

In the Matter of SCHICK DRY SHAVER COMPANY and LODGE No. 1557,  
INTERNATIONAL ASSOCIATION OF MACHINISTS

In the Matter of SCHICK DRY SHAVER COMPANY and SCHICK LOCAL  
OF THE UNITED ELECTRICAL AND RADIO WORKERS OF AMERICA

Cases Nos. R-263 and R-264.—Decided November 29, 1937

*Electrical Appliance Manufacturing Industry—Investigation of Representatives:* controversy concerning representation of employees: rival organizations; controversy as to appropriate bargaining units; refusal by employer to bargain with either of unions because of conflicting claims as to appropriate unit—*Units Appropriate for Collective Bargaining:* (1) production employees, excluding three craft groups; functional coherence; skill; wage differentials; (2) where other considerations determinative of appropriate unit are such that either of two contentions is valid, decisive factor is the desire of the employees involved; determination of dependent upon results of separate elections—*Elections Ordered—Certification of Representatives.*

*Mr. Martin H. Selman*, for the Board.

*Mr. Abraham Tulin*, of New York City, for the Company.

*Mr. Julius Emspak*, of New York City, for the United Electrical and Radio Workers of America.

*Mr. Steve Moore*, of Stamford, Conn., for the Schick Local of the United Electrical and Radio Workers of America.

*Mr. A. L. Newman*, of New York City, for Lodge No. 1557.

*Mr. Martin Kurasch*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

On June 10, 1937, Lodge No. 1557 of the International Association of Machinists, herein called Lodge No. 1557, filed with the Regional Director for the Second Region (New York City), a petition alleging that a question affecting commerce had arisen concerning the representation of employees of the Schick Dry Shaver Company, Stamford, Connecticut, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On July 3, 1937, the Schick Local of the United Electrical and Radio Workers of America, herein called the Schick Local, filed a similar

petition. On July 13, 1937, the National Labor Relations Board, herein called the Board, issued an order consolidating the above cases for the purpose of hearing and authorizing the Regional Director for the Second Region to conduct an investigation and provide a hearing in connection therewith. On August 20, 1937, an amended petition was filed by Lodge No. 1557, which added the maintenance employees to the unit alleged to be appropriate for purposes of collective bargaining.

On August 19, 1937, the Regional Director issued and duly served upon the parties, a notice of hearing to be held at Stamford, Connecticut, on August 26, 1937. Pursuant to the notice, a hearing was held on August 26, 1937, before H. R. Korey, the Trial Examiner duly designated by the Board. At the hearing, a motion was made and granted to amend the original petition of Lodge No. 1557 so as to designate as the bargaining unit alleged to be appropriate a group of forty consisting of the tool and die makers, the general machinists and apprentices, and the maintenance employees, comprising plumbers, millwrights and their helpers. The Board, the Company, the Schick Local, and Lodge No. 1557 participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded to the parties.

The Board has reviewed the rulings of the Trial Examiner upon the motions and objections and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

### FINDINGS OF FACT

#### I. THE COMPANY AND ITS BUSINESS

The Company, located at Stamford, Connecticut, manufactures a motor-driven shaving implement made pursuant to patents granted to Colonel Jacob Schick in 1929. The Company, which employs about 1,300 men, is the largest producer of dry shavers in the United States.

The total purchases of the Company, made both inside and outside Connecticut, amount to more than a million dollars a year. Seventy-five per cent of the raw materials are shipped from outside the State. All of the steel used comes from states other than Connecticut. The bakelite cases for the razor are bought from a company which manufactures them in New Jersey. Rubber cord is purchased from the General Electric Company in Bridgeport, Connecticut.

The Company advertises its product in magazines of national circulation and has a sales force of 50 scattered over the United States.

The orders are accepted at Stamford. Ninety-eight per cent of the shavers are shipped outside the State of Connecticut. In 1936, 730,000 of the dry shavers were sold, resulting in a gross income of over six million dollars.

Raw materials are shipped to the Company by railroad and motor truck. Railroad and parcel post are used to send out the dry shavers.

## II. THE ORGANIZATIONS INVOLVED

### A. *The Schick Local*

The Schick Local, which has been in existence since January, 1937, admits to membership the production employees of the Schick Dry Shaver Company. It is a labor organization affiliated with the Committee for Industrial Organization.

