

In the Matter of **STONE & WEBSTER ENGINEERING CORPORATION** and **INTERNATIONAL FEDERATION OF TECHNICAL ENGINEERS, ARCHITECTS & DRAFTSMEN'S UNION, A. F. OF L.—LOCAL 105**

Case No. 1-R-2139.—Decided January 17, 1945

Messrs. A. G. Eldredge, C. G. Bjork, and H. L. Bunce, Jr., of Boston, Mass., for the Company.

Messrs. J. Lawrence Raimist, Harry P. Grages, Maurice Scott, and Herbert B. Powers, of Boston, Mass., for the A. F. of L.

Mr. N. C. Mancinelli, of Boston, Mass., and Mr. Frederick Roach, of Wollaston, Mass., for the Association.

Miss Ruth E. Bliefeld, of counsel to the Board.

**DECISION
AND
DIRECTION OF ELECTION**

STATEMENT OF THE CASE

Upon a petition duly filed by International Federation of Technical Engineers, Architects and Draftsmen's Union, A. F. of L., Local 105, herein called the A. F. of L., alleging that a question affecting commerce had arisen concerning the representation of employees of Stone & Webster Engineering Corporation, Boston, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John W. Coddair, Jr., Trial Examiner. Said hearing was held at Boston, Massachusetts, on November 13, 1944. The Company, the A. F. of L., and Employees' Association of Stone & Webster Engineering Corporation, herein called the Association, 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 Association filed a motion to Expunge Excerpts from the Corporation's Brief, and a Motion to Expunge Excerpts from the Petitioners' Brief. Inasmuch as our findings of fact are made on the basis of the record only, we disregard allegations of facts extraneous thereto, or irrelevant arguments presented in the briefs, and the motions are

60 N. L. R. B., No. 24.

therefore denied, as being superfluous. The Association's request for oral argument is also 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Stone & Webster Engineering Corporation was incorporated in Massachusetts in 1929, and is engaged in the preparation of plans and specifications for the construction and direction of power plants, oil refineries, and other chemical and industrial plants. It maintains its principal offices in Boston, Massachusetts, with other offices in Chicago, Illinois; Houston Texas; Los Angeles, California; New York, New York; Philadelphia and Pittsburgh, Pennsylvania; San Francisco, California; and Washington, D. C. During 1943 the volume of the Company's business exceeded \$1,000,000 and more than 50 percent of the Company's services was rendered to clients outside the Commonwealth of Massachusetts.

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

II. THE ORGANIZATIONS INVOLVED

International Federation of Technical Engineers, Architects and Draftsmen's Union, Local 105, affiliated with the American Federation of Labor, and Employees' Association of Stone & Webster Engineering Corporation,¹ are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 25, 1944, the Association requested recognition as the exclusive bargaining representative of the employees in the design division of the Company. The Company stated that it would deal with the Association on proof that it represented a majority of the group. Subsequently, the A. F. of L. notified the Company by letter that it claimed to represent the technical employees in the design division, and that it had filed a petition with the Board.

¹The Association introduced a copy of its charter into evidence. This was objected to by the A. F. of L. on the ground that it is opposed to the incorporation of any labor organizations and contends that no bona fide labor organization incorporates. We find no merit in this objection and it is hereby overruled.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the A. F. of L. represents a substantial number of employees in the unit hereinafter found appropriate.²

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 A. F. of L. seeks a unit consisting of all technical engineering, architectural and other technical employees in the design division of the Company in its Boston offices, including but not limited to technical engineers, architects, draftsmen, designers, bill of material writers, checkers, tracers, detailers, squad bosses, but excluding clerical and blueprint employees, and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action. The Company is in substantial accord with the unit as requested by the A. F. of L., except that it desires the inclusion of squad clerks, and the A. F. of L. desires their exclusion.

The Association agrees with the A. F. of L. as to the composition of a unit confined to the design division, but would include in the unit, in addition to the design division employees, all technical, engineering, and architectural employees in the other divisions of the Engineering Department.³

The Engineering Department of the Company is composed of 10 divisions, among which is included the design division. The record shows that the design division is carried on a separate pay roll, as distinguished from the other divisions which are carried on the so-called Engineering pay roll. The employees in the design division are paid weekly, and receive overtime pay, while the employees in the other divisions of the Engineering Department are paid monthly on a straight salary basis. In the Company's main office the design division is, and always has been located on a separate floor, and has always been somewhat segregated from the other divisions in the De-

