

In the Matter of GENERAL CABLE CORPORATION and UNITED ELECTRICAL,
RADIO AND MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 20-R-1110.—Decided August 26, 1944

Mr. A. L. Ferguson, of New York City, for the Company.

Mr. Sanford Goldner, of San Francisco, Calif., and *Miss Sandra Martin*, of Oakland, Calif., for the Union.

Mr. Bernard Goldberg, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio and 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 General Cable Corporation, Emeryville, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Gerald P. Leicht, Trial Examiner. Hearings were held at San Francisco, California, on July 24, 1944, and July 26, 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

General Cable Corporation is a New Jersey corporation having its principal office and place of business in New York City. The Company is engaged in the manufacture of electrical wire and cable at several factories located in different States of the United States including the plant at Emeryville, California, with which this proceeding is con-

cerned. During the past year the Company used at its Emeryville plant raw materials valued in excess of \$500,000, of which more than 50 percent was shipped to the plant from outside the State of California. During the same period the Company manufactured at the said plant finished products of a value in excess of \$1,000,000, of which more than 50 percent was shipped to points outside the State of California.

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 and 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 its office and clerical employees 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 in the unit hereinafter found 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 Union, which now represents the production and maintenance employees of the Company, seeks a unit composed of all clerical and office employees of the Company excluding the supervisory and confidential categories listed in Appendix "A", attached hereto. The Company, while agreeing generally with the aforesaid inclusions and exclusions, would, in addition, exclude the employees hereinafter discussed.

Assistant Clerical Supervisor in Purchasing Department. This employee supervises the work of four other girls, does considerable buying of minor items and takes the place of the head of the department in the latter's absence. While she has no power to hire or to discharge, the evidence establishes that the department head consults her prior to hiring or discharging any employee and follows her recommendation. We find that this employee is a supervisory employee within our customary definition, and shall exclude her from the unit.

¹ The Field Examiner reported that the Union submitted 64 application-for-membership cards; that the cards were dated between October 1943 and July 1944; and that there were 82 employees in the unit petitioned for.

Plant Nurses. The Company employs four registered nurses, including the head nurse, to care for minor injuries to its employees. They are listed as employees of the Personnel Department. Since their training, skill, duties, and interests differ from that of the office and clerical employees who comprise the unit sought by the Union, we shall exclude the nurses from the unit.

Personnel Department. This department consists of a large room where all the clerks and typists work and a smaller private office of the personnel manager attached thereto. The bulk of the personnel files are kept in the large room; more important memoranda are kept in an unlocked file on the personnel manager's desk and in his desk proper. All employees in the department have access to all files, including those in the personnel manager's office; no other office employees have access thereto. While some of the data in these files is made available to union representatives pursuant to agreement, other information respecting contract negotiations, interpretation of agreements, action to be taken regarding the settling of grievances, etc., is also contained in such files and is regarded as strictly confidential by the Company. In accordance with our usual practice respecting employees handling personnel matters, we shall exclude these employees from the unit.²

Secretaries to Heads of Departments. These employees perform the usual duties of secretaries; they take dictation, type letters, maintain the files of department heads. In the performance of such duties they have access to confidential labor matters. We shall exclude these employees.³

Assistant Production Control Supervisor in Production Control Department. The employee having this title whose status is in doubt, Henry Conlin, is a contact man between the production control supervisor in the Production Control Department and the sales office. He handles correspondence with customers having to do with delivery, complaints, changes in specifications, etc. He has no supervisory duties and holds the same title as Adrie Waardenburg, who, the parties agreed, should be included in the unit. Since it does not appear that Mr. Conlin has either supervisory or managerial functions, we shall include him in the unit.

Assistant Production Planning Supervisor. This employee has charge of the scheduling and expediting of cable for the United States Navy and the United States Maritime Commission. He is not a super-

² *Matter of Electric Auto Lite Company*, 57 N. L. R. B. 723; *Matter of General Cable Corporation*, 55 N. L. R. B. 1143; *Matter of West Penn Power Company*, 55 N. L. R. B. 1353.

³ *Matter of General Cable Corporation*, 55 N. L. R. B. 1143; and cases cited therein; *Matter of Chrysler Corporation*, 36 N. L. R. B. 157; *Matter of St. John River Shipbuilding Company*, 52 N. L. R. B. 12.

visor. The great bulk of his work is clerical; it differs in volume and importance but not in kind from that done by other employees whom the Company agrees should be included. Accordingly, we shall include him in the unit.

Plant Chemist. The employee in this classification is in charge of the Company's laboratory. Although he has no supervisory functions, his salary and duties, and consequently his interests, differ substantially from those of the office and clerical employees who comprise the unit sought by the Union. We shall exclude him.