### B. *Lodge No. 1557*

Lodge No. 1557 of the International Association of Machinists is a labor organization affiliated with the American Federation of Labor, herein called the A. F. of L. Lodge No. 1557 has jurisdiction to represent the production employees in the tool production departments and the machinists in the maintenance department.

Lodge No. 1557 claimed that certain A. F. of L. unions have entered into an arrangement by which it is agreed that, if in any plant the employees in a particular craft are too few to warrant the formation of a local of the union which normally represents those employees, they may designate the craft union which does have a local established in the plant to represent them for purposes of collective bargaining.

Certain of the carpenters and the electricians, and the painter, in the maintenance department of the company, pursuant to the arrangement, signed a petition by which it appears that they desire to have Lodge No. 1557 represent them for purposes of collective bargaining.

## III. THE QUESTIONS CONCERNING REPRESENTATION

In May 1937, within a day or two of each other, the Schick Local asked the Company for recognition as the bargaining agency for the production employees of the Company, and Lodge No. 1557 asked the Company for recognition as the bargaining agency for the group of 42 production employees, described in Section V below, which it claimed constituted a unit appropriate for purposes of collective bargaining. Because of the conflicting nature of the claims, the Company bargained with neither.

At the hearing it was stipulated by each of the unions that the other union had membership in the unit claimed.

On the basis of these facts, and upon the whole record, we find that questions have arisen concerning the representation of employees of the Schick Dry Shaver Company.

#### IV. THE EFFECT OF THE QUESTIONS CONCERNING REPRESENTATION ON COMMERCE

We find that the questions concerning representation which have arisen, occurring in connection with the operations of the Company described in Section I above, have a close, intimate and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE APPROPRIATE UNIT

Lodge No. 1557 asserts that the employees in the tool production department, of whom there are 24 on the day shift and two on the night shift, the two tool makers who are on salary, and the employees in the maintenance department, excluding porters and supervisory employees, constitute a single unit appropriate for the purposes of collective bargaining. In the maintenance department on the day shift there are six carpenters, two electricians, one painter, and two machinists, and on the night shift there are one electrician, one machinist repairman, and one machinist. In all, Lodge No. 1557 is seeking to represent 42 employees.

The Schick Local asserts that all of the non-supervisory production employees in the plant, of whom there are approximately 1,232, including the 42 whom Lodge No. 1557 seeks to represent, constitute the appropriate unit.

About 125 different manufacturing operations are necessary before the dry shaver is completed. The raw materials go directly to the press department, where they are cut out for the different parts that are used for the cutter and the motor. The cutter, after it is formed in the press department, then goes to the milling department, where it is milled into shape, to the hardening department, where it is tempered, and to the soldering department, where the inserts are soldered in.

It is then slotted in the slotting department, buffed and plated, and then lacquered and inspected.

The parts for the motor are assembled in the motor assembly department. The motor is then sent to the running room and testing room. Finally, the completed shaver is sent to the packing and shipping departments.

All but 67 of the employees are paid on an hourly basis. Working conditions are generally the same for all of the employees, and the

employees in the production department as a whole have opportunity to come into contact with each other and thus to discuss conditions among themselves.

Because of the fact that the overwhelming number of employees in the plant are engaged in mass production work and because of the interrelation of the various departments of the plant, there can be little doubt that the Board could reasonably find that the unit claimed by the Schick Local, which represents a very substantial percentage of the employees in the plant, is the one best suited to insure to employees the full benefit of their right to self-organization and to collective bargaining. Lodge No. 1557 has shown, however, that there exists in the plant separate craft groups, which, in the absence of conflicting claims by other unions, could be found by the Board to constitute separate units appropriate for the purposes of collective bargaining. A substantial number of employees in each of the smaller groups have indicated, by signing a petition, their desire to be represented by Lodge No. 1557. Because of the stipulation by which the contending unions withdrew their request for certification, the signatures on the petition were not examined or questioned at the hearing, and hence cannot be a basis for certification. The men in these smaller groups claimed they should be given an opportunity to determine for themselves whether they desire to be represented as crafts or as part of an industrial unit with the balance of the plant. These smaller groups are (1) the machinists in the maintenance department, together with the employees in the tool production department and the two tool makers who are employed on a salary basis, (2) the carpenters in the maintenance department, and (3) the electricians in the maintenance department.

