

Weyerhaeuser Company and Amalgamated Lithographers of America, Local No. 4, Petitioner. *Case No. 13-RC-7069.*¹ *January 21, 1964*

SECOND SUPPLEMENTAL DECISION AND CERTIFICATION OF REPRESENTATIVE

Pursuant to a Decision and Direction of Elections issued by the Board on December 19, 1961,² elections were conducted on February 8, 1962, at the Employer's Chicago, Illinois, plant, among employees in voting group A, consisting of all those who functioned as lithographic production employees on June 1, 1960, and those in voting group B, consisting of all production and maintenance employees excluding those in voting group A. The tally of ballots in voting group A, which was the unit sought by the Petitioner in Case No. 13-RC-7069, herein called the Lithographers, showed that of the 18 valid votes cast, 9 were for the Lithographers, 0 were for the Petitioner in Case No. 13-RC-7168 (the Printing Pressmen), 3 were against the participating labor organizations, and 6 ballots were challenged. On February 15, 1962, the Employer filed timely objections to the election held in voting group A. On March 21, 1962, the Regional Director issued his report, in which he recommended that a hearing on objection No. 1 be held, that objections Nos. 2 through 6 be overruled, that the challenges to 2 ballots be sustained, and that it was unnecessary to rule on the remaining 4 challenges. On June 19, 1962, the Board issued a Supplemental Decision, in which it adopted the Regional Director's report and recommendations. Thereafter, a hearing was held before Hearing Officer Gerard C. Smetana, who, on December 10, 1962, issued a report sustaining objection No. 1, and recommending that a new election be held. On December 21, 1962, the Lithographers filed exceptions to the Hearing Officer's report on objections.

As a result of the Board's failure to obtain court enforcement of its decision in Case No. 13-CA-3750 that the Employer committed unfair labor practices by changing its lithographic and letterpress operations,³ the Board on March 8, 1963, issued a notice to show cause as to whether or not the petition in Case No. 13-RC-7069 should be dismissed in view of the court's decision in the above-mentioned un-

¹ The decision herein is limited to Case No. 13-RC-7069, and for that purpose the said case is hereby severed from Cases Nos. 13-RC-7168 and 13-RC-9441. A separate decision in the latter cases will issue simultaneously with the instant decision as 146 NLRB 6.

² *Weyerhaeuser Company*, 134 NLRB 1381.

³ *Weyerhaeuser Company*, 134 NLRB 1371, enforcement denied 311 F. 2d 19 (C.A. 7).

fair labor practice proceeding. Pursuant to the responses to the said notice, the Board on April 23, 1963, ordered that a hearing be held to determine whether there presently exists a lithographic production unit as described in voting group A mentioned above.

On May 23 and June 20, 1963, a hearing was held with respect to Cases Nos. 13-RC-7069, 13-RC-7168, and 13-RC-9441, before Hearing Officer James Miller.⁴

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 McCulloch and Members Fanning and Brown].

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

1. The appropriate unit

The first issue to be resolved is whether the unit of lithographic production employees, which the Board on December 19, 1961, found might be appropriate, has been eliminated by changes in operations made by the Employer since the original hearing in the instant proceeding.

In briefs filed in connection with the 1963 hearing, the Employer and the Petitioner in Cases Nos. 13-RC-7168 and 13-RC-9441, herein called the Printing Pressmen, contend, in effect, that as the interchange of employees between the offset and the letterpress sections of the Employer's printing department at its Chicago plant meets the test of *Pacific Press, Inc.*, 66 NLRB 458, and of other related cases, there is no present lithographic production unit. The Lithographers takes the position that the purported interchange is not equivalent in kind or degree to that involved in the *Pacific Press* case and related cases, and that there continues to be an appropriate lithographic production unit. We find merit in the Lithographer's position.

The Employer's printing operations are described in the Board's original representation decision. Basically, the present operations appear to be the same except for the addition of the interchange program begun in June 1960.⁵ Under it, employees were to be trained to operate both lithographic and letterpress equipment so that they could be used interchangeably on both types of presses.

Pursuant to the program, four to eight employees in the printing department, who retained their "home" section designation of "off-

⁴ On June 25, 1963, Case No. 13-RC-9441 was consolidated with Cases Nos. 13-RC-7069 and 13-RC-7168.