² The Field Examiner reported that the A. F. of L. submitted 143 application for membership cards; that the names of 138 persons appearing on the cards were listed on the Company's pay roll of October 16, 1944, which contained the names of 470 employees in the appropriate unit; and that the cards were dated as follows:

February 1944, 1	May 1944, 9	August 1944, 15	November 1944, 3
March 1944, 25	June 1944, 20	September 1944, 25	Undated, 3
April 1944, 23	July 1944, 10	October 1944, 9	

The Association submitted 71 application cards. The names of 70 persons appearing on the cards were contained in the aforesaid pay roll. The cards were dated as follows:

May 1944, 64	August 1944, 1	October 1944, 6
--------------	----------------	-----------------

³ The Association, while requesting a unit which would encompass employees in all divisions of the Engineering Department admits that it has as yet obtained no employees as members in its organization, other than employees in the design division.

partment. While the whole process of planning, designing, constructing, and directing of plants by the Company is interrelated, the design division is engaged entirely in handling one phase of these operations, the drafting of plans, designs, and specifications. The record indicates that while there is some consultation and contact between the employees in the other divisions of the Engineering Department and the design division, the design division has always been considered as being functionally separable.

It also appears that the qualifications for positions in the design division are not as high as for those in the other divisions in the Engineering Department. The employees classified as engineers in the other divisions apparently are required to have higher technical skill and educational background than the design division employees.⁴

Inasmuch as it appears that the design division is functionally and administratively distinct from the other divisions in the Engineering Department, and since the proposed unit of design division employees apparently includes all non-professional employees in the Company's Boston headquarters' office engaged in drafting plans, designs, and specifications, we find that the appropriate unit should be confined to that division.

The parties were agreed that the unit in the design division should include all technical engineering, architectural, and other technical employees such as draftsmen, designers, bill of material writers, checkers, tracers, detailers, and squad bosses,⁵ and should exclude all supervisory⁶ and clerical employees.⁷ There was some dispute as to the inclusion or exclusion of the squad clerks.

Squad clerks: The company contends that the squad clerks in the design division are apprentices, and should therefore be included in the unit. The A. F. of L. contends that they are clerical employees,⁸ and desires their exclusion on that basis.

The squad clerks' duties consist of handling time records and running errands for other employees in the division. Four of the A. F. of L.'s witnesses testified that in their spare time these clerks sit at a table and read magazines and books. The Company contends that

⁴ See *Matter of General Electric Company*, 57 N. L. R. B. 81, in which the Board held that draftsmen and professional engineers might appropriately be in a single unit, if they so desire, and directed that self-determination elections be held in each group to determine the wishes of the employees in the two groups.

⁵ At the beginning of the hearing the A. F. of L. requested the exclusion of the squad bosses, or assistant engineers. Later, however, it was agreed by all parties that these employees are not supervisory employees and should be included in the unit. In accordance with the agreement of the parties we shall include the squad bosses within the unit. See *Matter of Federal Shipbuilding and Drydock Co.*, 55 N. L. R. B. 1438.

⁶ The employees in following categories were agreed to be supervisory employees: design managers, production managers, designing engineers, and chief clerk of files and time.

⁷ Included are blueprint machine operators, stenographers, typists, and clerks.

⁸ The A. F. of L. stated that it could not accept squad clerks as members since another A. F. of L. union claims jurisdiction over them as clericals.

these squad clerks were, and are, put in the design division because they had expressed a desire to learn designing or tracing, and in their spare time they are expected to practice these skills to prepare them for promotion in the division. It appears that the Company policy prior to the war was to promote such employees as showed aptitude to positions in the design division, but this has not been done to any great extent recently. Since it appears that the work of these employees is primarily clerical, we shall exclude them from the unit.

We find that all technical engineering, architectural and other technical employees⁹ in the design division of the Company's Boston headquarters' office, including squad bosses or assistant engineers, but excluding squad clerks, clerical employees, design managers, production managers, designing engineers, and chief clerk of files and time 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 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 Stone & Webster Engineering Corporation, Boston, Massachusetts, 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 First Region, acting in

⁹ This will include all designers, bill of material writers, draftsmen, junior draftsmen, tracers, checkers, detailers, and any other technical employees in the design division whose work brings them within the purview of the unit as defined above.

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 they desire to be represented by International Federation of Technical Engineers, Architects and Draftsmen's Union, Local 105 affiliated with the American Federation of Labor, or by Employees Association of Stone & Webster Engineering Corporation, for the purposes of collective bargaining, or by neither.

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