The tool makers in the tool production department are considered skilled machinists. A long period of apprenticeship is necessary before an employee can become a skilled tool maker. Their wages average about 80 cents an hour, which is from 20 to 35 cents an hour more than the average wage of the men in most of the other departments. The two tool makers who are on salary are receiving \$75 and \$57 per week.

Prior to May 1937, there had been no attempts at collective bargaining in the plant. Employees had approached the management individually, except in one instance when a group of tool makers had succeeded in having the hours of work in the plant reduced from 48 to 45, and in having overtime work paid for at one and one-half times the usual rate. The men in the tool production department are sometimes faced with a special grievance caused by the Company having tools made out of the shop, when there is not sufficient space in the shop.

The tool makers work in a part of the ground floor separated by a wire screen. Workers in the other departments are forbidden, by company rules, to go into the space allotted to the tool makers. The names of a majority of the men in the tool production department appear on the petition.

The machinists in the maintenance department are also considered highly skilled machinists and they also receive a rate of pay that is much higher than that of the other production employees in the plant. The names of two of the four machinists in the maintenance department appear on the petition.

The names of all the carpenters in the maintenance department appear on the petition. These carpenters receive a higher wage than the other production employees. They are not directly engaged in the production or the servicing of the dry shaver.

The electricians in the maintenance department also receive a higher wage than the other production workers and are also engaged in maintenance rather than being directly concerned with the production or servicing of the dry shaver. The names of two of the three electricians appear on the petition.

The fact that the carpenters and electricians in the maintenance department are also the most highly skilled in their respective trade classification does not, in itself, warrant their being placed, for purposes of collective bargaining, in a single unit with the tool makers and machinists. Even if each of the smaller groups were to choose Lodge No. 1557 to represent them, they are to be considered as distinct units, and not as a semi-industrial unit as claimed by Lodge No. 1557.

The selection of Lodge No. 1557 as the common representative would not, of course, indicate a desire to abandon the craft form of organization. On the other hand, the selection of the Schick Local, which is organizing on an industrial basis, would indicate a choice to become a part of a plant-wide unit. As indicated below, therefore, the determination of the unit will depend on the outcome of the ballot.

We will order elections to be held separately among (1) the carpenters in the maintenance department, (2) the electricians in the maintenance department, (3) the employees in the tool production department, together with two tool makers on salary and the machinists in the maintenance department, and (4) all the production employees of the company, excluding those in supervisory capacities and clerical workers, and excluding the carpenters, the machinists, and the electricians, in the maintenance department, the two tool makers on salary, and the employees in the tool production department.

Upon the outcome of the elections will depend the determination of the appropriate unit for the purposes of collective bargaining. Such of the first three groups as do not choose the Schick Local will constitute separate and distinct appropriate units, and such of the first three groups as do choose the Schick Local, will, together with the fourth group, constitute a single appropriate unit.

There is one painter in the maintenance department. The Board has held that the principle of collective bargaining presupposes that there is more than one eligible person who desires to bargain, and that the Act does not empower the Board to certify where only one employee is involved.<sup>1</sup> The painter, therefore, cannot be considered as a bargaining unit. Nevertheless, he shall be given an opportunity to indicate whether he desires to be part of the industrial unit, and if he so chooses, he shall be permitted to vote in the election held among the production employees.

#### CONCLUSIONS OF LAW

On the basis of the above findings of fact, the Board makes the following conclusion of law:

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

#### DIRECTION OF ELECTIONS

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 Schick Dry Shaver Company, an election by secret ballot shall be conducted within twenty (20) 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,

1. Among each of the following classifications of employees who were employed by the Company during the week including June 10, 1937, to determine whether they desire to be represented by the Schick

<sup>1</sup> *Matter of Luckenbach Steamship Company, Inc, and Gateman, Watchman, and Miscellaneous Waterfront Workers Union, Local 38-124; International Longshoremen's Association*, Cases Nos. R-41-60, October 30, 1936, 2 N. L. R. B. 181, 193.

Local of the United Electrical and Radio Workers of America, affiliated with the Committee for Industrial Organization, or by Lodge No. 1557 of the International Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither:

(a) The carpenters in the maintenance department, excluding those in supervisory positions;

(b) The electricians in the maintenance department, excluding those in supervisory positions;

(c) The employees in the tool production department of the Company who are in non-supervisory capacities, together with the two tool makers who are on salary, and the machinists in the maintenance department;

2. Among all of the production employees of the Company who were employed during the week including June 10, 1937, excluding those in supervisory capacities and clerical workers and excluding the carpenters, the electricians, and the machinists, in the maintenance department, the two tool makers on salary, and the employees in the tool production department, to determine whether or not they desire to be represented by the Schick Local of the United Electrical and Radio Workers of America, affiliated with the Committee for Industrial Organization, for the purposes of collective bargaining. The Regional Director shall provide the painter with an opportunity to vote with this group of employees if he so desires.

