

In the Matter of WESTINGHOUSE ELECTRIC & MANUFACTURING COMPANY
and AMERICAN FLINT GLASS WORKERS UNION OF NORTH AMERICA,
AFFILIATED WITH A. F. L.

Case No. 6-R-909.—Decided May 27, 1944

Mr. Robert D. Glasier, of Pittsburgh, Pa., for the Company.

Mr. Edward William Shay, of Star City, W. Va., for the A. F. L.

Mr. David Scribner, of New York City, and *Messrs. Mathew Matison* and *Leo Turner*, both of Pittsburgh, Pa., for the C. I. O.

Mr. Glenn L. Moller, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by American Flint Glass Workers Union of North America, affiliated with the American Federation of Labor, herein called the A. F. L., alleging that a question affecting commerce had arisen concerning the representation of employees of Westinghouse Electric & Manufacturing Company, Fairmont, West Virginia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before W. G. Stuart Sherman, Trial Examiner. Said hearing was held at Fairmont, West Virginia, on April 11, 1944. The Company, the A. F. L., and United Electrical, Radio & Machine Workers of America, C. I. O., herein called the C. I. O., 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

Westinghouse Electric & Manufacturing Company, a Pennsylvania corporation, is engaged in the manufacture, sale, and distribution of
56 N. L. R. B., No. 179.

electrical and steam equipment. The Company operates plants throughout the United States, one of which plants is located in Fairmont, West Virginia, where it manufactures glass tubing, hand blown glassware, various types of electronic vacuum tubes, fluorescent lamps and flow switches. The Glass Division of said plant, hereafter referred to as the Glass Plant, is the only operation here involved.

During the year 1943, the Company used raw materials in its Glass Plant operations, valued in excess of \$139,000, approximately 61 percent of which was shipped to said plant from points outside the State of West Virginia. During the same period the entire Fairmont plant produced finished products valued in excess of \$9,000,000, approximately 99 percent of which was shipped to points outside the State of West Virginia. Approximately \$23,342 of the aforesaid \$9,000,000, represented the value of finished products of the Glass Plant, approximately 39 percent of which was shipped to points outside the State of West Virginia.

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

II. THE ORGANIZATIONS INVOLVED

American Flint Glass Workers Union of North America, affiliated with the American Federation of Labor, is a 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

Both the A. F. L. and the C. I. O. requested recognition by the Company as the exclusive bargaining representative of the employees in the Company's Glass Plant. The Company denied both requests on the ground that it is the Company's fixed policy not to recognize any labor union until it has been certified by the Board in an appropriate bargaining unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that both the A. F. L. and C. I. O. represent substantial numbers of employees in the units hereinafter found appropriate.¹

¹The Board agent reported that the A. F. L. submitted 81 application-for-membership cards, 65 of which bore apparently genuine original signatures of persons listed on the Company's pay roll of February 19, 1944. In February 1944 there were approximately 116 persons in the unit alleged by the A. F. L. to be appropriate. At the time of the hearing, there were approximately 170 in that unit.

The C. I. O. submitted 32 application-for-membership cards, bearing apparently genuine original signatures of persons listed on the aforesaid pay roll. At the hearing the attorney for the C. I. O. stated that the C. I. O. was then in possession of more than 50 signed application cards.

We find that questions affecting commerce have 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 A. F. L. alleged in its petition that all production and maintenance employees in the Company's Glass Plant constitute an appropriate unit. The C. I. O. and the Company contend that there should be two separate appropriate units, one consisting of employees in the hand shop or German shop, and the other consisting of the remaining production and maintenance employees in the Plant. All parties agree that clerical and supervisory employees should be excluded from the appropriate unit or units.

