

In the Matter of HENRY A. WELKER D/B/A WELKER LETTER COMPANY
and AMALGAMATED LITHOGRAPHERS OF AMERICA, LOCAL NO. 9

Case No. 7-R-2156.—Decided April 25, 1946

Mr. Henry A. Welker, of Detroit, Mich., for the Company.
Mr. Henry Reist, of Detroit, Mich., for the Amalgamated.
Mr. Walter G. Wisdom, of Detroit, Mich., for the Pressmen.
Mr. Frederick D. Vincent, Jr., of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION
STATEMENT OF THE CASE

Upon a petition duly filed by Amalgamated Lithographers of America, Local No. 9, herein called the Amalgamated, alleging that a question affecting commerce had arisen concerning the representation of employees of Henry A. Welker, d/b/a Welker Letter Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Woodrow J. Sandler, Trial Examiner. The hearing was held at Detroit, Michigan, on February 12, 1946. The Company, the Amalgamated, and Detroit Printing Pressmen and Assistants' Union, International Printing Pressmen and Assistant's Union of North America, A. F. of L., herein called the Pressmen, 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 opportunity to file briefs with the Board.¹

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

¹ International Printing Pressmen and Assistants' Union of North America, the parent organization of the Pressmen, on March 18, 1946, filed with the Board a motion to intervene, alleging that its jurisdiction was "imperiled" and, in addition, requested leave to file a brief and an opportunity for oral argument before the Board. The motion to intervene was granted by the Board for the sole purpose of permitting the International to file a brief. The request for oral argument is denied. Simultaneously with the filing of its brief, the International moved that the petition herein be dismissed. For the reasons stated in Section III, below, this motion is denied.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Henry A. Welker, d/b/a Welker Letter Company, is engaged primarily in offset printing at Detroit, Michigan. The Company prepares and mails letters for its customers. In the year 1945, it did approximately \$50,000 worth of business. Over 90 percent of the mail prepared for its principal customers is sent outside the State of Michigan. About 5 percent of the Company's supplies, consisting of ink, paper, and chemicals, is purchased from points located outside the State of Michigan, and, in addition, a substantial portion of the supplies purchased within the State originates elsewhere.

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

II. THE ORGANIZATIONS INVOLVED

Amalgamated Lithographers of America, Local No. 9, is a labor organization, admitting to membership employees of the Company.

Detroit Printing Pressmen and Assistants' Union, International Printing Pressmen and Assistants' Union of North America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Printing Pressmen and Assistants' Union of North America is a labor organization, affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Amalgamated as the exclusive bargaining representative of its employees until the Amalgamated has been certified by the Board in an appropriate unit.

The Pressmen maintains that a contract with the Company is a bar to this proceeding. On June 10, 1941, the Company and the Pressmen entered into a contract covering all the employees of the Company. It provided that it was to be effective until May 1, 1942, and was to continue in operation from year to year thereafter, "unless 60 days written notice of desire for change shall be given by either party prior to the expiration date of this contract." The contract also contained the provision that, after timely notice of desire for change, it was to remain in effect "pending the determination of the condition of a new contract." On February 27, 1943, the Pressmen, by letter, seasonably notified the Company of a desire for certain changes in the agreement. Subsequently, meetings between the Company and

the Pressmen occurred, but there is no evidence that a new agreement was ever reached. Thereafter, without negotiating with the Pressmen, the Company increased wages and changed the hours of work. The evidence is clear that since the 1943 meetings between the Company and the Pressmen, they have not negotiated regarding a new contract and have not bargained with respect to the Company's employees. It is equally clear that the provisions of the 1942 contract have not been continued in effect. On November 1, 1945, the Amalgamated filed its original petition herein, and on January 7, 1946, it filed an amended petition.

Despite the foregoing facts, the International insists in its brief that the contract between the Company and the Pressmen is now in effect and thus precludes a current determination of representatives. Even assuming that after 1943, the contract remained in existence and the Company and the Pressmen dealt with each other, there is undoubtedly no bar to this proceeding. When the Pressmen on February 27, 1943, notified the Company of its desire for changes, the contract was transformed into an agreement of indefinite duration as it was to continue in operation until "the determination of the conditions of a new contract."² And were we to disregard the letter of February 27, 1943, and consider that the contract renewed itself in 1943, 1944, and 1945, the petition in this case was filed by the Amalgamated in timely fashion with respect to the 1946 operative date of the automatic renewal clause,³ and, moreover, the 1946 anniversary date of the contract is less than 1 month from the present time.⁴

A statement of a Board agent, introduced into evidence at the hearing, indicates that Amalgamated represents a substantial number of employees in the unit hereinafter found appropriate.⁵

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 Amalgamated seeks a unit of all employees of the Company, excluding the binders and the superintendent.⁶ The Pressmen concedes the propriety of this unit if the binders are included, urging as

² See *Matter of E. I. du Pont (Grasselli Division)*, 65 N. L. R. B. 390; *Matter of Potomac Edison Company*, 65 N. L. R. B. 912.

³ See *Matter of Mill B., Inc.*, 40 N. L. R. B. 346.

⁴ See *Matter of Clark Bros. Co., Inc.*, 66 N. L. R. B. 849.

⁵ The Field Examiner reported that the Amalgamated submitted 11 cards bearing the names of 9 employees listed on the Company's pay roll of December 24, 1945. The Pressmen submitted no cards, but relied upon its contract as evidence of interest.

There are approximately nine employees in the unit hereinafter found appropriate.

⁶ Specifically, the unit sought by the Amalgamated includes offset press operators, multi-lith operators, cameramen, platemakers, plate regrainer, and lay-out men.

appropriate the same unit it represented under its 1941 contract. The Company assumes a neutral position.

Binders: There are two binders who, in addition to their normal binding work, also operate multigraph equipment. Predicated solely upon the fact that these employees are not part of its craft, the Amalgamated seeks their exclusion. Nevertheless, the binders have been bargained for by the Pressmen together with the other employees desired by the Amalgamated. In these circumstances, we shall include the binders in the unit hereinafter found appropriate.

We find that all employees of the Company, including the binders, but excluding the superintendent, 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 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.

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 Henry A. Welker, d/b/a Welker Letter Company, Detroit, Michigan, 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 Seventh 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 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 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 they desire to be represented by Amalgamated Lithographers of America, Local No. 9, or by Detroit Printing Pressmen and Assistants' Union, International Printing Pressmen and Assistants' Union of North America, A. F. of L., for the purposes of collective bargaining, or by neither.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Election.