

We find, therefore, that the units sought by the Petitioner in Cases Nos. 20-RC-965 and 20-RC-1012 are not at the present time appropriate, and shall for that reason dismiss the petitions in those cases.³

Order

IT IS HEREBY ORDERED that all the petitions herein be, and they hereby are, dismissed.

³ In view of our disposition herein, it is not necessary to pass upon the remaining issues raised by the parties.

SELLERS MANUFACTURING COMPANY, INCORPORATED *and* TEXTILE WORKERS UNION OF AMERICA, C. I. O., PETITIONER. *Case No. 34-RC-241. February 12, 1951*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Miles J. McCormick, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Houston, Reynolds, and Styles].

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

1. Sellers Manufacturing Company, Incorporated, the Employer named herein, and hereinafter called Sellers,¹ and National Processing Company, hereinafter called National, are jointly and severally engaged in commerce within the meaning of the Act.

2. The labor organization involved claims to represent certain employees of Sellers.²

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

4. The Petitioner seeks a unit of production and maintenance employees at Sellers' cotton yarn plant at Saxapahaw, North Carolina.

¹ The name of Sellers appears herein as amended at the hearing.

² At the hearing, Sellers offered to prove, and moved to dismiss the petition on the ground, that the Congress of Industrial Organizations, with which the Petitioner is affiliated, had not complied with the filing requirements of Section 9 of the Act. The hearing officer rejected the offer of proof and reserved ruling on the motion to dismiss for the Board. For reasons set forth in *J. H. Rutter-Rex Manufacturing Co., Inc.*, 90 NLRB 130, we sustain the hearing officer's rejection of the offer of proof and deny the motion to dismiss. It may be added that the Board's records show that the Congress of Industrial Organizations was in compliance with the filing requirements of the Act at the time the petition herein was filed and is currently in compliance.

Sellers contends that the unit appropriate for production and maintenance employees at its plant should also include production and maintenance employees at National's quilling plant at Burlington, North Carolina.

Sellers, with approximately 350 employees, is engaged in the spinning, mercerizing, quilling, and winding of cotton yarn. About 15 miles distant from Seller's plant, National, with 10 to 12 employees, is engaged in quilling yarn for Sellers.³ National does only such quilling as is beyond Sellers' capacity, and does no work for any other concern. Yarn is carried back and forth between the plants by truck. Sellers does National's office work, and owns virtually all its capital stock. The corporations have the same directors and officers, except vice presidents. Hiring is done at each plant. Employees transfer from one plant to the other during slack periods. Sellers' and National's employees have the same general employee benefits in accordance with a single labor policy applying to both plants, and are under the over-all supervision of Sellers' general superintendent.

Because of the virtually complete integration of the operations and functions of Sellers and National, the common ownership and control, and the common interests and supervision of employees, we find that Sellers and National constitute a single employer within the meaning of Section 2 (2) of the Act, and that their employees constitute a single appropriate unit for the purposes of collective bargaining.⁴

We find that all production and maintenance employees of Sellers and National at their Saxapahaw and Burlington, North Carolina, plants, respectively, excluding the time-study man,⁵ and the receptionist, payroll clerks, and other office clerical employees,⁶ and guards and supervisors, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

5. Because the Petitioner has made an adequate showing of interest among employees in the broader unit herein found appropriate, we shall direct an election among these employees. If, however, the

³ As noted above, Sellers also does quilling.

⁴ *Sidney F. Pearlman and William J. Pearlman, d/b/a South Georgia Pecan Shelling Company, et al.*, 85 NLRB 591, and cases cited therein

⁵ No special factors appear in the instant case which would warrant a deviation from the Board's general policy of excluding time-study employees from production and maintenance units. *Southern Desk Company*, 92 NLRB No. 137, *Ingersoll Milling Machine Company*, 78 NLRB 535.

⁶ The Employer would exclude only confidential office clerical employees. In manufacturing plants, we do not, however, under established Board policy, include office clerical employees in production and maintenance units. Because the receptionist and the payroll clerks, who work in Sellers' office under other supervision, are primarily office clerical employees, we exclude them as such from the production and maintenance unit. *Southern Desk Company, supra*; *Consolidated Electrical Products, Not Incorporated, et al.*, 71 NLRB 360; *Southland Manufacturing Company*, 91 NLRB No. 38.

Petitioner does not wish to participate in an election at this time, it may withdraw its petition filed in this proceeding upon notice to that effect given to the Regional Director in writing within ten (10) days from the date of the Direction of Election.⁷

[Text of Direction of Election omitted from publication in this volume.]

⁷ *Sunshine Broadcasting Company, et al.*, 83 NLRB 1244

SLATER SYSTEM, INC. *and* LOCAL 103, INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, CIO, PETITIONER.
Case No. 4-RC-929. February 12, 1951.

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Harold Summers, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

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-member panel. [Chairman Herzog and Members Houston and Reynolds].

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 labor organizations involved claim to represent certain employees of the Employer.

3. The Intervenor contends that a current collective bargaining agreement between it and the Employer is a bar to this proceeding. The Petitioner asserts that the contract is not a bar because, *inter alia*, a schism in the Intervenor's membership creates a doubt concerning its continued representation of the Employer's employees. The Employer is neutral.

The Petitioner's claim of schism is based upon the following facts. In 1939, the Intervenor was certified as bargaining representative of the production and maintenance employees of Radio Corporation of America, at its Camden, New Jersey, plant.² In 1940, the Intervenor

¹ For the reasons given in paragraph 3, below, the motion of the Intervenor, United Electrical, Radio and Machine Workers of America and its Local 103, herein called UE, to dismiss the petition is denied. The Petitioner's motion to incorporate in this record those parts of the record in Case No. 5-RC-461 (*Radio Corporation of America (Victor Division)*), 89 NLRB 699, which deal with the attempt of RCA Camden members of the UE to disaffiliate from the UE is granted.

² *RCA (Victor Division)*, 19 NLRB 24.