21 bore the names of employees on the Company's pay roll of February 28, 1944, in the unit claimed by the Amalgamated to be appropriate, consisting of 41 names, and 1 bore the name of an employee on said pay roll in the unit claimed by the Photo-Engravers to be appropriate, consisting of 16 names

The Field Examiner further reported that the Photo-Engravers had submitted 16 authorization cards and a petition signed by 10 persons. Of the designations, 7 appeared to be by employees whose names appeared on the above-mentioned pay roll in the unit claimed to be appropriate by the Amalgamated and 9 by employees whose names appeared on said pay roll in the unit claimed to be appropriate by the Photo-Engravers.

Engravers would include these employees; but would exclude two employees in the platemaking department classified as drafting artists.⁵ The Company, at the hearing, indicated its position to be that nothing less than a single unit comprising all of the Company's production employees is appropriate.

The Company, as hereinbefore set forth, is engaged in the general printing business. Its operations include both letter press and lithographic, or offset, printing, and consist of eight major departments which, together with a stockroom, shipping room, and general office, occupy a six-story building and warehouse, constituting the Company's plant. The operations involved in the lithographic process are divided, by reason of limitation of space, between two floors of this plant, the offset presses being located on the second floor and the various steps in the making of lithographic plates being performed on the fifth floor. Also, on the fifth floor is a group of typists and proof-readers, who are engaged in the preparation of lithographic copy and are designated by the Company as constituting the planograph department.

The record discloses that printing by the lithographic process has long been recognized as a separate branch of the printing industry. As distinguished from letter press printing, which constitutes the other principal branch, lithography involves printing from a plane surface and depends for its operation upon a chemical difference between various portions of the surface of the plate used in making the impression.⁶ Except for the initial step of photographing the image to be reproduced, each step in the process of lithographic printing is separate and distinct from that of letter press.⁷ Throughout the process of preparing lithographic plates and their use in lithographic, or offset presses, special skills, peculiar to the lithographic process, are required. Likewise, plates prepared for lithographic printing cannot be used in letter press reproduction, nor can plates prepared by photo-engraving be used in lithographic presses.

By reason of the distinct and separate nature of lithographic printing, there exists a considerable history of separate bargaining by employees in the lithographic branch of the printing industry. Although

⁵ This classification is distinct from that of artists, concerning whose inclusion there is no dispute.

⁶ Lithography involves a chemical process whereby the portion of the plate not bearing the image or material to be printed, is made grease-repellant and water-receptive, and is first coated with a thin film of water. The ink, which contains a greasy base, adheres only to the remainder of the plate, i. e., to the portion which is desired to be printed. In contrast to this, letter press printing consists of a mechanical process wherein the portion of the surface to which the ink adheres is raised.

⁷ The record discloses that there are three major processes used in printing: typographic or letter press, lithography or offset, and gravure or intaglio. The latter is the least used process, and is not engaged in by the Company, hence we are here concerned with only the letter press and lithographic processes.

in both the lithographic and the letter press divisions of the industry, bargaining was conducted originally by separate organizations limited to the various crafts, for approximately 30 years employees engaged in the lithographic process have been bargained for as a group by the Amalgamated. The record discloses that throughout the printing industry as a whole, as well as in the St. Louis area, lithographic employees are now organized almost exclusively upon an operational, or so-called "industrial," basis, and are represented by the Amalgamated, rather than by an organization which is limited in its jurisdiction to a portion of the lithographic process, such as the Photo-Engravers. Although the Photo-Engravers contended at the hearing that for approximately 2 years the employees of the Company's platemaking department have been bargained for by the Photo-Engravers as a separate unit, the record discloses that no contract has ever been executed with the Company as the result of such negotiations, nor has the Company conceded the appropriateness of a separate platemakers' unit. In view of the almost universal prevalence of the broader type of organization for collective bargaining in the lithographic branch of the printing industry, and the differences in skill and duties between lithographic employees and those engaged in other types of printing, it is apparent that employees engaged in the lithographic process constitute a distinct group possessing a community of interest such as to warrant our finding that they constitute a separate appropriate unit for the purposes of collective bargaining.

There remains for consideration the specific composition of this unit. As mentioned above, question arose at the hearing concerning inclusion or exclusion of the following classifications of employees: - *Photoengraver* and *electrotyper*. One employee in each of these classifications is engaged at work in the platemaking department. The employee who is classified as a photoengraver testified that, although he is experienced in most of the skills connected with the making of either lithographic or photoengraved plates, his present employment is confined almost entirely to work on photoengraved material, and consists principally of preparing negatives and preparing zinc plates and etching them. The electrotyper's work consists principally of patching, routing, and mounting plates which have been prepared by the photoengraver. Inasmuch as their work is not connected with the lithographic process, we shall exclude the photoengraver and electrotyper.

Drafting artists. These employees; of whom there are two, are unskilled and are engaged principally at ruling lines on copy being prepared for reproduction. They are, however, engaged at work in connection with the lithographic process. We shall include the drafting artists in the unit.

Working foremen. We have heretofore, when desired by the parties, included foremen within appropriate units in the printing trades,⁸ due to their traditional representation in the printing industry. We shall, therefore, include working foremen⁹ in the unit in the instant case, but shall exclude non-working foremen and all other supervisors.

We find that all employees of the Company engaged at work in connection with the lithographic process, including employees in the lithographic press, platemaking, and planograph departments, and including drafting artists and working foremen, but excluding file clerks, proofreader and lay-out, porters, clean-up men, the photoengraver, electrotyper, non-working foremen, and 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, 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 payroll 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 Con P. Curran Printing Company, St. Louis, Missouri, 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 payroll period immediately preceding the date of this Direction, including employees who did not

⁸ See *Matter of Country Life Press Corporation*, 51 N. L. R. B. 1362; *Matter of W. F. Hall Printing Company*, 51 N. L. R. B. 640.

⁹ The record indicates that this category is composed principally of assistant foremen.

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 they desire to be represented by Amalgamated Lithographers of America, Local No. 5, A. F. of L., or by St. Louis Photo-Engravers Local No. 10 of the I. P. E. U. of N. A. (A. F. of L.), for the purposes of collective bargaining, or by neither.