

In the Matter of R. C. A. COMMUNICATIONS, INC. and AMERICAN  
RADIO TELEGRAPHISTS' ASSOCIATION

*Cases Nos. R-152 and R-153.—Decided June 30, 1937*

*Communications Industry—Election Ordered*: controversy concerning representation of employees; refusal by employer to recognize union as exclusive representative; substantial doubt as to majority status; request by substantial number in appropriate unit—*Unit Appropriate for Collective Bargaining*: community of interest; geographical differences; history of collective bargaining relations in industry and with employer; eligibility for membership in only organization among employees; occupational differences; organization of business; wage differentials—*Certification of Representatives*.

*Mr. Lester M. Levin* for the Board.

*Mr. Frank W. Wozencraft, Mr. M. Davis, and Mr. Willson Hurt,*  
of New York City, for the Company.

*Mr. Hyman A. Schulson,* of counsel to the Board.

DECISION

STATEMENT OF CASE

On April 12, 1937, American Radio Telegraphists' Association, herein called the A. R. T. A., filed two petitions with the Regional Director of the National Labor Relations Board for the Second Region (New York, New York), alleging that questions affecting commerce had arisen concerning the representation of employees of the R. C. A. Communications, Inc., herein called the Company, whose principal office is located at 66 Broad Street, New York, New York. One petition alleged that the employees classified as the "live traffic" department, including receiving engineers, shift engineers, and all other employees who are directly engaged in the operation of radio equipment which receives or transmits radio signals at the Riverhead, Long Island station of the Company constitute an appropriate unit, and the other petition alleged that the employees classified as the "live traffic" department, including radio engineers, office electricians, live traffic clerks, and all other employees who are directly engaged in the reception and transmission of "live traffic" at the principal office of the Company constitute an appropriate unit. Both petitions requested the National Labor Relations Board to conduct an investigation pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 1, 1937, the Board,

acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director for the Second Region to conduct an investigation and to provide for a hearing in connection therewith. On May 18, 1937, the Regional Director issued a notice of hearing to be held at New York City on May 27, 1937, copies of which were duly served on the A. R. T. A. and the Company.

Pursuant to notice, a hearing was held in New York City on May 27, 1937, before James C. Batten, the Trial Examiner duly designated by the Board. All the parties served with notice were represented and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded to all parties. The Board has reviewed the rulings of the Trial Examiner at the hearing and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

The Company filed an answer to each petition admitting that it is engaged in interstate commerce and that the question concerning representation is a question affecting commerce within the meaning of the Act. The answer denied that the employees in the "live traffic" department at its New York and Riverhead stations separately constitute units appropriate for the purposes of collective bargaining, but alleged that all of the employees of the Company in the United States constitute such a unit. The answer further alleged that the Company would not bargain with the A. R. T. A. unless an election under the Board's direction determined that a majority of all the employees of the Company in the United States designated the A. R. T. A. as their representative for the purposes of collective bargaining.

At the beginning of the hearing counsel for the parties stipulated that the cases arising on both petitions should be consolidated, and that the record at the hearing should be considered by the Board as the record in both cases. The parties further stipulated that the question of the appropriate unit was the only issue in dispute. Thereafter the Company filed a brief with the Board to which we have given due consideration.

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

#### FINDINGS OF FACT

##### I. THE COMPANY AND ITS BUSINESS

The R. C. A. Communications, Inc., is a Delaware corporation engaged in the receipt and transmission by radio and telegraph of national and international communications. The company is a wholly-owned subsidiary of Radio Corporation of America. Its principal office is in the City of New York and it has other offices in

Boston, Massachusetts; Philadelphia, Pennsylvania; Baltimore, Maryland; Washington, D. C.; Detroit, Michigan; Chicago, Illinois; Seattle, Washington; New Orleans, Louisiana; San Francisco and Los Angeles, California; and Honolulu, Territory of Hawaii. It has receiving stations in Riverhead, Long Island; Koko Head, Hawaii; and Point Reyes, California, and transmitting stations in Rocky Point, New York; Tuckerton and New Brunswick, New Jersey; Bolinas, California; Kakuku, Hawaii; Leroy, Indiana; Marion, Massachusetts; Norco, Louisiana; and Tacoma, Washington. These stations are definitely correlated with certain offices of the Company, as, for instance, New York City uses as a receiving station Riverhead, Long Island, and as transmitting stations Rocky Point, New York, and Tuckerton and New Brunswick, New Jersey. In the course and conduct of its business at these offices, the Company receives and transmits radio and telegraph messages from and to states and territories of the United States and foreign countries. Its business is thus that of the continuous transmission of intelligence among the states of the United States, its territories and foreign countries by means of a highly developed and integrated communications system. The radio and telegraph operators and other employees of the "live traffic" department of the Company are engaged in the receipt and transmission of messages.

