

In the Matter of AMERICAN FINISHING COMPANY, EMPLOYER and
MACHINE PRINTERS BENEFICIAL ASSOCIATION OF THE UNITED STATES,
PETITIONER

Case No. 32-RC-100.—Decided October 6, 1949

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, hearings were held before Anthony J. Sabella and Richard C. Keenan, hearing officers of the National Labor Relations Board. The hearing officers' rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

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 claiming to represent employees of the Employer.²

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.³

4. The Petitioner seeks a unit of all journeymen machine printers and their apprentices in the printing department at the Employer's Memphis, Tennessee, textile finishing plant. The Employer contends

¹ Rulings upon the admission into the record of certain proffered evidence were reserved to the Board by the respective hearing officers. The proffered evidence, including the exhibits, are herewith accepted and made a part of the record.

² The Employer contends that the Petitioner is not a labor organization within the meaning of the Act. This contention is without merit. We have heretofore found that the Petitioner is a labor organization within the meaning of the Act. *Matter of Rock Hill Printing Company*, 82 N. L. R. B. 932.

³ The Employer has a current contract with the Textile Workers Union of America, CIO, covering its production and maintenance employees. This contract was executed on November 16, 1948, for 1 year, effective November 21, 1948. The Employer contends, in the alternative, that if the employees herein sought are not supervisors, then the contract covers them and is, therefore, a bar to a present determination of representatives. We find no merit in this contention. Neither party referred to these employees in their 1948 contract negotiations. The contract, although setting up wage rates for the other employees in the printing department, contained no reference to these employees. Further, the Textile Workers, at the hearing, disavowed any interest in them. We find that the contract with the Textile Workers does not cover the employees herein sought by the Petitioner and is not, therefore, a bar to this proceeding.

(1) that each of the employees involved is a supervisor within the meaning of the Act, and (2) that if they are not supervisors they, nevertheless, do not constitute a separate appropriate unit because they are allegedly an integral part of its over-all production operations.

The Employer is engaged in bleaching, dyeing, finishing, printing, sanforizing, coating, and performing other related processes upon cotton textiles. Its plant operates three 8-hour shifts a day and employs between 800 and 900 employees, of whom 700 are production and maintenance employees, and approximately 100 are classified as foremen and assistant foremen.

The printing department was placed in operation in January 1948. It is under the supervision of the superintendent of printing, who in turn is under the plant superintendent. The printing department operates three 8-hour shifts, 5 days a week. Each shift is supervised by a shift foreman. Under each shift foreman are approximately 14 employees. They are an assistant foreman and 3 employees on each of 2 printing machines, as assistant foreman and 3 colorists in the color shop, an ager, and a utility man. Under the assistant foreman on each of the 2 printing machines are the back tender, gray tender, and swingman (sometimes called an inspector).

The printing department prints colored designs upon cotton cloth. This is accomplished by running the cloth through a printing machine. This machine has several rollers, the number depending upon the number of colors in the pattern. All designs in the pattern having the same color are engraved on one roller. A different roller is required for each color. Each roller rotates against a furrier which, in turn, revolves through a tray of dye. As the cloth passes through the machine the several rollers, geared and timed so that their particular color designs will strike the cloth in proper sequence, produce the desired pattern upon the cloth. The colors are mixed by the employees in the color shop. The printing machines are operated by the assistant foremen and the "backhelp"—i. e., the back tender, gray tender, and swingman. After the cloth is printed, it is dried. The color is then "aged" in the cloth by use of chemicals. This is done by the ager. The cloth, thus treated, is then sent to some other department for further processing. The utility man, as the title indicates, performs miscellaneous duties throughout the printing department. Approximately 35 to 40 percent of the goods processed by the Employer passes through the printing department.

The superintendent of printing is present at the plant most of the first shift and for about 3 hours of the second shift. However, he does not spend all of his time in the printing department, nor is he experienced in the operation of the printing machines. Accordingly, the

responsibility for the proper operation of the department, especially that of the actual printing processes, devolves upon the shift foremen. In addition to supervising the operation of the printing process, including coordinating the supplying of the dyes and the application of the aging process, the shift foreman may give advice and assistance to the assistant foreman, if needed, in the setting up and operation of the machine. He may occasionally operate the machine for short periods of time. The shift foremen are carried on the pay roll as "foremen"; they work 1 to 2 hours a day longer than the production employees; and they are paid a monthly salary.