Junior Time-Study Clerk and Time-Study Trainee. These are time-study clerks who perform the routine tasks of timing machine operations. The information they gather is turned over to their supervisor for compilation and the establishment of piece-work rates. The duties of the employees in question do not extend beyond the gathering of data; they have no voice in the setting of rates or in negotiations between the Company and the Union. It is apparent, therefore, that these employees perform neither managerial functions nor have access to confidential information relating to labor matters. Accordingly, we shall include them in the unit.⁴

Assistant Production Engineer in the Production Engineering Department. It does not appear that this employee is a graduate engineer and he admittedly has no supervisory duties. He interprets customers' specifications and transcribes this interpretation to the Company's specification cards. Although his work is highly skilled, it appears to be essentially clerical in nature. We shall include him in the unit.

Section Superintendents in Accounting Department. These employees supervise four or five employees each. While they have no power to hire or discharge, it does appear that at least since February 1944, the plant accountant who has the power to hire and discharge, has made it a rule not to hire or discharge any employee without first obtaining the approval of the section superintendent involved. We find that the section superintendents are supervisory employees within our customary definition and shall, accordingly exclude them from the unit.

PBX Operator. This employee operates a large switchboard, and also relieves the operator of the teletype machine about an hour each day. It does not appear that she comes into possession of confidential labor information in the ordinary course of her duties. We shall include the PBX operator in the unit.⁵

TWX Operator in Accounting Department. This employee, in addition to her other clerical duties, operates a teletype machine. The

⁴ *Matter of Electric Auto Lite Company*, 57 N. L. R. B. 723; *Matter of Oliver Farm Equipment Company*, 53 N. L. R. B. 1078.

⁵ *Matter of General Cable Corporation*, 55 N. L. R. B. 1143.

Company claims that confidential information respecting labor relations is sent over the teletype machine and that the operator necessarily acquires knowledge of such matters and should therefore be excluded from the unit. However, it appears from the record that in addition to the regular teletype operator, and the PBX operator who acts as her relief, a number of other girls operate the machine on occasion. In fact, the method of handling and filing messages does not suggest that the messages transmitted and received are considered sufficiently confidential by the Company to justify the exclusion of this employee from the unit. Accordingly, we shall include her.⁶

We find that all office and clerical employees⁷ in the Company's plant at Emeryville, California, including the assistant production planning supervisor and the assistant production control supervisors in the Production Control Department, the junior time-study clerk, the time-study trainee, and the assistant production engineer in the Production Engineering Department, the TWX operator in the Accounting Department, and the PBX operator in the General Office, but excluding those employees listed in Appendix "A" attached hereto, the assistant clerical supervisor in the Purchasing Department, plant nurses, Personnel Department employees,⁸ secretaries to heads of departments,⁹ the plant chemist, and all 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 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 Rela-

⁶ *Matter of General Cable Corporation*, 55 N. L. R. B. 1143.

⁷ The parties agree on the inclusion of the position of stock clerk soon to be created in the Cafeteria Department.

⁸ The position of "Clerk-Typist, Sr" listed under the Personnel Department pay roll is not included within this category. The parties agree that the person holding this position works in the Training Department and not in the Personnel Department and has no access to any of the personnel files. In accordance with the agreement of the parties, we shall include this employee in the unit.

⁹ This category includes Phyllis Dumpe and Blanche Roberts, but not the secretary to the head of the Contract Termination Department, who, the parties agree, has no access to confidential information relating to labor matters. We shall include her.

tions Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with General Cable Corporation, Emeryville, California, 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 Twentieth 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 the 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 and Machine Workers of America, C. I. O., for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.

APPENDIX "A"

<i>Purchasing Department</i>	<i>Cafeteria</i>
Purchasing Agent	Cafeteria Manager
<i>Personnel and Employment</i>	<i>Shipping</i>
Personnel Clerks ¹⁰	Supt. Shipping and Receiving
Plant Nurse (Head Nurse)	<i>Mgr. and Supt.</i>
Personnel Director	Plant Manager
<i>Drafting</i>	Secretary
Plant Engineer	<i>Accounting</i>
<i>Production Control</i>	Plant Comptroller
Production Control Supervisor	Plant Accountant
<i>Testing</i>	<i>Contract Termination Department</i>
Supt. Production Inspection	Department Manager
<i>Prod. Engineering</i>	<i>Plant Protection</i>
Supv. Time Study	Supt. of Protection
Technical Supt.	
Product Engineer	

¹⁰ This includes only Sarah Mitchell and Mary Steinmetz.