

In the Matter of WORCESTER TELEGRAM PUBLISHING COMPANY, INC. and  
NEWSPAPER GUILD OF WORCESTER, AFFILIATED WITH AMERICAN NEWS-  
PAPER GUILD

*Case No. 1-R-2241.—Decided May 11, 1945.*

*Thayer, Smith and Gaskill, by Miss Irene Gowetz, and Mr. Frank E. Phillips, of Worcester, Mass., for the Company.*

*Grant and Angoff, by Mr. Samuel E. Angoff, of Boston, Mass., for the Guild.*

*Mr. Julius Kirle, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by Newspaper Guild of Worcester, affiliated with American Newspaper Guild, herein called the Guild, alleging that a question affecting commerce had arisen concerning the representation of employees of Worcester Telegram Publishing Company, Inc., Worcester, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert E. Greene, Trial Examiner. Said hearing was held at Worcester, Massachusetts, on February 14, 16, and 17, 1945. The Company 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. 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

Worcester Telegram Publishing Company, Inc., a Massachusetts corporation, is engaged at Worcester, Massachusetts, in the publishing, sale, and distribution of the Worcester Telegram and the Worces-

ter Evening Gazette, daily newspapers, and the Worcester Sunday Telegram, a Sunday newspaper. The Company's annual purchases of raw materials, consisting principally of newsprint, are valued in excess of \$500,000, substantially all of which comes from points outside the Commonwealth of Massachusetts. The Company's net paid daily circulation of the Worcester Telegram and the Worcester Evening Gazette is approximately 135,000, of which in excess of 1 percent is shipped to points outside the Commonwealth of Massachusetts. The Company's weekly circulation of the Worcester Sunday Telegram is approximately 90,000, of which in excess of 1 percent is shipped to points outside the Commonwealth of Massachusetts. The Company is a member of the Associated Press and subscribes to the services of the United Press. As such a member, it receives the services of the Association consisting of news from all of its members, and in return it supplies to the Association news of Worcester and vicinity. The Company purchases various syndicated articles such as comic strips, from sources outside the Commonwealth of Massachusetts.

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

## II. THE ORGANIZATION INVOLVED

Newspaper Guild of Worcester, affiliated with the American Newspaper Guild, 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 Guild as the exclusive bargaining representative of certain of the Company's employees until the Guild 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 Guild 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 are generally agreed that all employees of the Company's editorial and promotion departments, including full-time correspondents, but excluding the managing editor, promotion depart-

<sup>1</sup> The Field Examiner reported that the Guild submitted 60 cards, and that the names of all persons appearing on the cards were listed on the Company's pay roll of December 30, 1944, which contained the names of 125 employees in the claimed appropriate unit; and that the cards were all dated December 1944.

ment manager, and so-called casual or temporary county correspondents,<sup>2</sup> constitute an appropriate unit. They are in disagreement, however, concerning the categories discussed below.

The Guild would exclude the county editor, editor of the women's page, Sunday magazine editor, news editors, city editors, sports editors, editorial writers, and assistant night city editor, as supervisory employees. The Company would include them in keeping with the alleged custom in the newspaper industry. The county editor, James Edward Croak, oversees the collection of out-of-town news and supervises all the correspondents and copy readers. The editor of the women's page, Mrs. Agnes M. Drummond, sometimes referred to as the society editor, directs eight employees, makes assignments, grants time off, and is consulted with reference to salary increases. The Sunday magazine editor, Frederick L. Rushton, directs the work of three employees, supervises office details, and has absolute control over the purchase of manuscripts. The record reveals that his predecessor, as Sunday magazine editor, had authority to hire. The news editors, Francis P. Murphy and Ayton F. Smith, direct the work of the reportorial staffs of the Telegram and Gazette, respectively. The city editors, Kermit K. Kingsbury, Carl W. Erickson, and William F. Holland, supervise the reportorial staffs under the direction of the news editors. The sports editors, Leroy J. Mumpton and Edward W. Scannell, direct the work of employees in the sports departments of the Telegram and Gazette, respectively. All of the above employees have authority to either hire, discharge, or effectively recommend changes in the status of employees under their supervision. Although the Company contends that they should be included in the unit in keeping with the custom in the newspaper industry, the record does not substantiate such contention.<sup>3</sup> We shall exclude them.<sup>4</sup>