As heretofore stated, the assistant foreman operates the printing machine. He is in complete charge of the machine and the "backhelp." Most of the manual work in setting up the machine is done by the back tender, gray tender, and swingman, under the direction and guidance of the assistant foreman. In operating the machine, the back tender, the gray tender, and the swingman perform certain duties in the back of the machine, such as keeping the color pans filled, insuring that the cloth is fed into the machine properly, and providing the assistant foreman with samples, called "patches," for inspection purposes. The assistant foreman remains in front of the machine to observe the run of the cloth. From time to time he orders the "backhelp" to make certain adjustments. He also directs them in their other duties. The assistant foremen are carried on the pay roll as "assistant foremen." They are paid \$1.55 to \$1.65 per hour on an 8-hour a day basis. Although they work 1 to 2 hours a day longer than production employees, they are paid for 8 hours only. The "backhelp" normally remain assigned to one machine and remain on the same shift and under the same assistant foreman at all times. They are paid an hourly wage—ranging from 96 cents to \$1.08 per hour.

Of the employees in the printing department, the Petitioner seeks a unit composed of the three shift foremen and the eight machine printers classified as assistant foremen. The Petitioner contends that two of the shift foremen are journeymen machine printers and that the third shift foreman and the eight assistant foremen are apprentice machine printers. As hereinabove noted, the Employer contends that each of the employees sought by the Petitioner is a supervisor within the meaning of the Act.⁴

⁴ There are approximately 90 foremen and assistant foremen in the other departments of the Employer's plant who allegedly have the authority to hire, discharge, suspend, lay off, reward, promote, discipline, and responsibly direct the employees under them, and they are excluded from the current plant-wide bargaining unit as supervisors. The Employer contends that the system employed in the other departments was adopted in the printing department when it was established, and that each of the shift foremen and assistant foremen sought by the Petitioner has the same authority.

Shift foremen. The Employer has, on several occasions, told the shift foremen that they are vested with supervisory authority.⁵ Although admitting that they had been advised that they had this authority, each of the employees involved testified that he did not believe, as a matter of fact, that he actually possessed such authority. However, the record reveals that the foreman of the first shift hired two employees, transferred men from one printing machine to another on several occasions, recommended the promotion of an employee to an assistant foreman (which was done), and has, according to his testimony, on occasion "gotten on the printers pretty rough." Although the foreman of the second shift has neither hired nor discharged anyone, nor recommended such action, and has settled no grievances, he is in charge of and responsible for the printing department during his shift and takes care of everything that arises unless it is a great emergency. The foreman of the third shift frequently secures personnel from the second shift to remain over for his shift; he recommended that one employee be discharged (which was done); he has complete charge of the printing department during his shift; and he considers that he has the right effectively to recommend the suspension of anyone in his department.

The foreman of machine printers in the textile printing industry normally lays out the work, discusses the pitching of the patterns with the colorist, designates the particular machine upon which the pattern will be run, assigns machine printers to printing machines, passes upon questions respecting patterns and defective engraving, and is in charge of the back tenders, gray tenders, and swingmen. The foreman usually wears "street clothes," has an office, and does not repair or operate the machines.

In the instant case each of the shift foremen testified that it was the superintendent of printing who laid out the work, discussed the pitching of the pattern with the colorist, designated the machine upon which the pattern was to be run, assigned printers to machines, and passed upon questions respecting pattern and defective engraving. The shift foremen wear work clothes, do not have an office, and occasionally, as heretofore indicated, assist in the repair and operation of a machine.

⁵ On November 29, 1948, the Employer circulated to all shift foremen, including each of the employees here involved, a memorandum stating that "the American Finishing Company organization provides for the right of all you foremen and assistant foremen to hire and fire rank-and-file employees under you." The memorandum also stated that the employees had always had this right in order to get the work done as promptly and as efficiently as possible. On January 26, 1949, the plant superintendent talked with each of the shift foremen and explained to them that they had full authority to hire, discharge, suspend, etc., as above set forth, and asked them if they understood that they had this authority. Each shift foreman replied in the affirmative and signed a written memorandum of the conversation.