The vice president and general manager in charge of operations of the Company is William A. Winterbottom, whose office, and that of the president, David Sarnoff, are in New York City. The total number of employees of the Company throughout its entire system, including the "live traffic" department, messengers, executives, junior executives, research engineers, etc., is approximately 1,363. In New York, the Company has 175 employees in the head and administrative office; 455 in the "live traffic" department; 174 messengers; 81 employees in the Riverhead, Long Island, receiving station; 71 employees in the Rocky Point, New York, transmitting station; and 12 employees in the Tuckerton, New Jersey, transmitting station.

We find that R. C. A. Communications, Inc. is engaged in traffic, commerce, and communication among the several States and between the United States and foreign countries, and that its employees in the "live traffic" department are directly engaged in such traffic, commerce, and communication.

## II. THE UNION

The American Radio Telegraphists' Association is a nation-wide labor organization which numbers radio communications workers among its members. It is affiliated with the Committee for Industrial Organization. According to the constitution of the A. R. T. A.,

a radio communication worker is one who is directly engaged in radio communications work, such as radio operators, radio transmitters and receiving engineers, clerks who handle "live traffic", and others who are associated with the handling of radio messages in point-to-point radio stations. The A. R. T. A. has three divisions—marine, broadcast and point-to-point airways. The employees of the company enroll in the point-to-point airways division.

The A. R. T. A. has established 45 locals in the United States. Local No. 10, New York City, includes radio communications workers of the Company as well as such workers in all other communications companies operating in New York City such as, Globe Wireless Company, Mackay Radio and Telegraph Company, and Commercial Cables. The membership in Local No. 10 has been limited to the so-called "live traffic" department, which is the production department, or, as the Company calls it, the traffic department. The "live traffic" department includes those workers who handle messages from the time they are received by the Company until delivered, and those workers who repair and maintain the equipment; but does not include messengers. The "live traffic" employees as designated by the A. R. T. A. are as follows: teletype and radio operators; mechanics, R. Q. clerks, counter clerks, delivery clerks, routing clerks, and telephone operators.

Local No. 11 of the A. R. T. A. is located at Riverhead, Long Island, and includes all radio communications workers such as radio engineers and repair and maintenance workers in the "live traffic" department.

### III. HISTORY OF THE ORGANIZATION OF THE COMPANY'S EMPLOYEES

In 1925 the Commercial Telegraphers Union of America, affiliated with the American Federation of Labor, made an abortive attempt to organize the "live traffic" employees of the Company. In December, 1933 the Broad Street radio operators of the Company formed a small association. In 1934, H. H. Edwards, an operating electrician of the Company and a member of the association, represented the association at the National Industrial Recovery Act hearings on the radio communications industry in Washington. In March, 1934, this small association became known as the Association of R. C. A. Communications Employees. The Association adopted a constitution and by-laws<sup>1</sup> and attempted to organize on a national basis in four geographical districts—the eastern district with headquarters in New York; the western district with headquarters in San Francisco; the midwest district with headquarters in Chicago; and the

<sup>1</sup> Board's Exhibit No. 9.

southern district with headquarters in New Orleans. The Association was first limited to the "live traffic" employees, but later a further division was made of operating and technical employees and clerical employees. The local chapter in New York and the national organization of the Association attempted to bargain with the Company on one or two occasions, but accomplished very little.

In 1935, the A. R. T. A. was organizing all radio communications workers. In response to the A. R. T. A.'s membership campaign, the members of the Association by an overwhelming vote decided to join the A. R. T. A. in June, 1935.

