

In the Matter of THE CROSLY CORPORATION and UNITED ELECTRICAL,
RADIO & MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 9-R-1417.—Decided June 28, 1944

Mr. C. T. Nearing, of Cincinnati, Ohio, and *Messrs. George Washee*
and *Donald Trout*, of Richmond, Ind., for the Company.

Mr. D. L. Zinn, of Richmond, Ind., for the United.

Mr. James E. Reilly, of Cleveland, Ohio, for the I. B. E. W.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Electrical, Radio & Machine Workers of America, C. I. O., herein called the United, alleging that a question affecting commerce had arisen concerning the representation of employees of The Crosley Corporation, Richmond, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Charles F. McErlean, Trial Examiner. Said hearing was held at Richmond, Indiana, on May 25, 1944. At the commencement of the hearing the Trial Examiner granted a motion of International Brotherhood of Electrical Workers, Local B-1127, A. F. of L., herein called the I. B. E. W., to intervene. The Company, the United, and the I. B. E. W., appeared at and participated in the hearing and all parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing the I. B. E. W. moved to dismiss the petition. The Trial Examiner reserved ruling. The motion is hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

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

56 N. L. R. B., No. 305.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Crosley Corporation is an Ohio corporation operating a plant at Richmond, Indiana, where it is engaged in the manufacture of war materials. During 1943 the Company purchased raw materials for use at its Richmond plant valued in excess of \$500,000, over 75 percent of which was shipped to it from points outside the State of Indiana. During the same period the Company manufactured products at its Richmond plant valued in excess of \$500,000, all of which was shipped to points outside the State of Indiana.

We find that the Company is engaged in 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.

International Brotherhood of Electrical Workers, Local B-1127, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On April 11, 1944, the United requested recognition of the Company as the exclusive bargaining representative of the employees at the Richmond plant. The Company refused this request.

The I. B. E. W. and the Company have had collective bargaining contracts since July 11, 1938. The last agreement between them became effective on August 3, 1942, and provided that it should remain in effect until July 31, 1943, and from year to year thereafter unless notice of a desire to terminate is given by either party thereto not less than 30 days prior to any annual expiration date. The contract further provides that it may be terminated at any time after July 31, 1943, by 90 days' notice of either party thereto. The I. B. E. W. contends that its contract constitutes a bar to the instant proceeding and urges that the petition be dismissed. Inasmuch as the contract expires on July 31, 1944, and inasmuch as the contract has been subject to termination by 90 days' notice from July 31, 1943, we find the position of the I. B. E. W. to be untenable.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the United represents a sub-

stantial 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 United urges that all hourly paid employees in the production and maintenance departments of the Richmond plant of the Company, including factory clerks, but excluding foreladies, foremen, assistant foremen, office clerks, timekeepers, technical engineers, highly skilled testmen in inspection department, first aid personnel, draftsmen, safety engineers, tool and die designers, watchmen, guards, policemen and patrolmen, time-study men, salaried employees, and foreladies' or foremen's clerks who are confidential employees, constitute an appropriate unit. The only controversy with respect to the unit concerns group leaders. The United requests that all such persons be excluded from the unit and the Company and the I. B. E. W. that they be included.

The Company employs between 25 and 30 group leaders. They are the most capable employees in the respective groups and instruct the various employees assigned to them. They are paid on an hourly basis and receive about five cents more per hour than their subordinates. Although they have no authority to hire or discharge they are required to issue reprimand slips when any employee in their group violates company rules. In addition to making reports to their foreman with respect to the progress of other employees, they make recommendations for promotion of the personnel in their groups. They are also charged with the duty of advising the foreman about deficiencies in the work of their subordinates. We find that the group leaders are supervisory employees, and as such, we shall exclude them from the unit.

We find that all hourly paid employees in the production and maintenance departments at the Richmond plant of the Company, including factory clerks, but excluding office clerks, timekeepers, technical engineers, highly skilled testmen in inspection department, first aid personnel, draftsmen, safety engineers, tool and die designers, watchmen, guards, policemen and patrolmen, time-study men, salaried em-

¹ The Field Examiner reported that the United presented 304 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of April 16, 1944. There are approximately 661 employees in the appropriate unit. The I. B. E. W. did not present any evidence of representation but relies upon its contract as evidence of its interest in the instant proceeding.

ployees, foreladies' or foremen's clerks who are confidential employees, foreladies, foremen, assistant foremen, group leaders, and any other 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 means of 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.

All parties request that probationary employees be deemed ineligible to vote. The probationary period lasts about 6 weeks and during such period the probationary employees receive a slightly lower rate of pay than the regular employees. Only about 40 to 50 percent of the probationary employees become permanent employees. Accordingly, we find that such persons are ineligible to vote in the election. However, any such employees who were employed during the pay-roll period immediately preceding the date of the Direction, who become permanent employees between said date and the date of the election, are eligible to vote.

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 The Crosley Corporation, Richmond, Indiana, 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 Ninth 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 United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, or by International Brotherhood of Electrical Workers, Local B-1127, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.