

In the Matter of BELL TELEPHONE LABORATORIES, INCORPORATED and  
UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, CIO

*Case No. 2-R-4272.—Decided February 28, 1944*

*Root, Clark, Buckner & Ballantine*, by Messrs. *Wilkie Busby* and *William J. Butler*, of New York City, for the Company.

*Frank Scheiner*, by Mr. *Morton Stavis*, of New York City, for the C. I. O.

*Henry Mayer*, by Mr. *Alexander Eltman*, of New York City, for the Association.

*Mr. Wallace E. Royster*, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio & Machine Workers of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of certain employees of Bell Telephone Laboratories, Incorporated, New York City, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Richard J. Hickey, Trial Examiner. Said hearing was held at New York City on November 29, 1943. The Company, the C. I. O., and Bell Telephone Laboratories Employees Association, herein called the Association, appeared, participated, and 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. The Company has requested a hearing before the Board for the purpose of oral argument. Since all matters in controversy are adequately covered by the record and the briefs, the request is denied. All parties were afforded opportunity to file briefs with the Board.

Subsequent to the hearing, by letter of December 31, 1943, the Company alleged that the employees to whom the petition pertains were being honorably discharged from the Auxiliary Military Police and

that all such employees would be so discharged by January 8, 1944; the Association, on January 5, 1944, filed with the Board a motion to dismiss these proceedings because of the change in status of the employees as alleged by the Company; and the C. I. O. filed a reply in opposition to the motion to dismiss. On January 14, 1944, in consequence of the letter from the Company and the subsequent pleadings of the parties above described, the Board issued notice to all parties that unless cause to the contrary were shown by January 25, 1944, the Company's letter of December 31, 1943, would be incorporated as part of the record herein and the allegations of the Company with respect to the honorable discharge of its employees from the Auxiliary Military Police would be accepted as true. Thereafter, on January 25, 1944, the C. I. O. filed a motion for a hearing before the Board for the purpose of oral argument but did not controvert the allegations of the Company stated above. Absent cause shown to the contrary, the Company's letter of December 31, 1943, is hereby incorporated as part of the record herein and the allegations therein with respect to the honorable discharge of its employees from the Auxiliary Military Police are accepted as true. There is now no essential controversy as to the facts in the case, and the request of the C. I. O. for a hearing before the Board for the purpose of oral argument is denied.

Upon the entire record in the case, including the Company's letter of December 31, 1943, the Board makes the following:

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE COMPANY

Bell Telephone Laboratories, Incorporated, is a New York corporation, with its principal offices and laboratories located in New York City, and nearby New Jersey. The capital stock of the Company is owned in equal proportions by American Telephone & Telegraph Company and Western Electric Company, Incorporated. The products of the Company are primarily ideas, inventions, and designs, and the work performed in this production is paid for by American Telephone & Telegraph Company or Western Electric Company, Incorporated. The Company is not operated for profit, maintains no surplus and pays no dividends. The cost of performing its work during the year is billed periodically to the customer companies, on the basis of standard rates. At the end of the year the charges are adjusted to reflect the actual cost. The operations of the Company are classified as research, development, design, engineering services, manufacturing services, and special engineering. At present about 80 percent of the Company's work is in connection with contracts entered into by Western Electric Company, Incorporated, with the Army, Navy, or other Government Departments for materials or developments needed

for military purposes. During the period from October 1, 1942, to September 30, 1943, the Company's purchases of raw materials were in excess of \$100,000, of which 10 percent was shipped to its plants in New York and New Jersey from points outside New York and New Jersey. The Company concedes, and we find, that its operations affect commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

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

Bell Telephone Laboratories Employees Association is a labor organization admitting to membership employees of the Company.

## III. THE ALLEGED QUESTION CONCERNING REPRESENTATION; THE ALLEGED APPROPRIATE UNIT

Since 1937, employees in the Mechanical and Plant Service Departments<sup>1</sup> of the Company have been represented by the Association in matters of collective bargaining under a series of contracts. The latest of these contracts was effective October 28, 1942, for 1 year, and now may be terminated upon 60 days notice by either party. Since the contract may be so terminated, and since its duration is now indefinite, in conformance to the established policy of the Board we find that the contract does not constitute a bar to this proceeding:

Of the approximately 1,600 employees in the Mechanical and Plant Service Departments, 104, at the time of the hearing, had taken the prescribed oath as Auxiliary Military Police. This militarized group was formed by selection of employees, such as ushers and guards, uniformed watchmen, and night watchmen, who normally perform full-time plant-protection duties; by selection of others, from the categories of porters, cleaners, and utility service hands, who normally perform plant-protection or guard duties as incident to their major duties; and by selection of certain chauffeurs and alarm and control board operators whose ordinary duties, according to the Company's occupational classifications, do not entail plant-protection or guard work. The C. I. O. sought to represent the entire militarized group in a separate bargaining unit. The Company and the Association argued that the separate unit should include only such militarized guards as were employed full-time in plant-protection work.

<sup>1</sup> These include restaurant, building service, power plant, print reproduction, general service, building shop and development employees in a variety of categories from skilled mechanics to porters, cleaners, and bus girls

Subsequent to the hearing, as noted above, the employees in question were honorably discharged from the Auxiliary Military Police. The C. I. O. argues that, despite the removal of the distinguishing characteristic of militarization, such employees should be permitted to form a separate bargaining unit. We do not agree. We find no reason to separate this group of employees from the unit already represented by the Association nor, for example, to include in a separate bargaining unit the night watchmen who formerly were militarized and to exclude those who were not. Even if the present position of the C. I. O. is that all employees in the categories from which the Auxiliary Military Police were selected constitute a separate bargaining unit, the record is devoid of evidence tending to persuade that such a unit is now appropriate. Aside from the circumstance that some of these employees formerly were militarized, there is no showing that they now perform such functions, possess such skills and interests, or otherwise constitute such a clearly definable homogeneous group as would argue for their representation in a separate unit. In consideration of all the factors, we find that the unit requested by the C. I. O. is inappropriate for the purposes of collective bargaining.

Since we have found the bargaining unit sought to be established by the petition herein to be inappropriate for the purposes of collective bargaining we find that no question has been raised concerning the representation of employees in an appropriate bargaining unit. Accordingly, we shall dismiss the petition.

#### ORDER

Upon the basis of the above findings of fact the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives filed by United Electrical, Radio & Machine Workers of America, C. I. O., be and it hereby is, dismissed.