⁵ Physical changes include the substitution of the new No. 8A letterpress for the old No. 8 letterpress. Hours also have been changed. Before, offset employees worked from 7 a.m. to 3:30 p.m., and letterpress employees from 8 a.m. to 4:30 p.m. Now, all work from 8 a.m. to 4:30 p.m. In addition, at the time of the Board's original Decision, offset feeders, helpers, and floormen were interchanged during times of slack work to prevent layoff and to provide help where the workload was heavy.

set" (herein used interchangeably with "lithographic") or "letterpress," were given assignments called "semipermanent transfers" to the opposite section at first for 4-week (occasionally 5-week) periods. Thus, certain letterpress employees were given assignments in the offset process, and certain offset employees were given assignments in the letterpress operation. In June 1962, the length of the assignment was extended to 8 weeks. The choice of persons to be moved to the opposite type of work, the extent of which is noted below, was based on the personnel requirements of the respective offset and letterpress equipment during any given period and, especially in the initial stages, was designed to give the employees training and experience on the machines they were being assigned to.

The record evidence, which includes the hours worked by each employee in each section during 1962 and the first 4 months of 1963, shows that out of 37 letterpress employees, 10 (of whom 8 are pressmen and 2 are feeders) do not participate at all in the interchange program. According to the Employer, this is due in 8 cases to medical reasons, in one case to temperament, and in another case to "domestic situation"; 24 of the 37 letterpress employees (the 24 including 7 pressmen, a pressman trainee, 5 feeders, and 11 floormen) do participate in the interchange program to varying degrees. Of 11 lithographic employees, 4 of the 5 pressmen, all of whom are the most skilled individuals in the printing department, interchange little or not at all. The fifth lithographic pressman, interchanges substantially, while the remaining lithographic employees, composed of two feeders, three helpers, and one floorman, interchange varying amounts of time.⁶

The Employer relies on seniority and ability in filling vacancies caused by discharge or quitting. The Employer stated that it had no formal progression program and that all employees in the printing department are under the same seniority plan. The record evidence shows that, except in the case of Cleveland Thomas, who was promoted from two-color offset helper to a letterpress feeder, all promotions have been within an individual's original section classification. Thus, for example, Colby was promoted from floorman, letterpress, to B feeder, letterpress, to A feeder, letterpress; Cross, from five-color helper, offset, to five-color feeder, offset; Dunn, from two-color pressman, offset, to five-color pressman, offset; Dziwak, from apprentice pressman, letterpress, to B pressman, letterpress; Lambert, from floorman, letterpress, to B feeder, letterpress, to A feeder, letterpress; Robert Mucha, from apprentice pressman, letterpress, to A pressman, letterpress; and Rapinchuk, from apprentice two-color pressman, offset, to five-color pressman, offset.

⁶The Employer expects to interchange in the future two new transfers in offset and two new hires in letterpress.

The Employer's new interchange program, upon analysis, appears to result in a period of temporary or "semipermanent" assignment with no break in the basic identification of the employees with their "home" section. During the relatively short time an employee is temporarily assigned outside of his regular section, he works exclusively in the assigned department and is not engaged in any indeterminate back and forth movement. With respect to the lithographic employees, we note, as was generally true at the time of the Board's original Decision, that the highly skilled lithographic pressmen, except one, work virtually exclusively on the five-color offset press, with interchange limited to the feeders, helpers, and floormen.

While it is undeniably true that the Employer's interchange program reflects an attempt to erase the respective skills and duties of lithographic and letterpress employees, we do not believe, on the basis of the entire record, that such a result in fact has been accomplished. On the contrary, we are satisfied and find that there still exists a separate lithographic production operation, and that the employees engaged therein may constitute a separate appropriate unit. Among the circumstances which support this view are: (1) the Employer's administrative organization continues to recognize and operate two separate sections (lithographic and letterpress) in its printing department, with each having separate supervision and employees clearly identified with their respective sections; (2) a substantial number of employees of both sections do not interchange—indeed, the five-color offset press, which is the most important lithographic operation, is manned for the most part by four highly skilled lithographic pressmen, who engage in virtually no interchange; and (3) transfers to the offset section are limited to the less skilled functions and are for a fixed temporary period of relatively short duration.

We have considered the cases relied upon by the Employer and the Printing Pressmen in support of their common position, and we are of the opinion that they are distinguishable on their facts.⁷ Since we recently denied a lithographic production unit in another plant of the Employer,⁸ we deem it appropriate to point out certain basic factual differences. Thus, in the last case, cited in footnote 8, and unlike the instant case, there was a special combination of factors, including the use of both the offset and letterpress operations on the same product, the use of the letterset process employing the letterpress printing technique on an offset press, a single promotional sequence from a classification in letterpress to a comparable or higher classification in offset, interchange which was held under the circumstances to be substantial, and common immediate supervision of the

⁷ Including *Pacific Press, Inc.*, 66 NLRB 458; *Pacific Coast Association of Pulp and Paper Manufacturers*, 130 NLRB 1031.

⁸ *Weyerhaeuser Company*, 142 NLRB 1169.

entire printing department, all of which resulted in the merger of the letterpress and offset operations into a single printing department, in effect, without craft distinctions between the two printing functions.

Accordingly, on the basis of the record as a whole, we reaffirm our prior determination that the lithographic production employees (voting group A) may constitute an appropriate bargaining unit.

2. The objection to the election

As indicated above, after a hearing on Employer's objection No. 1, the Hearing Officer found that the Lithographers, within the meaning of *Lobue Bros.*,⁹ interfered with the employees' freedom of choice in the election by an offer to reduce initiation fees, and he recommended that the election be set aside. We do not agree.

The record evidence shows that the union representatives at the February 4, 1962, union meeting, 4 days prior to the election, told employees, in effect, that in the past the Union had reduced the initiation fee, subject to the approval of the executive board, if all employees came in as a group, and that if all the Employer's employees came in as a group the initiation fee would be \$25 (as opposed to \$75). In addition, a similar statement was made to employee Robert Mucha at his home on January 18, 1962, and similar statements were made at the two union meetings in 1960. On the facts, the Hearing Officer concluded that the reduction of the initiation fee would occur in the event the Union won the election, and this impaired the employees' freedom of choice in the election.

In the recent *Gilmore* case,¹⁰ in which the Board distinguished the *Lobue* case, the Board held that a union's offer to waive the initiation fee in the event the union won the election, where it was clear that the waiver would apply to all employees as a group, regardless of how they voted, and was not contingent on how individual employees voted, did not impair the employees' freedom of choice. In accordance with the *Gilmore* case, we find that the alleged objectionable conduct in the instant case does not constitute interference with the election.

As the tally of ballots shows that the Lithographers received a majority of the votes cast in voting group A, including the unresolved challenged ballots, we find that employees in said voting group constitute a unit appropriate for the purposes of collective bargaining.¹¹ Accordingly, as all objections to the election have been overruled, we shall certify the Lithographers as the exclusive bargaining representative of the Employer's lithographic production employees found herein to constitute an appropriate unit.

⁹ 109 NLRB 1182.

¹⁰ *Gilmore Industries, Inc.*, 140 NLRB 100, reaffirmed at 142 NLRB 781.

¹¹ In the original Decision, the lithographic production employees, designated as voting group A, were given a self-determination election as to whether they desired to constitute a separate unit or be included in the overall unit.

[The Board certified Amalgamated Lithographers of America, Local No. 4, as the designated collective-bargaining representative of the employees in the unit found appropriate herein.]

Weyerhaeuser Company and Printing Specialties and Paper Products Union No. 415, affiliated with International Printing Pressmen and Assistants' Union of North America, AFL-CIO,¹ Petitioner

Weyerhaeuser Company and Printing Specialties and Paper Products Union No. 415, affiliated with International Printing Pressmen and Assistants' Union of North America, AFL-CIO, Petitioner. *Cases Nos. 13-RC-7168 and 13-RC-9441. January 21, 1964*

SECOND SUPPLEMENTAL DECISION, CERTIFICATION OF RESULTS, AND DIRECTION OF ELECTION

On this date the Board has issued a Second Supplemental Decision and Certification of Representative in Case No. 13-RC-7069, as 146 NLRB 1, which, for the purposes of decision, was severed from Cases Nos. 13-RC-7168 and 13-RC-9441. The instant decision relates to Cases Nos. 13-RC-7168 and 13-RC-9441.²

Case No. 13-RC-7168

On May 6, 1963, the Regional Director for the Thirteenth Region issued a tally of ballots for voting group B in case No. 13-RC-7168. Of 178 eligible voters, 165 cast valid ballots, of which 65 votes were cast for the Printing Pressmen, 84 were cast against the participating labor organization, and 16 ballots were challenged. The challenged ballots were not sufficient in number to affect the results of the election. No objections have been filed to the conduct of the election in voting group B. Accordingly, as the tally shows that a majority of the valid votes has not been cast for the Printing Pressmen, we shall certify the results of the election.

[The Board certified that a majority of the valid votes was not cast for Printing Specialties and Paper Products Union No. 415, affiliated with International Printing Pressmen and Assistants' Union of North

¹ Herein called Printing Pressmen.

² Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, the Board has delegated its powers in connection with these cases to a three-member panel [Chairman McCulloch and Members Fanning and Brown].