The Company contends that if the Board should exclude the editors hereinabove discussed, the Board should also exclude approximately 16 employees who substitute for them. With the exception of the assistant night city editor, A. Alfred Marcello, whom it would exclude as a supervisory employee, the Guild is opposed to such exclusion. Although these employees substitute on occasion for the editors, they do not do so with any degree of regularity and inasmuch as any supervisory authority exercised by them is of a sporadic and temporary

<sup>2</sup> Not to be confused with the so-called part-time county correspondents hereinafter discussed.

<sup>3</sup> The record reveals that out of 189 contracts surveyed by the executive secretary of the New England District Council of the American Newspaper Guild, 81 excluded editors, 66 excluded city editors, 54 excluded editorial writers, 41 excluded sports editors, 34 excluded society editors, and 36 excluded Sunday editors.

<sup>4</sup> See *Matter of The Chicago Daily News, Inc.*, 56 N L R B 274, *Matter of The Times Publishing Company*, 49 N L R B 506, *Matter of The Telegram Publishing Company*, 44 N L R B 461.

nature, we shall include them.<sup>5</sup> Although A. Alfred Marcello is carried on the Telegram pay roll as an assistant city editor, maintains the time book, and substitutes for the night city editor, his supervisory status does not appear to differ sufficiently from that of the other substitute editors to warrant his exclusion from the unit; we shall include him.

The Guild would exclude the editorial writers as managerial employees; the Company would include them. The editorial writers, Edward L. Chamberlayne, Richard H. Cunningham, George Foxhall, Myron M. Johnson, Leslie Moore, and Joseph C. DeWolf, work on the same floor with and under the direct supervision of the publisher. They sit in daily conferences with the publisher on questions of editorial policy, and reflect his views in their editorials. Some of them also act as dramatic critics, music critics, and periodical columnists. Joseph C. DeWolf, in addition to his editorial writing duties, interviews people whom the publisher is too busy to see, relays the latter's orders to other employees, and suggests courses of action to the publisher. However, there is nothing in the evidence to indicate that these employees have authority to hire, discharge, or effectively recommend changes in the status of any employee. We are of the opinion that the responsibilities of the editorial writers are not substantially different from those of the other employees in the editorial and promotion departments. We shall include them.<sup>6</sup>

The Guild would exclude the so-called part-time county correspondents;<sup>7</sup> the Company would include them. The so-called part-time county correspondents work in small towns or cities where they gather news and forward it to the editorial department by mail, teletype, or telephone. They seldom, if ever, come into the Company's main office and have no specified hours of employment, although they receive a fixed weekly salary for such work. With the exception of Mrs. Elizabeth H. Preston, whom the parties agree should be excluded, and Mrs. Alice E. Olney, who is a housewife, they are regularly engaged in various other full-time employment distinct and apart from newspaper work. Included among the so-called part-time county correspondents are a chief of police, probation officer, clerk of court who is also a lawyer, post office clerk, personnel manager for a shoe company, an insurance broker who also

<sup>5</sup> See *Matter of Ahlberg Bearing Company*, 56 N L R B 1794.