The Company's operations at Fairmont, West Virginia, are divided into eight divisions, four of which are production divisions.² The eight divisions are housed in four buildings, which are located in the same geographic area. The Glass Division occupies one of the four buildings and is called the Glass Plant. The C. I. O. represents the employees in the other three production divisions, pursuant to Board certifications, and these employees are covered by a contract between the Company and the C. I. O. covering employees of various plants and divisions of the Company throughout the country. Each of these plants or divisions has been set up as a separate bargaining unit and is so described in the aforesaid contract. The Glass Plant produces specialty glass products, some of which are used by the other divisions, and some of which are sold and shipped to outside concerns. The Company uses two production processes at the plant, namely, continuous furnace operations and hand shop, or German shop, operations. As indicated above, the C. I. O. and the Company seek to set apart the employees in the hand shop as a separate unit. The raw materials for both operations are mixed and melted in different furnaces at the same location and by the same employees, known as batch mixers.³ However, from that point to the completion of the products, the hand shop and continuous furnace operations are entirely separate. The batch for the hand shop is hauled there in a hand cart and is placed in a furnace, called a "day furnace" because it holds a day's supply of molten glass, which heats the batch to the exact temperature required. The operations in the hand shop are thereafter conducted entirely

² The Production Divisions are: Electronic Tube, Magnatron, Lamp, and Glass; the other divisions are: Works Engineering, Industrial Relations, Accounting, and Purchasing.

³ Although mixed at the same location, the glass used in the hand shop is different from that used in the continuous furnace operations, the glass for the hand blown operations being of a harder quality.

separately from the continuous furnace operations, even to the inspection and packing of the finished products. The hand shop is located on the first floor while the other operations are on the floors above.

There are 13 categories of employees in the hand shop, nearly all of whose functions are highly integrated.⁴ Thus, the glass is passed by hand from ball gatherer, to ball holder boy, to blocker, to blower, to mold boy, while it is still malleable. The furnace attendant constantly watches and controls the furnace temperature while the skimmer periodically removes impurities from the bath. The remaining employees in the shop handle the products after they leave the mold boy. Ball gatherers, blockers, and blowers are highly skilled journeymen, while the other employees in the hand shop are considered to be apprentices. Glass blowing by hand is one of the most highly skilled of the crafts and requires a long apprenticeship. This craft has for many years been organized by the A. F. L., which represents virtually all members of the craft throughout the industry. The C. I. O. recognizes this fact, as does the Company. The C. I. O. does not seek to represent the hand shop employees. The evidence indicates that the Company can secure the skilled employees needed for the operation of its hand shop only through the A. F. L.

Many of the employees who are employed in the continuous furnace operations have been transferred to the Glass Plant from the other divisions of the Company's operations. Although some of the employees in the continuous furnace operations are skilled workers, they are not as highly skilled as the hand glass blower. In view of the functional independence of the hand shop, the high degree of skill required in the conduct of the hand shop operations, and the long history of craft bargaining on behalf of these employees, we are of the opinion and find that the employees in the hand shop can most effectively be represented for collective bargaining purposes in a separate unit.

Accordingly, we find that all employees in the hand shop, or German shop, of the Company's Glass Plant at Fairmont, West Virginia, excluding 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.

⁴ These categories are: day tank attendant, ball gatherer, ball holder boy, blocker, glass blower, mold boy, crack-off boy, carry-in boy, inspector-sorter, annealing oven attendant, tank skimmer, cut-off operator, and packer-material handler.

We further find that all production and maintenance employees in the Company's Glass Plant, at Fairmont, West Virginia, excluding employees in the hand shop, or German shop, and further excluding all clerical employees 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 questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units 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.

The C. I. O. has indicated that it does not desire to participate in the election among the hand shop employees. We shall, therefore, not place the C. I. O. on the ballot to be used in the election in that unit.

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, 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 Westinghouse Electric & Manufacturing Company, Fairmont, West Virginia, elections 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 Sixth 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 units 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 the employees in the hand shop unit, described in Section IV, above,

desire to be represented by American Flint Glass Workers Union of North America, affiliated with the American Federation of Labor, for the purposes of collective bargaining; and to determine whether the employees in the residual production and maintenance unit, described in Section IV, above, desire to be represented by the American Flint Glass Workers Union of North America, affiliated with the American Federation of Labor, 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.