MR. DONALD WAKEFIELD SMITH, concurring:

I concur in the opinion of Chairman Madden. However, I believe that in the future the Board should hold a petition such as that filed in the instant case to be deficient. Although such deficiency is excusable in the present situation, for the reasons hereinafter stated, the opinion does not sufficiently indicate the practice which should prevail.

Lodge No. 1557 of the International Association of Machinists filed a petition claiming that all of the employees in the maintenance department including machinists, carpenters and electricians, and excluding porters and supervisory employees, constituted a single unit appropriate for purposes of collective bargaining. It was claimed by Lodge No. 1557 that, by agreement between various craft unions affiliated with the American Federation of Labor, if in any plant, the employees in a particular craft group are too few to warrant the formation of a Local of the Union which normally represents these employees, they may designate a craft union which does have a Local established in the plant, to represent them for purposes of collective bargaining. By logical interpretation, such arrangement was apparently meant to cover representation by one

craft union in a plant of the employees in other craft groups in such plant, who were members of their respective craft unions, as one union could delegate to another the authority to represent only those who were members of the former union. It does not appear in the instant case that the employees in the various craft groups, other than the machinists, were members of Lodge No. 1557 or of their respective craft unions, nor does it appear that they were eligible for membership in Lodge No. 1557.

If the petition of Lodge No. 1557 were to be literally construed, the machinists, carpenters and electricians in the maintenance department would, together, constitute a single semi-industrial unit for purposes of collective bargaining, and we should reject it, at least so far as the carpenters and electricians named in the petition are concerned. While there can be no objection to an attempt by the employees in several distinct craft units to select a common representative, the petitions filed in such case should indicate clearly that the representative which they desire is to represent each unit separately as such, and a separate petition for each unit should be filed. Under such circumstances, the selection of a common representative by a majority of each of the respective craft groups, would not indicate a desire to abandon the craft form of organization. The practice of filing separate petitions would assist the Board in determining the appropriate unit and would be consistent with the provisions of Section 9 of the Act and Article III, Section 1, of the Rules and Regulations.

Because the Board has not previously stated the requirement that separate petitions be filed for each craft group, either by any of the employees within such group or a representative acting on their behalf, I believe that the petition in the present instance should be considered proper. Similar petitions filed hereafter should, however, be considered deficient.

MR. EDWIN S. SMITH, dissenting:

My reasons for the present dissent are in substance those which were stated by me *In the Matter of Allis-Chalmers Manufacturing Company and International Union, United Automobile Workers of America, Local 248*, Case No. R-215, November 20, 1937.<sup>1</sup>

The majority decision points out that "the overwhelming number of employees in the plant are engaged in mass-production work." It also points out that a "very substantial percentage of the employees" have joined the Schick Local. By so doing, these employees demonstrated their faith in an industrial unit as the structural framework on which a program of collective bargaining in this mass-pro-

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<sup>1</sup> 4 N. L. R. B. 159.

duction plant can be most firmly based to the advantage of all of the employees as a body.

I should find the appropriate unit here to be the non-supervisory maintenance and production employees in the plant and, on this basis, would order an election simply to determine whether a majority of these employees desire to be represented by the Schick Local.

[SAME TITLE]

AMENDMENT TO DECISION  
AND  
DIRECTION OF ELECTIONS

*December 15, 1937*

On November 29, 1937, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Elections in the above-entitled case. The Direction of Elections provided that elections by secret ballot be conducted within twenty days among three groups of employees of the Schick Dry Shaver Company, to determine whether they desired to be represented by the Schick Local of the United Electrical and Radio Workers of America, affiliated with the Committee for Industrial Organization, or by Lodge No. 1557 of the International Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither, and among one group of employees of the Schick Dry Shaver Company to determine whether or not they desired to be represented by the Schick Local of the United Electrical and Radio Workers of America, affiliated with the Committee for Industrial Organization, for the purposes of collective bargaining.

