

We find that all production and maintenance employees,¹⁰ employed at the Employer's Whittaker Division plant at Citrus Avenue, Hollywood, California, excluding office and clerical employees, guards, professional employees,¹¹ and supervisors as defined in the Act, constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

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

¹⁰ The Employer's representative introduced considerable evidence, apparently designed to prove that certain groups of employees should be excluded from the production and maintenance unit on the ground that they are composed of skilled craftsmen. He conceded, however, that this contention was probably premature and stated that the Employer would not press for the exclusion of such employees at this time. As no union is seeking to represent these alleged crafts *separately*, we shall not determine their craft status at this time and shall include them in the unit. *Boeing Airplane Company*, 86 NLRB 368; *Western Picture Frame Co.*, 93 NLRB No. 52.

¹¹ The Union stated at the hearing that the engineering department should be excluded from the unit apparently upon the ground that the employees therein constitute a professional group. The Employer indicated that the engineers should be included. The record is not clear concerning the professional status of the engineers. However, if the engineers are, in fact, professional employees, they shall be deemed excluded under this category.

W. S. TYLER COMPANY *and* LOCAL 218, INTERNATIONAL MOLDERS AND FOUNDRY WORKERS UNION OF NORTH AMERICA, A. F. L., PETITIONER.
Case No. 8-RC-1032. February 28, 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 Bernard Ness, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organizations involved claim to represent certain employees of the Employer.
3. The question concerning representation:

The Petitioner, which has represented for 50 years the Employer's core makers, molders, and their apprentices, all of whom work in the foundry, now seeks a unit composed of all production and maintenance employees in the foundry, excluding core makers, molders, and their apprentices, and all other employees.¹ The Employees Council

¹ The Petitioner does not indicate whether or not it wishes eventually to add these employees to the unit which it already represents and which is covered by a contract expiring in July 1952.

of W. S. Tyler Company, hereinafter called the Council, claims that it represents the employees sought by the Petitioner, and that it has covered them in its current contract with the Employer. The claim of the Council and the Employer that this contract, which expires on April 24, 1951, is a bar is opposed by the Petitioner on the ground that the unit description in the contract is not sufficiently specific. There was uncontradicted testimony that for 5 years the Council and the Employer have included in their contracts the phrase "sand blasters and chippers in the foundry and service employees" and that they have construed this phrase to cover the employees sought by the Petitioner. Grievances of these employees were processed by the grievance committee of the Council, on which these employees were represented. Under these circumstances, we agree with the claim that the employees sought by the Petitioner are covered by the Council's current contract with the Employer. However, as this contract is about to expire, we find that it does not constitute a bar to a current determination of representatives.

4. The appropriate unit:

There are 44 employees in the group already represented by the Petitioner, and 32 in the group it now seeks. The latter group is engaged in preparing the molds and cores for use by the molders and core makers, and in keeping the foundry clean. It appears from the record that the employees already represented by the Petitioner constitute a traditional skilled craft group, whereas the group which the Petitioner now seeks constitutes a less skilled group performing helpers' duties in the foundry. Employees in the latter group infrequently help for an hour or so in the shipping department, and occasionally one of that group permanently transfers to other duties in the plant. One general foreman supervises both groups. In view of the close integration of the work of the less skilled production and maintenance workers in the foundry with that of the skilled foundry employees, and the common supervision of both groups, we find that a

unit consisting solely of production and maintenance employees in the foundry would not be appropriate.

On the other hand, the Board has frequently held that a unit covering an entire foundry operation, consisting of skilled and unskilled foundry employees, is appropriate.² As the Petitioner represents a substantial proportion of the employees in the entire foundry, we shall direct an election in that unit.³

Accordingly, we find that all foundry employees at the Employer's Cleveland, Ohio, plant, including core makers, molders, and their apprentices, and production and maintenance employees employed at the foundry, but excluding all other employees of the Employer and all supervisors, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

CHAIRMAN HERZOG, and MEMBER REYNOLDS, dissenting in part:

We are compelled to dissent from the decision of our colleagues in this case because we cannot subscribe to their disposition of the appropriate unit issue.

The Petitioner seeks only a unit of unskilled employees working in the foundry who have been represented by the Council as part of a much larger group for at least 5 years. The majority does not give the Petitioner the unit it requests nor does the majority comply with the apparent desire of the Council that the employees involved be found to be an inseverable part of the broader established unit, but merely directs an election for all foundry employees. We are unable to ascertain the basis for the majority's action in simply removing the unskilled foundry workers from the historical bargaining group in which they have been represented and placing them in a unit with

² *National Farm Machinery Cooperative, Inc. (Ohio Cultivator Division)*, 88 NLRB 125, *W. A. Jones Foundry & Machinery Co.*, 83 NLRB 211; *C. A. Dunham Company*, 74 NLRB 211.

³ *Bronx County News Corporation*, 89 NLRB 1567.

the core makers and molders. This cavalier treatment of the unskilled foundry workers presents the Petitioner with a gratuity which it does not seek and which runs counter to the Board's practice with respect to self-determination elections. It should be borne in mind that neither the Petitioner nor the Council is seeking an election for all foundry employees.⁴

The Board recently decided, in a series of cases commencing with the *Great Lakes* case,⁵ that previously unrepresented groups of employees should be given a self-determination election when no union is seeking an election in the broader unit in which the employees involved are sought to be included.⁶ Nor is the fact that a unit consisting solely of the unskilled foundry workers would not be appropriate a valid reason for failing to direct a "Globe" election here. For in the *Great Lakes* case the Board specifically said that it found nothing in the Act which required as a preliminary to an election in any group, that the Board determine that such group may constitute an appropriate unit. Except for the fact that the group involved herein has a history of prior representation, there is no basis for distinguishing the instant case from the *Great Lakes* line of decisions. However, this fact offers a much more persuasive reason than existed in those decisions for directing a Globe election in the present case. Thus, the Board has held that where two historical bargaining groups with common employment interests are sought to be merged into a single unit by the bargaining representative of one of the groups, the Board will provide for a separate election for the employees sought to be added to ascertain their desires on the question, even though one of the unions involved seeks an election in the over-all unit.⁷ In conclusion, we believe that consistency with the afore-mentioned decisions requires that a Globe election be directed for the unskilled foundry workers.

⁴ Actually, the Petitioner already represents the skilled foundry workers under the terms of a contract which does not expire until 1952.

⁵ *Great Lakes Pipe Line Company*, 92 NLRB 583; *Gulf Oil Corporation*, 92 NLRB No. 119; *Boeing Airplane Company*, 92 NLRB 716.

⁶ It should be noted here that the instant case is clearly distinguishable from the *Bronx County* case cited as authority by the majority in footnote 3, *supra*. For in the *Bronx County* case the employees sought by the Petitioner were previously unrepresented and there was a union which desired an election in the over-all unit.

⁷ *New Jersey Breweries Association*, 92 NLRB 1400; *J. R. Reeves and A. Teichert & Sons, Inc.*, 89 NLRB 54; *Illinois Cities Water Company*, 87 NLRB 100.