#### IV. THE QUESTION OF REPRESENTATION AND ITS EFFECT ON COMMERCE

In its answer the Company admits that a question concerning the representation of its employees has arisen and that such a question is a question affecting commerce within the meaning of the Act.

At the hearing the A. R. T. A. claimed that it had a membership of over 200 of the Company's 450 "live traffic" employees in the New York plant, and that a majority of the "live traffic" employees at the Riverhead, Long Island plant are members of the A. R. T. A. Although the A. R. T. A. claims to represent a majority of the "live traffic" employees in the New York plant, 11 branch offices in New York, and in the Riverhead station, it does not claim to represent a majority of the "live traffic" employees in the whole communications system of the Company or of all the employees of the Company. The record does not indicate the actual membership of the A. R. T. A. among the "live traffic" employees of the Company. Both the A. R. T. A. and the Company agree that an election by secret ballot is necessary to resolve this controversy, but are not in agreement as to what constitutes the appropriate unit for purposes of collective bargaining.

The Company has refused to bargain with the A. R. T. A. and to recognize it as the representative of the "live traffic" employees in its New York plant, 11 branch offices in New York, and Riverhead, Long Island, station for purposes of collective bargaining because "it has no information which would justify it in reaching the conclusion that a majority of its employees are members of, or wish to be represented in collective bargaining, by the Union".

We, therefore, find that a question has arisen concerning the representation of the "live traffic" employees of the Company, and that such question tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce. We further find that this question can only be resolved by means of an election by secret ballot.

## V. THE APPROPRIATE UNIT

The Company contended at the hearing and in its brief that since it is a communications company and necessarily a unified system, all of its employees in the whole system, with the exception of persons in supervisory capacities, constitute a unit appropriate for purposes of collective bargaining; or if the employees in any department or group of departments are to be separately represented, then the employees in that department or departments throughout the entire system should be found to be the appropriate unit. In support of its contention, the Company argued: (1) If the proper unit were a group in any particular plant of a unified system, or were even a whole plant in a unified system, the Board would be confronted with thousands of election cases; (2) The Board has treated a unified system as an indivisible entity in the New England Transportation Co. and International Association of Machinists case;<sup>2</sup> (3) Division of the employees into small artificial units would cause an unnecessary duplication of the work of the executives of the A. R. T. A. as well as of the executives of the Company and would necessarily result in jealousies and discord among the employees to the detriment of the employees themselves and the Company.

On the other hand, the A. R. T. A. contended that all the employees, excepting messengers and those engaged in a clerical or supervisory capacity, in the "live traffic" department of the 66 Broad Street, New York office of the Company, its 11 branch offices in New York City, and the receiving station at Riverhead, Long Island constitute a unit appropriate for purposes of collective bargaining.

The determination of the appropriate unit is governed by an appraisal and consideration of the totality of the facts, circumstances and setting of the particular case. The testimony discloses that the Company considered and treated its "live traffic" employees as a homogeneous group and as a collective bargaining unit during the existence of the Association of the R. C. A. Communications Employees. In the radio communications industry "live traffic" employees have been regarded as a unit by two of the Company's competitors, the Mackay Radio and Telegraph Company and the Globe Wireless Company.

The "live traffic" employees are engaged in work of a highly skilled nature and have qualifications and duties different from those of the office employees. Most of them have received a technical training of a distinctive type which distinguishes them from the other workers of the Company. They are allied by common problems of skill and community of interest. They receive substantially higher wages than

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<sup>2</sup> I N. L. R. B. 130.

messengers, clerical, and other employees. They are hired by a separate personnel director. They work in three eight hour daily shifts and rotate each week on different shifts. Other employees work regular office hours. They work in a separate department called the traffic department and are segregated on the first four floors of the Company's ten floor building at 66 Broad Street.

In determining the appropriate unit we also take into consideration the fact that the Company's employees in the "live traffic" department have traditionally organized along the lines proposed by the A. R. T. A. The Association of R. C. A. Communications Employees, the first organization of the employees of R. C. A., had four geographical districts described in Section III and two distinct divisions in each district, the "live traffic" employees and the clerical employees. We also take into consideration the fact that the Company's employees in the "live traffic" department in the metropolitan area have shown a desire for self organization by becoming members of Locals No. 10 and No. 11 of the A. R. T. A. No other labor organization is trying to organize these employees.

