

In the Matter of THE ASSOCIATED PRESS AND PRESS ASSOCIATION, INC.  
and AMERICAN NEWSPAPER GUILD, C. I. O.

*Case No. 18-R-1180.—Decided June 21, 1945*

*Mr. Marion Sheen*, of Chicago, Ill., and *Moynihan & McKeown*, by *Claude A. Jagger*, of New York City, for the Companies.

*Isserman, Isserman & Kapelsohn*, by *Abraham J. Isserman*, of Newark, N. J., for the Union.

*Mr. Benj. E. Cook*, of counsel to the Board.

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

Upon an amended petition duly filed by American Newspaper Guild, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Associated Press and Press Association, Inc., herein called AP and PA, respectively, and the Companies collectively, the National Labor Relations Board provided for an appropriate hearing upon due notice before Francis X. Helgesen, Trial Examiner. Said hearing was held at Minneapolis, Minnesota, on April 3, 1945. The Companies 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. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>1</sup> All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

<sup>1</sup>In their brief, the Companies moved that certain paragraphs of Petitioner's Exhibit #1 be stricken from the record on the grounds of irrelevancy. The motion is hereby denied.

## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANIES

The Associated Press is a cooperative, non-profit membership corporation organized and existing under the laws of the State of New York with its principal office in New York City. Its members own or represent newspapers, practically all of which are conducted for profit. It is engaged in the gathering and collecting of news, information, and intelligence by available forms of communication including telephone, telegraph, radio, and mail through an exchange with its members and by other appropriate means for the use and benefit of its members, and in furnishing and supplying the said news, information and intelligence to its members for publication in the newspapers owned or represented by its members. Press Association, Inc., is a corporation organized under the laws of New York. It is a subsidiary of and wholly owned by AP. It is engaged in the gathering of news, information, and intelligence for broadcasting over the radio.

The Companies maintain offices at various points within and outside the United States. In the United States, they operate through divisional, strategic, and satellite bureau offices. There are 6 divisional and approximately 36 strategic bureaus. During 1944, the Companies received from its members by way of assessment, approximately \$12,000,000. This proceeding involves only employees of the Companies located at Minneapolis, St. Paul, and Duluth, Minnesota; Fargo and Bismarck, North Dakota; Pierre and Sioux Falls, South Dakota.

The Companies admit that they are engaged in commerce within the meaning of the National Labor Relations Act

## II. THE ORGANIZATION INVOLVED

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

## III. THE QUESTION CONCERNING REPRESENTATION

The Companies have refused to grant recognition to the Union as the exclusive bargaining representative of its employees in the requested unit 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.<sup>2</sup>

<sup>2</sup> The Field Examiner reported that the Union submitted 15 cards, all of which bore apparently genuine original signatures, dated February to December 1944, and that there are 33 employees in the appropriate unit. During the hearing, the Union presented 3 additional designations, all bearing the date of January 1945.

We find that a question affecting commerce has arisen concerning the representation of employees of the Companies, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

The Union urges that all individuals regularly employed by the Companies in the States of Minnesota, North Dakota, and South Dakota, excluding the AP bureau chief, temporary, part-time, and traffic employees,<sup>3</sup> constitute an appropriate bargaining unit. The Companies contend that each State constitutes a separate unit and that correspondents and all bureau chiefs should be excluded. The parties agree to the inclusion of both AP and PA personnel and to the exclusion of the AP bureau chief and temporary employees.

In the States of Minnesota, South Dakota, and North Dakota, AP maintains a strategic bureau at Minneapolis, and satellite bureaus at St. Paul, Duluth, Bismarck, Fargo, Sioux Falls, and Pierre. All bureaus within these three States are connected by telegraph wires over which news is transmitted; the satellite bureaus report to Minneapolis which, in turn, reports to New York. Expense accounts, personnel recommendations, and all reports are first sent to Minneapolis where they are reviewed by the bureau chief before being forwarded to New York. As a medium of news, PA maintains a relationship to broadcasting companies similar to that existing between AP and news publishing companies. PA obtains its news from AP and transmits it over its own wires. Employees of the two corporations usually occupy the same quarters and use the same facilities. In view of the foregoing, we find that the Companies constitute a single employer within the meaning of Section 2 (2) of the Act, and that the employees of the Companies in the Minneapolis, St. Paul, Duluth, Bismarck, Fargo, Sioux Falls, and Pierre bureaus constitute an appropriate unit.<sup>4</sup>

*Correspondents* The record discloses that there are four correspondents, two of whom have no subordinates and the other two have one each. The correspondents gather, write, edit, and file news and exercise general supervision over the AP's business in satellite bureaus. While they do have responsible duties and some directive authority, we are of the opinion that the correspondents are neither confidential representatives of management nor supervisory employees, and we shall, therefore, include them in the unit.<sup>5</sup>

*PA Bureau Chiefs:* PA bureau chiefs<sup>6</sup> report directly to New York,

<sup>3</sup> With exception of the part-time employees, traffic department employees are currently represented under contract by the Commercial Telegraphers Union

<sup>4</sup> *Matter of The Associated Press*, 61 N L R B 574

<sup>5</sup> See footnote 4, *supra*. See also *Matter of The Associated Press*, 42 N L R B 1334

<sup>6</sup> The individual in charge of PA offices is referred to as "bureau chief," whereas in the AP personnel structure, only the person in charge of the strategic bureau is so classified

whereas AP correspondents report to the AP bureau chief at Minneapolis; otherwise, their duties are substantially the same. Where there is no PA bureau chief but PA subordinates, the latter work under direction of the AP authority. While the duties of the AP correspondents and the PA bureau chiefs are not identical, we are of the opinion that they occupy relatively the same positions with their respective employers and we shall include them in the unit.

We find that all persons regularly employed by the Companies in the States of Minnesota, South Dakota, and North Dakota, including correspondents and PA bureau chiefs, but excluding traffic<sup>7</sup> and temporary employees, the AP bureau chief and all 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 pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction. The record discloses that there are four printer attendants or messengers whose duties are confined to distributing copy through the Companies' office. Three work 15 hours and one 9 hours per week and all are regularly employed. These employees are excluded from the existing contract between the CTU<sup>8</sup> and the Companies because they are ineligible to membership in that organization. However, messengers as such are not ineligible to membership in the Union and since no compelling reason has been advanced to warrant departure from the Board's well established policy of including regularly employed part-time employees, we shall permit them to vote.<sup>9</sup>

#### 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 The Associated Press and

<sup>7</sup> See footnote 3, *supra*

<sup>8</sup> See footnote 3, *supra*

<sup>9</sup> *Matter of Hi-Alloy Castings Company*, 60 N. L. R. B. 488, *Matter of The Post Printing and Publishing Company*, 59 N. L. R. B. 1115; and *Matter of Madison Iron Works, Incorporated*, 61 N. L. R. B. 649

Press Association, Inc., Minneapolis, Minnesota, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) days from the date of this Direction, under the direction and supervision of the Regional Director for the Eighteenth 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 regular part-time employees, employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and 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 American Newspaper Guild, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.