On December 6, 1937, the United Electrical and Radio Workers of America requested that its name be withdrawn from the ballot in all of the elections. Upon consideration of the petition, the Board believes that the Direction of Elections should be amended to provide that the employees in the first three groups mentioned will vote merely upon whether or not they desire to be represented by Lodge No. 1557 of the International Association of Machinists, affiliated with the American Federation of Labor, and that no election will be held among the employees in the fourth group. We will amend our Decision to conform to this change in the Direction of Elections.

Therefore, the Decision in the above-entitled case issued on November 29, 1937, is amended by striking therefrom the 15th, 16th, 17th and 18th paragraphs of the Findings of Fact, Section V, and substituting therefor the following:

We will order elections to be held separately among (1) the carpenters in the maintenance department, (2) the electricians in the maintenance department, and (3) the employees in the tool production department, together with the two tool makers on salary, and the machinists in the maintenance department.

Since the request by the Schick Local for an investigation and certification of representatives has now been withdrawn, it will be necessary to make a finding as to appropriate unit only as to those of the groups which choose to be represented by Lodge No. 1557. Such of the groups as choose to be represented by Lodge No. 1557 of the International Association of Machinists will constitute separate and distinct units.

The Direction of Elections is hereby amended by striking therefrom the paragraphs numbered 1 and 2 and substituting therefor the following:

Among each of the following classifications of employees who were employed by the Company during the week including June 10, 1937, excepting those who have voluntarily quit or have been discharged for cause, to determine whether or not they desire to be represented by Local No. 1557 of the International Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining:

(a) The carpenters in the maintenance department, excluding those in supervisory positions;

(b) The electricians in the maintenance department, excluding those in supervisory positions;

(c) The employees in the tool production department of the Company who are in non-supervisory capacities, together with the two tool makers who are on salary, and the machinists in the maintenance department.

Signed at Washington, D. C., this 15th day of December, 1937.

Mr. Donald Wakefield Smith took no part in the consideration of the above Amendment to Decision and Direction of Election.

[SAME TITLE]

## CERTIFICATION OF REPRESENTATIVES

*January 14, 1938*

On November 29, 1937, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Elections in the above entitled case. On December 15, 1937, the Board issued an amendment to the Decision and Direction of Elections. The Direc-

tion of Elections, as amended, directed that elections be held among each of the following classifications of employees who were employed by the Company during the week including June 10, 1937, excepting those who had voluntarily quit or had been discharged for cause, to determine whether or not they desired to be represented by Local No. 1557, of the International Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining:

- (a) The carpenters in the maintenance department, excluding those in supervisory positions;
- (b) The electricians in the maintenance department, excluding those in supervisory positions;
- (c) The employees in the tool production department of the Company who are in non-supervisory capacities, together with the two tool makers who are on salary, and the machinists in the maintenance department.

Pursuant to these Decisions and Directions of Elections, elections by secret ballot were conducted on December 28, 1937, under the direction and supervision of Elinore M. Herrick, the Regional Director for the Second Region (New York City) among each of the above-mentioned classifications of employees.

On December 29, 1937, the said Regional Director, acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued and duly served upon the parties an Intermediate Report on the elections. No objections or exceptions to the Intermediate Report have been filed by any of the parties.

As to the balloting and its results, the Regional Director reported as follows:

	(a) Carpenters	(b) Electricians	(c) Tool production employees
Total Eligible to Vote.....	6	3	33
Total No. of Ballots counted.....	5	3	31
Total in favor of Lodge No 1557, International Association of Machinists, A. F. of L.....	5	3	26
Total against afore-mentioned union.....	0	0	5
Total No. Blank Votes.....	0	0	0
Total No. of Void Ballots.....	0	0	0
Total No. of Challenged Votes.....	0	0	0

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, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1—as amended,

IT IS HEREBY CERTIFIED that Lodge No. 1557, International Association of Machinists, has been selected by a majority of the employees in each of the following classifications:

- (a) The carpenters in the maintenance department, excluding those in supervisory positions;
- (b) The electricians in the maintenance department, excluding those in supervisory positions;
- (c) The employees in the tool production department of the Company who are in non-supervisory capacities, together with the two tool makers who are on salary, and the machinists in the maintenance department,

as their representative for the purposes of collective bargaining and that, pursuant to Section 9 (a) of the Act, Lodge No. 1557, International Association of Machinists, is the exclusive representative of all the employees in each of the above-named classifications for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.