In the absence of proof of a present desire on the part of the "live traffic" employees of the Company employed in the metropolitan area to be bracketed in a single unit with all other employees of the Company in the whole communications system, we are of the opinion that the policy of the Act would be best served in this case by not including the employees in the other departments and in the other geographical districts of the Company in the appropriate unit. The record does show that the ultimate goal of the A. R. T. A. is to organize all the employees of the Company throughout its whole communications system. The "live traffic" employees of the Company in the metropolitan area should not be denied the benefits of the Act until all the employees of the Company throughout the country are organized.

Upon the basis of the above facts we find that a unit composed of all the "live traffic" employees employed by the Company in the New York metropolitan area, which includes the principal office at 66 Broad Street and 11 branch offices in New York City, the receiving station at Riverhead, Long Island, and the transmitting stations at New Brunswick and Tuckerton, New Jersey, and Rocky Point, New York, excepting messengers and those engaged in a clerical or supervisory capacity, would insure to them the full benefit of their right to self-organization and collective bargaining, and otherwise effectuate the policies of the Act, and constitutes a unit appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

## CONCLUSIONS OF LAW

Upon the basis of the above findings of fact, the Board makes the following conclusions of law:

1. All the "live traffic" employees employed by the Company in the New York metropolitan area, including the principal office at 66 Broad Street and 11 branches in New York City, the receiving station at Riverhead, Long Island, and the transmitting stations at New Brunswick and Tuckerton, New Jersey, and Rocky Point, New York, excepting messengers and those engaged in a clerical and supervisory capacity, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

2. A question affecting commerce has arisen concerning the representation of the employees in the aforesaid unit, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

## 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, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with the R. C. A. Communications, Inc., an election by secret ballot shall be conducted within 15 days from the date of this Direction, under the direction and supervision of the Regional Director for the Second Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9 of said Rules and Regulations—Series 1, as amended, among all the "live traffic" employees employed on April 12, 1937, by the R. C. A. Communications, Inc., in the New York metropolitan district, including the principal office at 66 Broad Street and 11 branch offices in New York City, the receiving station at Riverhead, Long Island, and the transmitting stations at New Brunswick and Tuckerton, New Jersey, and Rocky Point, New York, excepting messengers, those engaged in a clerical or supervisory capacity, and those who quit or have been discharged for cause since April 12, 1937, to determine whether they desire to

be represented by the American Radio Telegraphists' Association for the purposes of collective bargaining.

[SAME TITLE]

### AMENDED DECISION AND DIRECTION OF ELECTION

*July 12, 1937*

On June 30, 1937 the Board directed that an election be conducted within 15 days from said date among all the "live traffic" employees employed on April 12, 1937 by the R. C. A. Communications, Inc. in the New York metropolitan district, including the principal office at 66 Broad Street and 11 branch offices in New York City, the receiving station at Riverhead, Long Island, and the transmitting stations at New Brunswick and Tuckerton, New Jersey, and Rocky Point, New York, excepting messengers, those engaged in a clerical and supervisory capacity, and those who quit or have been discharged for cause since April 12, 1937, to determine whether they desire to be represented by the American Radio Telegraphists' Association, for the purposes of collective bargaining. Thereafter, the Board was advised that the parties were in doubt as to whether clerical employees in the "live traffic" department are included in the definition of "live traffic" employees. To resolve the doubt thereupon the A. R. T. A. and the Company stipulated in writing on July 9, 1937, that clerical employees employed in the "live traffic" department should be included in the definition of "live traffic" employees.

In view of this stipulation the Board hereby amends its Decision in the above entitled case to make the finding of fact as to the appropriate unit read as follows:

Upon the basis of the above facts we find that a unit composed of all the "live traffic" employees, including clerical employees in the "live traffic" department, employed by the Company in the New York metropolitan area, which includes the principal office at 66 Broad Street and 11 branch offices in New York City, the receiving station at Riverhead, Long Island, and the transmitting stations at New Brunswick and Tuckerton, New Jersey, and Rocky Point, New York, excepting messengers and supervisory employees, would insure to them the full benefit of their right to self-organization and collective bargaining, and otherwise effectuate the policies of the

Act, and constitutes a unit appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