Although the duties performed by the shift foremen in the Employer's printing department do not conform fully with those performed by foremen in the machine printing industry generally, it is clear that the shift foremen responsibly direct the employees under them, and that they also exercise the authority of a supervisor with regard to hiring, discharging, reprimanding, disciplining, and promoting employees in the printing department. We therefore find that the shift foremen are supervisors and we shall exclude them from the unit.

Assistant foreman. Machine printers in the textile printing industry are not generally considered to be supervisors. The Employer insists, however, that it does not follow the industry practice in this respect, and that it has conferred upon each of the machine printers all the powers of a supervisor as defined in the Act. It further contends that the machine printers have exercised these supervisory powers.⁶

In August 1948, the Employer advised each of the assistant foremen in the printing department that he had control over his machine and the crew on the machine, with full authority to take any action necessary to obtain the requisite quality and quantity of work. On November 29, 1948 (the petition was filed on November 17), the Employer circulated to all assistant foremen, including each of the employees here involved, the memorandum stating that "The American Finishing Company organization provides for the right of all you foremen and assistant foremen to hire and fire rank-and-file employees under you." On January 26, 1949 (the hearings were conducted on January 21-22 and March 24-25), each of the assistant foremen was called in separately and asked by the Employer if he understood that he had full authority to hire, discharge, suspend, promote, discipline, and responsibly direct the employees under them. Each assistant foreman answered in the affirmative.

The alleged delegation of authority to the assistant foreman by the Employer in August 1948, to take any action necessary to obtain the required quality and quantity of work, did no more than to confer upon the machine printers that authority generally possessed by a skilled craftsman over his apprentices, helpers, machines, and tools. We find that such an affirmation of an existing duty falls short of conferring upon these employees the powers of a supervisor. The memorandum of November 27, 1948, and the conferences of January 26, 1948, did, however, purport expressly to place the assistant foremen in the status of supervisors. However, we note that the memorandum of November 27 followed by 10 days the filing of the petition

⁶ We find no merit in the Employer's contention that the machine printers constitute an integral part of the over-all plant operations and, therefore, should not be established in a separate bargaining unit. See *Matter of Proximity Manufacturing Company*, 54 N. L. R. B. 1179; *Matter of The Celanese Corporation of America*, 72 N. L. R. B. 1194.

in this case on November 17, 1948. And the conference on January 26, 1949, occurred 2 days after the hearing was commenced and prior to its consummation on March 24, 1949. The timing of these alleged affirmations of supervisory authority upon the employees herein sought by the Petitioner compels us to scrutinize closely all of the surrounding factors in determining whether such authority was, in fact, granted to these employees.

Machine printers in the textile printing industry are not normally vested with the powers of a supervisor. Obviously, as pointed out in the dissent, the Employer is under no obligation to operate his business in accordance with the prevailing industry practice. However, it is pertinent to note that the machinery, the materials, and the printing process are exactly the same as generally are employed in the industry. Only in respect to supervision does the Employer allegedly deviate from the industry practice.

The record further discloses that, if the machine printers are supervisors, the ratio of supervisory to nonsupervisory employees in the printing department is one to three, while the ratio of supervisory to nonsupervisory employees in the other plant departments is one to seven. Not only is the ratio in the printing department higher than in the other plant departments, but is higher than that prevailing in the textile printing industry. As we have previously stated, the ratio of supervisory to nonsupervisory employees is a factor which, although not determinative, must be considered.

