

In the Matter of **HYTRON CORPORATION** and **HYTRON EMPLOYEES UNION**
OF MASSACHUSETTS

Case No. 1-R-1654.—Decided February 4, 1944

Hill, Blake & Berkal, by *Mr. Richard E. Blake*, of Salem, Mass.,
for the Company.

Mr. Phillip J. Durkin, of Salem, Mass., for the Independent.

Mr. Donald Tormey, of Boston, Mass., for the U. E.

Mr. Robert Silagi, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by Hytron Employees Union of Massachusetts, herein called the Independent, alleging that a question affecting commerce had arisen concerning the representation of employees of Hytron Corporation, Salem, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Samuel G. Zack, Trial Examiner. Said hearing was held at Salem, Massachusetts, on December 16, 1943. The Company, the Independent, and United Electrical, Radio & Machine Workers of America, C. I. O., herein called the U. E., 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 an opportunity to file briefs with the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Hytron Corporation is engaged in the manufacture of radio and electronic tubes at its plants in Salem and Newburyport, Massachusetts. This proceeding is concerned solely with the Salem plant.

The chief raw materials used in the production of the tubes consist of glass, copper, nickel, brass, and tin. About 65 percent of said raw materials is secured from sources located outside the Commonwealth of Massachusetts. The value of the raw materials used annually exceeds \$1,000,000. The finished products exceed \$2,000,000 in value, and all are shipped to points outside the Commonwealth of Massachusetts. The Company's entire output is manufactured for the United States Government.

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

II. THE ORGANIZATIONS INVOLVED

Hytron Employees Union of Massachusetts is an unaffiliated labor organization, admitting to membership employees of the Company.

United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

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

A statement of a Board agent, introduced into evidence at the hearing, indicates that each union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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 parties are agreed upon the inclusion in the appropriate unit of all production and maintenance employees at the Company's Salem plant, and the exclusion of all executives, foremen, supervisors, office and clerical employees, engineers, draftsmen, senior technicians, and guards. The parties are in disagreement with respect to the disposition of the following categories of employees, all of whom the Company and the Independent would include and the U. E. would exclude.

¹ The Acting Regional Director reported that the Independent submitted 412 membership cards, 402 of which bore apparently genuine original signatures; that the names of 370 persons appearing on the cards were listed on the Company's pay roll of October 30, 1943, which bore the names of 577 employees in the appropriate unit; and that the cards were variously dated between September and November 1943.

The U. E. submitted 213 membership cards, 211 of which bore apparently genuine original signatures. The names of 185 persons appearing on the cards were listed on the aforesaid pay roll. The cards were variously dated June and November 1943.

Monitors: The Company employs both junior and senior monitors whose duties are substantially the same except that senior monitors, being more experienced employees, receive higher wages and have slightly more responsibility. Monitors are production employees who have proven themselves efficient and competent and have been promoted one step to assist the other employees on the production line. They lay out the work, see that it progresses according to production schedules, make sure that the cleanliness of the work spaces is maintained, and give temporary relief to employees on the production line. They have no authority to recommend promotion or discipline for any production employee, but when asked, merely report their views on a particular case to the foreman or assistant foreman in charge of their department. The U. E. contends that the monitors are supervisory employees and as such should be excluded from the unit. Since the evidence adduced at the hearing does not substantiate this contention, we find that monitors are not supervisors within the meaning of the definition hereinafter given. Accordingly, we shall include them in the unit.

Instructors: There are three junior instructors² whose duties consist of teaching new employees and instructing old employees in new operations. They have no authority to admonish employees nor have they authority to make recommendations that affect the status of the employees whom they instruct. Since their authority is even less than that allegedly exercised by the monitors, we shall include instructors in the unit.

Inspectors: The Company has six junior and three senior inspectors who conduct continuous spot checks of the quality of work in progress in the assembly department. They perform the usual functions of inspectors in checking the products to determine whether or not they measure up to specifications. They do not direct the work of the production employees, but merely report their findings to their superior. They do not keep efficiency ratings or records and have no supervisory authority over the production workers. The U. E. contends that inspectors are supervisory employees and hence urges their exclusion from the unit. We are of the opinion that inspectors are not supervisory employees, and since their work is an integral part of production, we shall include them in the unit.

Recorders: There are about 20 recorders, half of whom are engaged in the work of recording on a full-time basis. They work throughout various departments of the plant checking and making records of raw materials. These materials records are turned over to the foremen and are ultimately sent to the Company's office. It is also part of their job to keep attendance records of employees in their particular

² As of the date of the hearing, the Company employed no senior instructors.

departments. The time records are sent to the personnel department for pay roll purposes. As to the other recorders who do not do recording as a full-time job, they spend about 50 percent of their time performing the functions recited above. The balance of their time is spent in counting and keeping tallies of the finished products in their respective departments as they come from the production line. This group also keeps the attendance records in their departments. It is apparent that there is no great distinction between two types of recorders.

The U. E. urges the exclusion of the recorders on the ground that they are clerical employees, while the Company and the Independent desire their inclusion in the unit. The Company and the Independent contend that the recorders are essentially production employees and the fact that they perform some clerical functions should not preclude them from voting in the same unit with the production and maintenance employees. In view of the fact that the parties have agreed to exclude "office and clerical employees," and the further fact that recorders perform the functions of plant clerical employees, we are of the opinion that interests of the recorders are more likely to coincide with those of the excluded clerical employees than with those of the production and maintenance workers.³ Accordingly, we shall exclude recorders from the unit.

We find that all production and maintenance employees of the Company, employed at its Salem plant, including monitors, instructors and inspectors, but excluding recorders, executives, foremen, supervisors, office and clerical employees, engineers, draftsmen, senior technicians, guards, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action, 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 the 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.

³ See *Matter of General Motors Corporation (Eastern Aircraft Division, Baltimore Plant)*, 52 N. L. R. B. 954; *Matter of Todd Shipyards Corporation (Hoboken Division)*, 51 N. L. R. B. 1211; *Matter of Julien P. Friez & Sons, Division Bendix Corp.*, 47 N. L. R. B. 43.

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, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Hytron Corporation, Salem, Massachusetts, 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 First 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 the 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 any 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 Hytron Employees Union of Massachusetts, or by United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither.