

In the Matter of JOHN L. PARKS D/B/A AMERICAN BOX AND FILE COMPANY AND THE PARKS PRINTING COMPANY, EMPLOYER and INTERNATIONAL PRINTING PRESSMEN AND ASSISTANTS' UNION OF NORTH AMERICA, A. F. OF L., PETITIONER

*Case No. 10-RC-404.—Decided March 3, 1949*

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing<sup>1</sup> are free from prejudicial error and are hereby affirmed.<sup>2</sup>

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.\*

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The Petitioner is a labor organization, affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

Local 51, Amalgamated Lithographers of America, C. I. O., herein called the Intervenor, is a labor organization affiliated with the Con-

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<sup>1</sup> Local 51, Amalgamated Lithographers of America, C. I. O., moved to intervene at the hearing, which motion the hearing officer denied on the ground that the national organization was not in compliance with Section 9 (f), (g), and (h) of the Act. Having been informed, before the hearing was completed, that the national organization had achieved compliance, the hearing officer granted the motion to intervene. The Intervenor had adequate opportunity to present its position, and stated at the hearing that it was "satisfied with the record as it stands." The hearing officer's rulings in this matter are hereby affirmed.

<sup>2</sup> The Employer's motion to dismiss the petition for lack of evidence that the Petitioner represented a substantial number of employees of the Employer is hereby denied. It is well settled that this is an administrative matter not subject to attack at the hearing. *Matter of H. & H. Manufacturing Company*, 76 N. L. R. B. 459. The motion of the Intervenor to dismiss the petition on the ground that the unit sought is inappropriate is denied for the reasons set forth below.

\*Chairman Herzog and Members Houston and Murdock.

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gress of Industrial Organizations, admitting to membership employees of the Employer.

3. A question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The appropriate unit:

The Petitioner seeks a unit composed of all employees of the Employer, excluding office and clerical employees, guards, professional employees, and supervisors. The Intervenor contends that the four employees in the lithographic department should be excluded from the unit sought by the Petitioner on the ground that they constitute a separate appropriate unit. The Intervenor does not, however, claim to represent these employees, and does not wish to participate in any election that may be directed herein. The Employer contends that all the employees in his plant, excepting only himself, should be included in the unit.

The four employees in the lithographic department, whose exclusion from the unit is sought by the Intervenor, include one artist-cameraman, one plate-maker, and two pressmen, who work in the plate and camera room and the lithographic pressroom. The plate and camera room is separated by partitions from the remainder of the plant, but the lithographic pressroom is separated from other departments only by aisles. These four employees, like all the employees in the plant, are under the direct supervision of the Employer, and have the same working conditions.

The Intervenor contends that the Board has in a number of cases held that lithographic employees constitute a unit appropriate for collective bargaining.<sup>3</sup> In these cases, however, the Board did not hold that lithographic department employees must be established in a separate bargaining unit, but only that they comprise an "indivisible" group which would not be split at the request of a union seeking to represent only a fragment of the department. Furthermore, the Board has frequently stated that employees engaged in the lithographic printing process may properly be included, *as a whole*, in a plant-wide unit such as the Petitioner herein seeks.<sup>4</sup> Under the circumstances of this case, we are not persuaded that the four employees in the litho-

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<sup>3</sup> *Matter of Danner Press, Inc.*, 80 N. L. R. B. 844; *Matter of Manz Corporation*, 79 N. L. R. B. 211; *Matter of Court Square Press, Inc.*, 46 N. L. R. B. 1078. See also *Matter of Commercial Printing Company, Inc.*, 73 N. L. R. B. 159; *Matter of Roberts and Son*, 71 N. L. R. B. 294; *Matter of Albert Love Enterprises d/b/a Foote & Davies*, 66 N. L. R. B. 416; *Matter of Con P Curran Printing Company*, 57 N. L. R. B. 185

<sup>4</sup> *Matter of Bond Crown & Cork Company*, 75 N. L. R. B. 1152; *Matter of Commercial Printers, Inc.*, 74 N. L. R. B. 1135; *Matter of The Lord Baltimore Press, Inc.*, 73 N. L. R. B. 811; *Matter of American Can Company*, 61 N. L. R. B. 1631.

graphic department should be excluded from the unit found below to be appropriate.

The Petitioner would exclude from its proposed unit 3 individuals, Cook, Hendon, and Harris, whom it claims to be supervisors. The Employer contends that he, alone, has authority to hire and discharge, and that he personally supervises the activities of all his employees, who number approximately 40.

Cook is a lithographic pressman, and has one apprentice who works with him. Hendon is the compositor, who assigns work to the seven or eight letter-pressmen. Harris was referred to as the floorlady in the Box Department. All three are hourly paid, and are engaged for the most part in production work. As the record contains no evidence that Cook, Hendon, or Harris responsibly direct any employees, or effectively recommend changes in their employment status, we shall include these three individuals in the unit.<sup>5</sup>

Since the death of the Employer's superintendent, which occurred a few months before the hearing, the Employer has transmitted work assignments in the Box Department through Hayworth, who had been assistant to the superintendent. As neither the Employer nor the Petitioner contends that Hayworth is a supervisor, and as the record does not indicate that he has authority responsibly to direct employees, or effectively to recommend changes in their employment status, he will be included in the unit.

On the basis of the entire record, we find that all employees of the Employer, excluding office employees<sup>6</sup> and supervisors, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

### DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Tenth Region, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, as amended, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed

<sup>5</sup> See *Matter of The Standard Printing Company, Inc.*, *supra*; *Matter of The Lord Baltimore Press, Inc.*, *supra*.

<sup>6</sup> Two employees, Mrs. Collins and Mrs. Dobbins, who work primarily in the Employer's office, to whom the Employer delegates his authority when he is on vacation or out of town, and who exercise some independent authority in the Box and Printing Departments, are excluded from the unit. The Employer has no guards or professional employees.

during the pay-roll period immediately preceding the date of this Direction of Election, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for the purposes of collective bargaining, by International Printing Pressmen and Assistants' Union of North America, A. F. of L.