

In the Matter of SACRAMENTO PUBLISHING COMPANY, LTD., and SACRAMENTO UNION EMPLOYEES ASSOCIATION

In the Matter of SACRAMENTO PUBLISHING COMPANY, LTD., and SACRAMENTO VALLEY NEWSPAPER GUILD, CHAPTER 92, AMERICAN NEWSPAPER GUILD (CIO)

Cases Nos. 20-R-1076 and 20-R-1094.—Decided August 26, 1944

Messrs. Fred W. Mannon, of San Francisco, Calif., C. E. Boron, and Charles J. Lilley, both of Sacramento, Calif., for the Company.

Mr. H. W. Exter and Miss Margaret A. Crosla, both of Sacramento, Calif., for the Association.

Mr. Vincent J. Halloran, of Sacramento, Calif., and Mr. Morris Isserman, of Newark, N. J., for the Guild.

Mr. Joseph C. Wells, of counsel to the Board.

DECISION

DIRECTION OF ELECTION

AND

ORDER

STATEMENT OF THE CASE

Upon separate petitions duly filed by Sacramento Union Employees Association, herein called the Association, and Sacramento Valley Newspaper Guild, Chapter 92, American Newspaper Guild (CIO), herein called the Guild, alleging that questions affecting commerce had arisen concerning the representation of employees of Sacramento Publishing Company, Ltd., Sacramento, California, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before John Paul Jennings, Trial Examiner. Said hearing was held at Sacramento, California, on July 10, 1944. The Company, the Association, and the Guild 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 issues. Thereafter, the Guild filed a motion for oral argument. The motion is denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error

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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

Sacramento Publishing Company, Ltd., a Nevada corporation having its principal place of business in Sacramento, California, is engaged in the publication, distribution, and sale of the Sacramento Union, a morning newspaper published daily, including Sunday, at its plant at Sacramento, California. The daily circulation of the Sacramento Union is in excess of 12,000 copies, and its Sunday circulation is in excess of 25,000 copies. The Company is a member of the Associated Press and approximately 10 percent of the news content of the paper originates from points outside the State of California. The Company purchases raw materials, principally newsprint, which is shipped to it from points outside the State and which has a total value in excess of \$50,000 each year. Approximately 2.08 percent of the paper's circulation is to points outside the State.

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

II. THE ORGANIZATIONS INVOLVED

Sacramento Union Employees Association is an unaffiliated labor organization, admitting to membership employees of the Company.

Sacramento Valley Newspaper Guild, Chapter 92, American Newspaper Guild, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Association and the Guild have requested the Company to recognize each of them as the exclusive bargaining representative of the employees within the unit which each alleges to be appropriate, and the Company has refused to accord such recognition to either union until certified by the Board in an appropriate unit.

A statement of a Board agent and a supplementary statement of the Trial Examiner, introduced into evidence at the hearing, indicate that the Association and the Guild each represents a substantial number of employees in the unit alleged by each to be appropriate.¹

¹ The Board agent stated that the Association submitted seven authorization cards which bore the names of employees of the Company working in the circulation department, and

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 Association seeks a unit comprised of all employees in the circulation department of the Company's newspaper plant. The Guild seeks a unit consisting of employees in both the editorial and the circulation departments. The Company takes the position that the question as to whether the employees in the two departments should constitute one or two units for the purposes of collective bargaining should be resolved in accordance with the desires of the employees in each of the departments.

The Company's newspaper plant is divided into eight departments, viz., the composing room, stereotype department, press room, mail room, advertising department, business office, circulation department, and editorial department. The employees in the composing room, stereotype department, and the press room are presently represented by three different craft unions affiliated with the American Federation of Labor. The mail room employees are represented by an unaffiliated union. None of the unions which represent the employees in these four departments is involved in this proceeding, and, at present, no union seeks to represent the employees in the advertising department or business office.

The Guild was first recognized by the Company in March 1938 as the bargaining representative of the employees in the editorial department, and thereafter entered into several contracts with the Company regarding wages and working conditions for these employees. In July 1941, the Company recognized an unaffiliated union² as

that the names on the cards were the names of employees listed on the Company's pay roll for the period ending May 13, 1944.

The Board agent further stated that the Guild submitted 18 authorization cards, of which 16 bore the names of employees of the Company listed on the Company's pay roll for the period ending May 13, 1944; that 2 of these employees worked in the circulation department and 14 worked in the editorial department; and that of the cards submitted, 4 were undated and 14 were dated at various dates from December 1936 to April 1944.

The Trial Examiner stated that at the hearing the Association presented two additional and undated authorization cards bearing the names of employees of the Company working in the circulation department, and that these names were listed on the Company's pay roll for the period ending May 13, 1944.

The Trial Examiner further stated at the hearing that the Guild submitted four additional authorization cards, that two of these were undated and two were dated June 1944, and two of the cards bore names of employees of the Company working in the circulation department while the other two bore the names of employees in the editorial department; and two of the names on the cards were listed on the Company's pay roll for the period ending May 13, 1944, while the remaining two appeared only on the pay roll for the period ending June 1, 1944.

² Although this union was also named the Sacramento Union Employees Association, which is the name of the petitioner in Case No. 20-R-1076 herein, there is otherwise no connection between the two organizations.

the bargaining representative of its circulation department employees, and executed a 3-year contract with that union which provided that the contract should terminate in July 1944. In February 1943, all of the employees then working in the circulation department advised the Company that they had dissolved the union which they had organized to represent them, and that they desired to be represented by the Guild. Although the contract between the Company and the unaffiliated union with respect to the circulation department employees would not expire for more than a year, the Company, on March 13, 1943, entered into a 1-year contract with the Guild with respect to the employees in both the circulation and editorial departments. On March 13, 1944, the Guild notified the Company in writing that it desired to negotiate with the Company for a new contract to replace the one which expired on that date. On April 12, 1944, six of the employees in the circulation department advised the Company in writing that they had formed their own "independent collective bargaining agency," had chosen its officers, and that their agency wished to be considered the sole bargaining agency of the circulation department employees. At the hearing, the Association, which is identified as the "independent collective bargaining agency" mentioned above, stated that it had no need at present to bargain with the Company, but would do so when and if the necessity arose.

In view of the recent history of collective bargaining in the Company's plant, we are of the opinion that the employees in the editorial and circulation departments constitute an appropriate unit at this time.³ Since the Association stated at the hearing that it did not desire to participate in the election hereinafter directed, we shall dismiss the petition filed by the Association in Case No. 20-R-1076.

We find that all employees of the Company in its editorial and circulation departments, excluding 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.⁴

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 em-

³ *Matter of Globe Newspaper Company*, 31 N. L. R. B. 916.

⁴ Two clerks in the circulation department, one a school girl, work about 4 hours on Sundays only, receiving complaints from subscribers and transmitting them to the district managers. The Company employs another person on a commission basis to furnish it with information with respect to local social events. None of these three persons is eligible for membership in the Guild. These employees are not included in the above unit which we have found to be appropriate.

ployees 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Sacramento Publishing Company, Ltd., Sacramento, California, 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 Twentieth 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 the 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 Sacramento Valley Newspaper Guild, Chapter 92, American Newspaper Guild, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

ORDER

IT IS HEREBY ORDERED that the petition for investigation and certification of representatives of employees of Sacramento Publishing Company, Ltd., Sacramento, California, filed herein by Sacramento Union Employees Association, be, and it hereby is, dismissed.

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