

In the Matter of THORDARSON ELECTRIC MANUFACTURING COMPANY
and UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA,
C. I. O.

Case No. 13-R-2290.—Decided March 31, 1944

Mr. H. R. Robinson, of Chicago, Ill., for the Company.
Messrs. Ernest DeMaio and Robert Kirkwood, *Miss Charlotte High*,
of Chicago, Ill., for the Union.
Mr. William Whitsett, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio & Machine Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Thordarson Electric Manufacturing Company, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Francis X. Helgesen, Trial Examiner. Said hearing was held at Chicago, Illinois, on February 23 and 24, 1944. The Company and the Union 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

The Company, an Illinois corporation and a subsidiary of Burgess Battery Company, is engaged at its plant in Chicago, Illinois, in the manufacture and distribution of transformers, amplifiers, and elec-

tronic equipment. During 1943 the Company purchased raw materials consisting of steel, copper wire, and insulating materials, valued in excess of \$1,000,000, 66 percent of which was shipped to the Company from points outside the State of Illinois. During the same period, the Company produced finished products, valued in excess of \$1,000,000, approximately 2 percent of which was sold and shipped to purchasers outside the State. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

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

On January 28, 1944, Robert Kirkwood, field organizer for the Union, telephoned the president of the Company and requested recognition of the Union as the exclusive representative of its employees. The Company refused this request; whereupon Kirkwood confirmed the conversation in a letter dated January 28, 1944, which letter was received by the Company.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be 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 agree that all production and maintenance employees and plant clerical employees should be included in the bargaining unit. They also agree to the exclusion of watchmen and guards, all employees of the production engineering department, engineers and technicians in the inspection department, foremen, assistant foremen, and supervisors with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action. The parties disagree as to the inclusion or exclusion of the office clerical staff and inspectors; the Union would

¹ The Field Examiner reported that the Union submitted 625 cards, all bearing apparently genuine original signatures, out of 675 employees in the appropriate unit; and that the cards were all dated prior to May 1, 1943.

exclude the office clerical staff and include the inspectors in the unit, whereas the Company would include the former and exclude the latter.

The record shows that the office clerical employees work in the Company's main office, which is physically separated by a fire wall from the manufacturing operations; that they are paid a monthly wage, whereas production and maintenance employees are paid by the hour; that the supervisory personnel of the office clerical staff is distinct and exclusive; that they are carried on a pay roll separate from that of factory workers; and that the Union does not normally organize or include office clerical employees in production units and has made no attempt to organize, and claims no members among, them. Upon these facts, we shall exclude the office clerical employees from the unit. We shall likewise exclude expediters, whom the Union sought to exclude and who, the Company agrees, should be excluded if office clerical employees are excluded.

The Company contends that inspectors are "an integral part of management" through whom it controls production and eliminates mistakes, and that, therefore, they should not be included in the unit with production and maintenance employees. Although it is the duty of inspectors to detect and reject substandard work, they do not keep a record of rejections or investigate to determine the production employees responsible therefor; nor do they have authority to effect or recommend changes in the employment status of production or maintenance employees. There is no showing that they have any voice in determining or shaping labor relations and policies, or that they represent management in the eyes of employees.² For these reasons, there is no merit in the Company's contention that inspectors are a part of management.

Inspectors fall into three categories: line inspectors, who require no technical knowledge and perform their duty under close supervision; junior inspectors, who are periodically supervised in the performance of their duties; and senior inspectors, who set up testing equipment for other inspectors, possess technical knowledge, and generally work without immediate supervision. Because of their greater experience, senior inspectors at times instruct other inspectors. The chief inspector testified that senior inspectors might make recommendations with reference to the work and ability of junior and line inspectors. However, he testified further that it was the duty of any employee engaged in inspection to make recommendations aimed at the increased efficiency of the department.³ While the testimony is not entirely clear, it appears

² See *Matter of United Wall Paper Factories, Inc.*, 49 N. L. R. B. 1423, *Matter of Gardner-Denver Company*, 44 N. L. R. B. 1192.

³ The chief inspector also testified that senior inspectors had "the right" to recommend the discharge or transfer of line inspectors. It does not appear that such recommendations were ever made or that they would be given any effect.

that such recommendations as are made by senior inspectors relate primarily to the technique of inspection. We find that senior inspectors are not supervisors such as we normally exclude from bargaining units.⁴

The Union claims that it represents a majority of the inspectors and desires their inclusion in the unit. Except that the supervisory personnel of the inspection department is distinct and exclusive, there is a sufficient unity of interest between inspectors and production and maintenance employees to include them in the same unit. They are carried on the same pay roll; have the same vacation programs and wage base; work alongside and among production workers; and at times are recruited from production and maintenance employees. For the above reasons, we shall include the inspectors, including two who work outside the plant inspecting equipment produced by subcontractors, in the appropriate unit.

We shall also include in the unit the three clerical employees in the inspection department since their duties correspond closely to that of the plant clerical employees who, the parties agree, should be included in the unit.

We find that all production and maintenance employees, senior inspectors, junior inspectors, line inspectors, clerical employees in the inspection department, and plant clerical employees, but excluding office clerical employees, expeditors, salesmen, employees of the production engineering department, guards, watchmen, engineers and technicians in the inspection department, foremen, assistant foremen, and supervisors 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.

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

⁴ See *Matter of United Wall Paper Factories, Inc.*, *supra*.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Thordarson Electric Manufacturing Company, Chicago, Illinois, 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 Thirteenth 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 those employees 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 or not they desire to be represented by United Electrical, Radio & Machine Workers of America, C. I. O., for the purposes of collective bargaining.