Finally, we do not think that the assistant foremen have exercised supervisory authority to the extent that they would have if they, in fact, possessed such authority. It is true, as our dissenting colleague points out, that if these employees are actually supervisors, the fact that they have not exercised supervisory authority does not destroy their supervisory status. However, we think that where an issue is as close as it is in this case, considerable weight must be given to the extent to which the alleged powers have been used. Admittedly there have been isolated instances in which some of these employees have engaged in activity indicative of a supervisor. However, sporadic and infrequent exercise of supervisory authority, as in the instant case,⁷ does not in itself confer supervisory status.⁸ We find that the

⁷ The record reveals that one machine printer discharged an employee on his crew for smoking in violation of the company rules (although he later took the employee back); another assistant foreman recommended that his brother-in-law be hired, which recommendation was given effect; some of the assistant foremen considered that they had the authority to discharge members of their crews; an employee was discharged by the superintendent of printing as a result of an assistant foreman's recitation of events to the superintendent of printing; and another employee was discharged when an assistant foreman told the superintendent of printing that either the employee would "have to go" or that he, the assistant foreman, would quit.

⁸ *Matter of Todd Shipyards Corporation*, 80 N. L. R. B. 382; *Matter of U. S. Gypsum Company*, 79 N. L. R. B. 1059; *Matter of General Motors Corporation*, 78 N. L. R. B. 72.

supervision exercised by the assistant foremen over the "backhelp" is that normally exercised by a skilled craftsman over his helper⁹ and not that of a supervisor over an employee.¹⁰ We conclude, therefore, that assistant foremen are employees within the meaning of the Act.

There are six regular and two spare machine printers, designated by the Employer as "assistant foremen," in the Employer's printing department. Their duties are described above. Insofar as the physical operation of the machine is concerned, these assistant foremen perform the same processes that are customarily performed by journeymen machine printers and their apprentices in the textile printing industry. The Petitioner, which represents over 90 percent of the textile machine printers in this country, requires an apprenticeship of 7 years before it will recognize a machine printer as a journeyman. The apprenticeship must be served in assisting in the operation of a printing machine—the gray tender, the back tender, and the swingman are not apprentices. We have heretofore found that machine printers and their apprentices constitute an identifiable, homogeneous, highly skilled craft.¹¹ Although the assistant foremen operating the printing machines for the Employer have not undergone the apprenticeship required by the Petitioner,¹² it is clear, nevertheless, that they perform the same type of work, in a varying degree, that skilled machine printers or their apprentices perform. The Employer admitted that considerable skill was required of the assistant foremen in pitching patterns, setting up and adjusting the printing machines, and in obtaining a proper run of the cloth. We therefore find that the assistant foremen are skill craftsmen, or apprentice craftsmen at the very least, capable of constituting a separate appropriate unit for the purposes of collective bargaining.

Accordingly, we find that the machine printers designated by the Employer as assistant foremen are an identifiable, skilled, and homogeneous craft (or apprentice craft) group and constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9 (a) of the Act.

⁹ The record discloses that the assistant foremen consider that they are in charge of the machines and responsible for the men under them. They direct and instruct the machine crew in their duties; and the latter must take orders and instructions from them.

¹⁰ *Matter of General Steel Tank Co.*, 81 N. L. R. B. 1345.

¹¹ *Matter of Proximity Manufacturing Company*, 54 N. L. R. B. 1179; *Matter of The Celanese Corporation of America*, 72 N. L. R. B. 1194; *Matter of Rock Hill Printing Company*, 82 N. L. R. B. 932.

¹² Only two individuals in the printing department are recognized by the Petitioner as journeymen printers. They are two shift foremen. The eight assistant foremen, who serve as machine printers, were never connected with the textile industry until their employment with the Employer after January 1, 1948. They each served short periods of time back of the machine and then moved to the front of the machine as assistant foremen (machine printers) after a few months. At the time of the hearing, each of the assistant foremen possessed from 5 to 8 months' experience in the textile printing industry.

DIRECTION OF ELECTION

As part of the investigation to ascertain representative 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 Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed 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 purposes of collective bargaining, by Machine Printers Beneficial Association of the United States.

MEMBER GRAY, dissenting in part:

A majority of the Board Members have found that the eight machine operators, designated by the Employer as assistant foremen, are skilled craftsmen capable of constituting a separate unit appropriate for the purposes of collective bargaining. They have also found that these machine printers are not supervisors within the meaning of the Act. I am unable to agree with either of these findings.

The Petitioner, representing virtually all the textile printers that are bargained for in this country, has established a prescribed course of training for its members covering a minimum period of 7 years as a condition to obtaining journeyman status. In the operation of multi-colored printing machines, printing fine and costly cloths and necessitating many delicate adjustments, a degree of skill approximating that of a craft is required. If the machine printers involved herein possessed the same degree of skill required of a journeyman machine printer by the rest of the industry, and if the Employer's operations required the use of comparable skill, I would agree with the majority's conclusion upon this point.

However, neither of these factors is present in this case. None of the eight employees involved had any prior experience in the textile printing industry—nor even in the textile finishing industry—prior to their present employment with the Employer. Nor do these individuals possess prior experience in any way related to the printing industry. Before their employment with the Employer, these men had

been farmers, insurance agents, draftsmen, glass mechanics, sheet metal workers, and railroad workers. Yet after 3 or 4 months as one of the "backhelp," which the Petitioner does not recognize to be apprentice work, each of these men became a machine printer operating the printing machine. I do not believe that an individual can become a skilled craftsman after 3 or 4 months performing work that is not even recognized as apprentice work.

It is significant that the Petitioner does not contend that these individuals are craftsmen, but asserts that they are apprentices. Furthermore, the printing done by the Employer does not require skilled machine printers. The Employer finishes, for the most part, cotton cloth to be ultimately used as bags and cheap cotton goods. The printing of designs upon cloth of this type does not require the skill generally required of craftsmen machine printers in the printing industry. Because the eight machine printers involved do not possess the skill required to be craftsmen, and because the work that these men perform does not involve the use of craft skill, I would dismiss the petition as the unit which it seeks to establish does not constitute an "employer unit, craft unit, plant unit, or sub-division thereof."

I find it even more difficult to accept the majority's conclusion that the machine printers involved in this proceeding are not supervisors. To me the evidence is very clear that the contrary is true.

Section 2 (11) of the amended Act provides:

The term "supervisor" means any individual having authority, in the interest of the Employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

The Board has consistently held that an individual having the authority set forth in the above-quoted section of the Act is a supervisor and must be excluded from any bargaining unit regardless of whether he has exercised such supervisory authority.¹³ In this case, the Employer definitely and unqualifiedly told each of the machine printers that he had full authority to do the acts which Section 2 (11) defines as supervision. That they were so instructed by the Employer is admitted by the assistant foremen.

¹³ *Matter of Mine Safety Appliances Company*, 85 N. L. R. B. 290; *Matter of West Coast Paperboard Mills*, 76 N. L. R. B. 1236; *Matter of WCAU Broadcasting Co.*, 72 N. L. R. B. 537. See *Matter of Continental Pipe Line Company*, 78 N. L. R. B. 379.

The majority implies that the timing of the above confirmations of supervisory authority casts suspicion upon the Employer's motive. However, the issue is not the Employer's motive, but whether the Employer did, in fact, delegate this authority to these individuals. I will assume, *arguendo*, that the Employer's actions were motivated by a desire on its part to avoid any obligation it may have to bargain with the Petitioner if these individuals were not supervisors. There is nothing in the amended Act, and I am aware of no prior Board decisions, that prohibits an employer from doing just that.

The majority found that the Employer, while professing to confer supervisory authority upon these employees, did not in fact do so. They rely upon the following factors to support their conclusion that the Employer did not mean what it said: (1) A contrary practice prevailing in the industry; (2) the high ratio of supervisory to non-supervisory employees; (3) the infrequent exercise of supervisory authority by these employees; and (4) the existence of the relationship of a skilled craftsman to his helper.

It is true that machine printers in the balance of the industry are not supervisors.¹⁴ However, the record clearly shows that, administratively, this Employer not only operates its printing department differently from the industry practice, but operates its entire finishing plant differently. The Petitioner's representative, in comparing the operation of the Employer's printing department with the industry practice, stated, "no practice would apply to this shop as you operate it." I do not believe that the majority intends to imply that the Employer *must* operate its business in accordance with the industry practice.

