

In the Matter of BROWN INSTRUMENT COMPANY, A DIVISION OF  
MINNEAPOLIS-HONEYWELL REGULATOR COMPANY *and* LOCAL 116,  
UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, C. I. O.

*Case No. 4-R-1343.—Decided June 29, 1944*

*Mr. John Morgan Davis*, of Philadelphia, Pa., for the Company.

*Mr. Saul C. Waldbaum*, of Philadelphia, Pa., for the Union.

*Mr. Max M. Goldman*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local 116, 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 Brown Instrument Company, a Division of Minneapolis-Honeywell Regulator Company, Philadelphia, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene M. Purver, Trial Examiner. Said hearing was held at Philadelphia, Pennsylvania, on May 10, 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

Brown Instrument Company, a Division of Minneapolis-Honeywell Regulator Company, is a Pennsylvania corporation engaged in the production of meters, pressure gauges, and other instruments and controls for industrial purposes. In 1943 the Company consumed raw

materials consisting of non-ferrous metals, steel, packings, and oils valued in excess of \$500,000, of which more than 40 percent was shipped to it from points outside the Commonwealth of Pennsylvania. During the same period, the Company produced and sold finished products valued in excess of \$500,000, of which more than 85 percent was shipped by it to points outside the Commonwealth of Pennsylvania.

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

## II. THE ORGANIZATION INVOLVED

Local 116, 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 Union as the exclusive bargaining representative of certain of its factory clerks until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees among those whom it seeks to represent.<sup>1</sup>

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 DETERMINATION OF REPRESENTATIVES

At present, the Union, by virtue of a collective bargaining contract with the Company, represents production and maintenance workers in the Company's employ, including certain clericals in the Company's factory, but excluding all office employees. It now seeks to merge with the employees embraced by its contract all remaining clericals in the Company's factory. As an alternative position, the Union urges the establishment of a separate unit comprising all clericals engaged in the Company's factory other than those whom it currently represents. However, the Company opposes both contentions made by the Union, asserting that the clericals whom the Union now seeks to represent constitute but a small segment of all the clericals in its employ, including junior clerks and other office help who are not located in the factory and who are not covered by the existing bargaining agreement.

<sup>1</sup> The Field Examiner reported that the Union submitted 13 membership cards; that the names of 11 persons appearing on the cards were listed on the Company's pay roll, and that there are 11 employees whom the Union seeks to represent. At the hearing the parties agreed that the cards were dated in 1943 and in 1944.

The employees here sought by the Union act as clerical aids to the foremen in charge of the various departments in the Company's factory.<sup>2</sup> Each foreman has the right to hire and discharge the clerks under his supervision. In addition to performing routine office functions, the factory clerks in question, within their respective departments, trace orders by communicating with other departments and the office for the purpose of ascertaining whether orders are being properly filled, keep records of production, and aid production workers by locating orders and specifications. Although a considerable part of their time is spent at their assigned places in the factory where they are separated from the other factory workers by a railing or wire fence, they move freely throughout the plant. Moreover, their duties, which are related to the Company's production processes, place them in constant contact with other factory employees. Clerical workers employed in the Company's office are listed on the office pay roll. The employees sought by the Union, however, are listed on the factory pay roll.

In view of the foregoing, we are of the opinion that the employees petitioned for have interests which more closely identify them with the production and maintenance employees, and factory clerks now represented by the Union than with the Company's office clericals, employees whom we ordinarily exclude from units of production and maintenance workers. We shall, therefore, permit them to form part of the bargaining unit covered by the existing contract between the Company and the Union if that is their desire.<sup>3</sup> Inasmuch as there is no question concerning representation among the employees in the present contract unit, we shall direct that an election be held solely among the employees directly involved herein. If a majority of them select the Union as their bargaining representative, they will thereby have indicated a desire to and will be included in the more comprehensive unit of employees currently represented by the Union.

We shall, accordingly, direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the clerical employees in the Company's factory not covered by the Union's existing contract, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, 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.<sup>4</sup>

<sup>2</sup> It is clear from the record that in the course of their duties these employees do not acquire knowledge of matters pertaining to labor relations.

<sup>3</sup> See *Matter of the Emerson Electric Manufacturing Company*, 55 N. L. R. B. 110.

<sup>4</sup> While the Union requests otherwise, there is no persuasive reason to depart from our customary practice, followed above, of determining eligibility 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 Brown Instrument Company, a Division of Minneapolis-Honeywell Regulator Company, Philadelphia, Pennsylvania, 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 Fourth 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 clerical employees in the Company's factory not covered by the Union's existing contract, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, 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 Local 116, United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.