#### CONCLUSION OF LAW

On the basis of the foregoing finding of fact, the Board hereby amends the first conclusion of law in its original Decision to read as follows:

1. All the "live traffic" employees, including clerical employees in the "live traffic" department, employed by the Company in the New York metropolitan area, which includes the principal office at 66 Broad Street and 11 branches in New York City, the receiving station at Riverhead, Long Island, and the transmitting stations at New Brunswick and Tuckerton, New Jersey, and Rocky Point, New York, excepting messengers and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

#### AMENDED 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, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, the Direction of Election issued on June 30, 1937, is amended to read as follows:

**DIRECTED** that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with the R. C. A. Communications, Inc., an election by secret ballot shall be conducted within 25 days from the date of the original Direction, under the direction and supervision of the Regional Director for the Second Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9 of said Rules and Regulations—Series 1, as amended, among all the "live traffic" employees, including clerical employees in the "live traffic" department, employed on April 12, 1937, by the R. C. A. Communications, Inc., in the New York metropolitan district, including the principal office at 66 Broad Street and 11 branch offices in New York City, the receiving station at Riverhead, Long Island, and the transmitting stations at New Brunswick and Tuckerton, New Jersey, and Rocky Point, New York, excepting messengers and supervisory employees, and those who quit or have been discharged for causes since April 12, 1937, to determine whether they desire to be represented by the American

Radio Telegraphists' Association for the purposes of collective bargaining.

[SAME TITLE]

AMENDMENT OF DECISION  
AND  
CERTIFICATION OF REPRESENTATIVES

*July 30, 1937*

On April 12, 1937, American Radio Telegraphists' Association, herein called the A. R. T. A., filed two petitions with the Regional Director of the National Labor Relations Board for the Second Region (New York, New York), alleging that questions affecting commerce had arisen concerning the representation of employees of the R. C. A. Communications, Inc., herein called the Company, whose principal office is located at 66 Broad Street, New York, New York. One petition alleged that the employees classified as the "live traffic" department, including receiving engineers, shift engineers, and all other employees who are directly engaged in the operation of radio equipment which receives or transmits radio signals at the Riverhead, Long Island, station of the Company constitute an appropriate unit, and the other petition alleged that the employees classified as the "live traffic" department, including radio engineers, office electricians, live traffic clerks, and all other employees who are directly engaged in the reception and transmission of "live traffic" at the principal office of the Company constitute an appropriate unit. Both petitions requested the National Labor Relations Board to conduct an investigation pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 1, 1937, the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director for the Second Region to conduct an investigation and to provide for a hearing in connection therewith. On May 18, 1937, the Regional Director issued a notice of hearing to be held at New York City on May 27, 1937, copies of which were duly served on the A. R. T. A. and the Company.

Pursuant to notice, a hearing was held in New York City on May 27, 1937, before James C. Batten, the Trial Examiner duly designated by the Board. All the parties served with notice were represented and participated in the hearing.

On June 30, 1937, the Board issued a Decision in which it found that a question affecting commerce had arisen concerning the representation of all the "live traffic" employees employed by the Company

in the New York metropolitan area, including the principal office at 66 Broad Street and 11 branches in New York City, the receiving station at Riverhead, Long Island, and the transmitting stations at New Brunswick and Tuckerton, New Jersey, and Rocky Point, New York, excepting messengers and those engaged in a clerical and supervisory capacity, and that such employees constituted a unit appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment. In its Decision the Board directed that an election be held among such employees to determine whether they desired to be represented by the A. R. T. A. for the purposes of collective bargaining.

On July 10, 1937, the Board was advised that the parties were in doubt as to whether clerical employees in the "live traffic" department were included in the definition of "live traffic" employees, and that to resolve the doubt, the A. R. T. A. and the Company had stipulated in writing on July 9, 1937, that clerical employees employed in the "live traffic" department should be included in the definition of "live traffic" employees. The Board, in accordance with the stipulation, issued an Amended Decision and Direction of Election including clerical employees employed in the "live traffic" department in the appropriate unit.

Pursuant to the Board's Amended Decision and Direction of Election, an election by secret ballot was conducted on July 10, 1937, by the Regional Director for the Second Region among the employees of the Company constituting the bargaining unit found appropriate by the Board. On July 16, 1937, the Regional Director issued and duly served upon the parties to the proceeding an Intermediate Report on the ballot. No exceptions to the Intermediate Report have been filed by any of the parties.

