

In the Matter of BEE MACHINE *and* UNITED ELECTRICAL, RADIO AND
MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 1-R-2099.—Decided January 16, 1945

Mr. Henry Wise, of Boston, Mass., for the Company.

Mr. Donald H. Tormey, of Boston, Mass., and *Mr. David P. Bennett*, of Lynn, Mass., for the Union.

Mr. Sidney Grossman, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by the 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 Bee Machine, Lynn, Massachusetts, herein called the Company,¹ the National Labor Relations Board provided for an appropriate hearing upon due notice before Samuel G. Zack, Trial Examiner. Said hearing was held at Lynn, Massachusetts, on October 5, November 24, and December 11, 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 issues. Subsequent to the initial hearing on October 5, 1944, the Union made a motion to reopen the record for the purpose of adducing additional evidence regarding the operations of the Company.² At the reconvened hearing, the Union moved the Board to permit it to withdraw its motion to reopen the record, and the Company thereupon with-

¹ At the hearing, the parties agreed to amend the petition and all other formal papers in this proceeding so that the name of the Company would read "Bee Machine."

² The Union predicated its motion upon the fact that approximately 1 month after the initial hearing, the Company transferred the assets of that portion of its shoe die business relating to the manufacture of clicker dies to the Atlas Die Company located at a different address. The employees engaged in the production of such dies for the Company are now employed by the Atlas Die Company.

drew its objection to the unit proposed by the Union. Ruling was reserved for the Board. The Union's motion is hereby granted. 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

Vincent W. Burke, the sole proprietor of a business conducted as Bee Machine, at Lynn, Massachusetts, is engaged in the manufacture of shoe dies, jigs, fixtures, and screw machine parts. The Company's annual sales of finished products aggregate approximately \$475,000, of which approximately 26 percent is for the account of customers located outside the Commonwealth of Massachusetts. A substantial portion of the Company's finished products is sold to companies within the State for use in the manufacture of products for war purposes.

We find, contrary to the Company's contention, 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 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.³

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 consisting of all production and maintenance employees of the Company, including stockroom and shipping-

³ The Field Examiner reported that the Union submitted 28 membership cards, all of which appeared on the Company's pay roll for the week ending September 6, 1944, and that 27 cards were dated in August 1944, and 1 card was undated. There are 44 employees in the alleged appropriate unit. On September 8, 1944, the American Federation of Labor was requested in writing to submit representation evidence, but has failed to do so.

room employees, but excluding office clerical employees, sales people, watchmen, assistant foremen, and all other supervisory employees. The Company generally does not oppose the appropriateness of the foregoing unit, and takes no definite position with respect to the specific composition thereof.

We find that all production and maintenance employees of the Company, at Lynn, Massachusetts, including stockroom and shipping-room employees, but excluding office clerical employees, sales people, watchmen, assistant foremen, 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.

There is some question concerning the eligibility of certain employees. The Company employs a carpenter and an electrician who perform minor repair jobs in the evening after the regular employees have left the plant. These employees report to work irregularly, do not work under conditions similar to that of other employees in the plant, and have regular employment elsewhere during the day. Several employees are also employed who work periodically, but regularly during such weeks as they are not required to report to the day-shift at other plants with which they have employment, and although they do not work a full day because of their dual employment, are otherwise accorded the same treatment as the other regular employees. In addition, the Company employs several high school students who have full-time employment with it during the summer, but at present work regularly as part-time employees under the same working conditions as the other regular employees. In view of the regularity of the part-time high school students and of the part-time employees who work periodically, we find that they have sufficient interest in the present election to entitle them to a voice in the choice of a bargaining representative. However, we find that the dissimilarity in interests of the part-time carpenter and part-time electrician warrants their exclusion from the group of employees eligible to vote in the election hereinafter directed.

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 Bee Machine, Lynn, Massachusetts, 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 First 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 all regular part-time employees and 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 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 United Electrical, Radio and Machine Workers of America, C. I. O., for the purposes of collective bargaining.