

In the Matter of THE IMPERIAL ELECTRIC COMPANY and UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 8-R-1633.—Decided November 8, 1944

Buckingham, Doolittle and Thomas, by Messrs. Lisle M. Buckingham and Dwight A. Blackmore, of Akron, Ohio, for the Company.

Mr. Fred Haug, of Cleveland, Ohio, for the Union.

Mr. Julius Kirle, 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 The Imperial Electric Company, Akron, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William O. Murdock, Trial Examiner. Said hearing was held at Akron, Ohio, on October 3, 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 Imperial Electric Company, an Ohio corporation having its principal office and place of business at Akron, Ohio, is chiefly engaged in the manufacture of electric motors, generators, and parts for same. During the year 1943, the Company purchased raw materials valued in excess of \$500,000, at least 65 percent of which came from

points outside the State of Ohio. During the same period, the Company's sales were in excess of \$500,000, at least 60 percent of which was shipped to points outside that 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 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 certain of the Company's 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 seeks a unit of all office employees of the Company, excluding supervisory employees. The Company contends (1) that the unit is generally inappropriate because all of the employees sought to be included by the Union are confidential employees who receive information affecting the Company's labor relations, and (2) that the Union is precluded from representing the office employees for the purposes of collective bargaining inasmuch as it presently represents the Company's production and maintenance employees.

The contention of the Company that the unit is inappropriate because the employees sought to be included are all confidential employees who receive information affecting the Company's labor relations is clearly without merit. The record does not disclose that these employees, with the exceptions hereinafter discussed, are confidential employees. While they may possess important information, this information in no way relates directly to the problem of labor relations. The possession of important information is of itself insufficient

¹The Field Examiner reported that the Union submitted 32 cards, 12 of which were dated August 10 to August 16, 1944, and 20 were undated, and that there are 44 employees in the claimed appropriate unit.

to justify exclusion from the right to collective bargaining.² Nor do we find merit in the Company's second contention. The Union is not precluded from representing the office employees for the purposes of collective bargaining merely because it presently represents the Company's production and maintenance employees.³

The Union would include the supervisor of time and personnel, and his assistant. The former hires the production workers, acts as the Company's representative in preparing longhand lists for all factory grievance committees, and prepares reports dealing with confidential instructions pertaining to employee's rates. His assistant, who sits opposite him at the same desk, prepares and distributes pay-roll checks, has access to all personnel files and generally assists the supervisor in the performance of his duties. We are of the opinion that the supervisor of time and personnel, and his assistant are confidential employees possessing information relating directly to the problem of labor relations; we shall therefore exclude them.

There remains in dispute the status of the chief draftsman and the supervisor of the planning department, whom the Union would include. The record indicates that the chief draftsman and the supervisor of the planning department are departmental heads occupying a supervisory status within the Board's customary definition thereof. We shall exclude the chief draftsman and supervisor of the planning department.

We find that all office employees of the Company, excluding the supervisor and assistant supervisor of time and personnel, the supervisor of planning, chief draftsman, 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,⁴ 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.

² See *Matter of U. S. Automatic Corporation*, 58 N L R. B. 662

³ See *Matter of Intercontinent Aircraft Corporation*, 50 N L R B 99.

⁴ The parties agreed, and we find, that the secretary to the president, treasurer, general manager, chief engineer, supervisor of industrial relations, supervisor of commercial sales, supervisor of elevator sales, supervisor of accounting, purchasing agent, general superintendent, the assistant secretary of the Company, and the liaison officer are excluded either as executives of the Company, confidential employees, or as falling within the Board's definition as set forth above.

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Imperial Electric Company, Akron, Ohio, 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 Eighth 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.