As to the results of the secret ballot the Regional Director reported:

Total number of employees eligible to vote.....	496
Total number of ballots cast.....	461
Total number of ballots for the A. R. T. A.....	335
Total number of ballots against the A. R. T. A.....	121
Total number of blank ballots.....	3
Total number of void ballots.....	0
Total number of challenged ballots.....	2

American Radio Telegraphists' Association, having been selected by a majority of the "live traffic" employees, including clerical employees in the "live traffic" department, employed by the Company in the New York metropolitan area, which includes the principal office at 66 Broad Street and 11 branches in New York City, the receiving station at Riverhead, Long Island, and the transmitting

stations at New Brunswick and Tuckerton, New Jersey, and Rocky Point, New York, excepting messengers and supervisory employees, as their representative for the purposes of collective bargaining, is, by virtue of Section 9 (a) of the Act, the exclusive representative for the purposes of collective bargaining of all such employees, and we will so certify it.

### CERTIFICATION OF REPRESENTATIVES

NOW, THEREFORE, by virtue 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 8 of the National Labor Relations Board Rules and Regulations—Series 1, as amended;

IT IS HEREBY CERTIFIED that American Radio Telegraphists' Association has been selected by the majority of the "live traffic" employees, including clerical employees in the "live traffic" department, employed by the Company in the New York metropolitan area, which includes the principal office at 66 Broad Street and 11 branches in New York City, the receiving station at Riverhead, Long Island, and the transmitting stations at New Brunswick and Tuckerton, New Jersey, and Rocky Point, New York, excepting messengers and supervisory employees, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the National Labor Relations Act, American Radio Telegraphists' Association is the exclusive representative of all such employees of the R. C. A. Communications, Inc., for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

### AMENDMENT OF DECISION

On July 10, 1937, the Company filed a motion to amend the Board's decision reciting that the following statements in the decision were erroneous:

"The answer further alleged that the Company would not bargain with the A. R. T. A. unless an election under the Board's direction determined that a majority of all the employees of the Company in the United States designated the A. R. T. A. as their representative for the purposes of collective bargaining.

"The Company has refused to bargain with the A. R. T. A. and to recognize it as the representative of the 'live traffic' employees in its New York plant, 11 branch offices in New York, and Riverhead, Long Island, station for purposes of collective bargaining because 'it has no information which would justify

it in reaching the conclusion that a majority of its employees are members of, or wish to be represented in collective bargaining by the Union.’”

The Company contends that the language of the Decision quoted above is detrimental to the Company and puts it in the false position of having refused to negotiate or bargain with the A. R. T. A.

The record discloses that the Company at all times has been ready and willing to bargain with the A. R. T. A. as the representative of its members, but has refused to bargain with the A. R. T. A. as the exclusive representative of all its “live traffic” employees in the metropolitan area. Consequently, the Board hereby amends its Decision in the above entitled cases to make the language of the decision quoted above read as follows:

“The answer further alleged that the Company at all times has been ready to meet and to bargain with the A. R. T. A. as the representative of its members, but that it was not willing to bargain with the A. R. T. A. as the representative of all its employees because the Company had no information which would justify it in reaching the conclusion that a majority of its employees were members of, or wished to be represented in collective bargaining by, the A. R. T. A. The answer further alleged that the Company would not bargain with the A. R. T. A. as the representative of all its employees unless an election under the Board’s direction had first been held to determine that a majority of all the employees of the Company in the United States designated the A. R. T. A. as their representative for the purpose of collective bargaining.

“The Company has been willing to bargain with the A. R. T. A. and to recognize it as the representative of its members, but the Company has refused to bargain with the A. R. T. A. as the sole and exclusive representative of the ‘live traffic’ employees in its New York plant, 11 branch offices in New York City, and the receiving station at Riverhead, Long Island, for purposes of collective bargaining, because “it has no information which would justify it in reaching the conclusion that a majority of its employees are members of, or wish to be represented by, the Union.’”

CHAIRMAN MADDEN took no part in the consideration of the above Amendment of Decision and Certification of Representatives.