

In the Matter of H. BRINTON COMPANY and UNITED ELECTRICAL, RADIO  
AND MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 4-R-1444.—Decided August 21, 1944

*Mr. Ledyard H. Hecksher*, of Philadelphia, Pa., for the Company.

*Mr. Carl Bersing*, of Philadelphia, Pa., for the Union.

*Mr. Herbert C. Kane*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio and Machine Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of H. Brinton Company, Philadelphia, Pennsylvania, herein called the Company; the National Labor Relations Board provided for an appropriate hearing upon due notice before Herman Lazarus, Trial Examiner. Said hearing was held at Philadelphia, Pennsylvania, on July 14, 1944. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issue. 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

H. Brinton Company, a Pennsylvania corporation located at Philadelphia, Pennsylvania, is engaged in the manufacture of airplane parts and ship bearings. The raw materials used in the Company's business include aluminum and steel. During the last fiscal year the Company used in excess of \$500,000 worth of raw materials, 50 percent of which was shipped to the Company's plant from points outside the Common-

wealth of Pennsylvania. In the same period the Company sold \$2,-565,604.68 worth of its products, 60 percent of which was shipped to points outside the Commonwealth of Pennsylvania.

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 and Machine Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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 parties agree that the appropriate unit should be comprised of all production and maintenance employees, including watchmen, trainees, shop clerks, employees in the receiving and shipping department, and the expediter and the material controller employed in the routing department, but excluding office clerical employees, executives, working foremen, Class B, except for the foreman in charge of the screw machines, working foremen, Class C, and all or any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

The parties disagree, however, with respect to the supervisory status of William Koerber, William L. Finley, and Arthur Mannix, listed as foremen, Class C. The record shows that although the extent of their authority varies, all foremen, Class C, have the right to recommend changes in status, and that weight is generally given to such recom-

<sup>1</sup> The Field Examiner reported that the Union submitted 171 authorization cards, all of which bore apparently genuine original signatures; that there are approximately 260 employees in the unit petitioned for; and that of these cards 39 were dated between May and November 1943, 102 were dated between March and May 1944, 3 were dated in June 1944, and 27 were undated.

mendations. At this time, however, Finley, foreman in the painting department, has no one under his supervision due to wartime changes in the plant; he alone performs whatever painting might be required. Koerber, foreman in the assembly department, likewise has no employees presently under his supervision. Mannix, also a foreman in the assembly department, has supervision over two employees. Since it is conceded, and the record shows, that all foremen, Class C, occupy a supervisory status within our customary definition, we shall exclude Mannix from the unit. However, since Finley and Koerber are presently engaged solely in ordinary production duties, we shall include them in the unit for so long as they do not perform supervisory duties.

We find that all production and maintenance employees, including watchmen, trainees, shop clerks, employees in the receiving and shipping department, excluding office clerical employees, executives, working foremen, Class B (except for the foreman in charge of the screw machine), working foremen, Class C (except for the foreman in the assembly department and the foreman in the painting department who are not performing any supervisory duties<sup>2</sup>), and all or any 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with H. Brinton Company, Philadelphia, Pennsylvania, 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

<sup>2</sup> William Koerber and William L. Finley.

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 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 and Machine Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.