<sup>6</sup> See *Matter of The Chicago Daily News, Inc.*, 56 N L R B, 274 *Matter of The Times Publishing Co.*, 49 N L R B 506 *Matter of The Telegram Publishing Company*, 44 N L R B 461, *Matter of The Telegram Publishing Company*, 41 N L R B 662. *Matter of The New York Times Company*, 32 N L R B 928, *Matter of Globe Newspaper Company*, 15 N L R B. 953, *Matter of Brooklyn Daily Eagle*, 13 N L R B 974

<sup>7</sup> J P Kennedy, H L Mulligan, T E. Sweeney, Mrs Alice E Olney, J B Waldron, W. C. Webster, T W. Humphrey, R. H. McCauley, and Mrs Elizabeth H Preston.

works in a machine shop, and others employed full-time at work equally diverse from their reportorial duties. Since the interests and working conditions of the so-called part-time county correspondents differ substantially from those of the regular full-time reporters, we shall exclude them.<sup>8</sup>

The Guild would exclude Bertha E. Knowlton and Dorothy L. McMurray as confidential employees; the Company would include them. The former takes care of routine correspondence and pay-roll memoranda for the managing editor for approximately 2½ hours a day; the latter takes dictation from the editorial writers and various other correspondents for part of the day. The remainder of their time is spent working at the files in the office of the publisher's private secretary. Since it does not appear that their duties relate directly to the problem of labor relations, we shall include them.<sup>9</sup>

The Company would exclude the librarian in the editorial department on the ground that his status is the same as that of the other supervisory employees whom we have hereinabove excluded; the Guild would include him. The librarian, Albert A. Mason, files material which comes into the office, gets out material wanted by reporters and editors, and supplies information to the public. Although he leaves instructions for two night library clerks, he does not have supervisory authority under the Board's customary definition thereof. We shall include him.

The Company would exclude the Retail Ad-Viser editor on the ground that she is an employee of the advertising department rather than of the promotion department; the Guild would include her. The Retail Ad-Viser editor, Mary E. Putnam, works in the promotion department under the supervision of the promotion department manager, writes free publicity as distinguished from paid advertising, and her name appears in the time book of the promotion department rather than in that of the advertising department. Her only contact with the advertising department is when she is consulted with reference to a publicity story after an advertising contract has been signed. Inasmuch as she appears to be an employee of the promotion department and has no supervisory authority under the Board's customary definition thereof, we shall include her.

We find that all employees of the Company's editorial and promotion departments,<sup>10</sup> including full-time correspondents, the librarian, Retail Ad-Viser editor, editorial writers, and employees who substi-

<sup>8</sup> See *Matter of East Shore Newspapers, Inc.*, 55 N L R B 993

<sup>9</sup> See *Matter of The Chicago Daily News, Inc.*, 56 N L R B 274.

<sup>10</sup> Including Bertha E. Knowlton and Dorothy L. McMurray.

tute for the various editors,<sup>11</sup> but excluding the county editor, women's page editor, Sunday magazine editor, news editors, city editors, sports editors, so-called part-time county correspondents, temporary or casual county correspondents, and all other supervisory employ<sup>y</sup> 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.

The Company employs a part-time library clerk on the night shift whom the Guild would exclude and the Company include. This employee works at least three full shifts per week (24 hours), week in and week out, and spends the remainder of his time as an employee of the Commonwealth of Massachusetts. Unlike the part-time county correspondents whom we have hereinabove excluded, he has regular hours of employment and is subject to the same general working conditions as are the other employees who are included in the appropriate unit. Inasmuch as he is regularly employed, we are of the opinion that he has a sufficient interest in the results of the election to justify his participation therein. Accordingly, we find him eligible to vote.

#### 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 Worcester Telegram Publishing Company, Inc., Worcester, 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,

<sup>11</sup> A. Alfred Marcello, Joseph P. Clough, Robert Creighton, Frank P. Crotty, Ernest E. LaBranche, Paul W. Larkin, Walter M. Merkel, William H. Moiles, Jr., Florence Newfield, Charles H. Chambers, Joseph H. Gauthier, Louis Kurzman, James E. Lee, Oscar Silverman, Kenneth J. Smith, and Lorraine P. Thibodeau

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 the part-time library clerk, 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 Newspaper Guild of Worcester, affiliated with American Newspaper Guild, for the purposes of collective bargaining.