I agree with the majority opinion that the ratio of one supervisory to three nonsupervisory employees is high by comparison with the industry practice. The Employer is not prohibited by law from establishing *any ratio of supervisory to nonsupervisory employees that it may elect*. This Board may not impose its superior judgment upon a business in such matters.

Further, I find that the ratio existing in the printing department is entirely consistent with the ratios existing in the other plant de-

¹⁴ However, in testifying as to the practice in the industry relative to machine printers, the Petitioner's representative testified at the hearing that:

A printer on the machine tells the back tender what to do; the journeyman on the machine tells the gray tender what to do; and the journeyman printer on the machine tells the swingman what to do, or the inspector, as the case may be. He never asks anybody. With any of these 3, if he would consult with them at all he orders them to do these things as a natural thing and they, without question, look to the man who is running the machine to be the one who tells them, and he says not to do that, and if they do it he can fire them—not that he can fire them, but they are definitely assistants to him in every single operation on the printing machine.

partments.¹⁵ Justification for the difference in the two ratios is found in the fact that each printing machine costs over \$35,000, and, as conceded at the hearing, improper operation of these machines would cause costly damage in a relatively short period of time. I find that these factors amply justify, if any justification is necessary, the higher ratio existing in the printing department.

Not only do I find, as above stated, that the Employer delegated supervisory authority to the machine printers, but I also find that the record fully supports the Employer's contention that these individuals have, in fact, exercised the powers of supervisors. Each of the machine printers testified that, although he had been told that he had the authority of a supervisor and although no one on behalf of the Employer had advised him to the contrary, nevertheless, he did not believe that he actually possessed such authority. These "opinions" were so alike in structure as to cause an examination of the similarity. Despite these protestations, the record discloses, according to their own testimony, that the assistant foremen have exercised supervisory authority. Assistant Foreman Reed discharged a member of his crew for smoking in violation of company rules, effectively recommended that his brother-in-law be employed, and "balled out" men on his crew on several occasions; Assistant Foreman Knighton denied that he recommended the discharge of an employee, as testified by the Employer, but stated that he told the Employer that either the employee would have to go or that he would quit—the employee was fired; Assistant Foreman Smith corrected a crew member for loafing; Assistant Foreman Bloodworth has reprimanded crew members on several occasions; Assistant Foreman McNair denied that he fired an employee, as testified by the Employer, but stated that he told the facts to the superintendent of printing and the latter fired the employee.

In addition to the foregoing, all the assistant foremen testified that they tell their "backhelp" what to do, that they correct improper performance by the "backhelp," and that the "backhelp" must take orders and instructions from them. Further, several of the assistant foremen testified that they considered that they had the right to transfer crew members and effectively to recommend the discharge of crew members.

The majority finds that the above events constitute "sporadic and infrequent" exercise of supervisory authority. Had these events occurred over a period of several years, I might find some justification for such a conclusion but, at the time of the hearing, all of the assistant

¹⁵ The parties stipulated that of the approximately 90 foremen and assistant foremen in the plant departments, half of them are assistant foremen. The parties further stipulated that each of the foremen and assistant foremen, if called upon to testify, would testify that he had full authority to hire, discharge, promote, discipline, assign, and responsibly to direct the employees under him.

foremen had held their positions less than 8 months. A daily diet of discharges and reprimands is not a requisite of supervision; such occurrences are infrequent in any well run enterprise. Moreover, despite their protestations to the contrary, the testimony of the assistant foremen indicates that they also *thought* that they possessed the powers of a supervisor, all of this in contradiction to previous testimony. I further find that, in ordering the crew members to perform certain duties, in correcting the manner of such performances, and in reprimanding the crew members, the assistant foremen responsibly direct the employees within the meaning of the amended Act. I am of the opinion, therefore, that the assistant foremen are supervisors within the meaning of the Act.

As I have found that the assistant foremen are not craftsmen or employees within the meaning of the Act, I would dismiss the petition.

CHAIRMAN HERZOG, dissenting in part only:

While I agree with the majority that the assistant foremen are craftsmen, I share Mr. Gray's view that, on these facts, they are supervisors within the meaning of the amended Act. I would therefore also dismiss the petition.