

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

Case No. 21-R-2593.—Decided March 13, 1945

Mr. Russell L. Greenman, of New York City, and *Mr. L. W. Klossner*, of Los Angeles, Calif., for the Company.

Mr. Carl Brant, of Los Angeles, Calif., for the Union.

Mr. Herbert C. Kane, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by 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 General Cable Corporation, Los Angeles, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William T. Whitsett, Trial Examiner. Said hearing was held at Los Angeles, California, on February 1, 1945. 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 Company, a New Jersey corporation engaged in the manufacture of wire and cable, operates a plant located in Los Angeles, California, the only one involved in this proceeding.

During the year 1944 the Company used at said plant raw materials consisting principally of copper, lead, and cotton valued in excess of 60 N. L. R. B., No. 200.

\$1,800,000 of which more than 95 percent represents shipments made to said plant from points outside the State of California. During the same period the Company manufactured finished products at said plant having a value in excess of \$2,000,000 of which more than 15 percent was shipped to points located 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 & 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 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 parties agree generally that a unit of all production and maintenance employees at the Los Angeles plant, excluding office and supervisory employees, is appropriate. The Union would include inspectors and guards in the unit, while the Company contends that the Board should find separate units for inspectors and guards, respectively.

The inspectors had been included in the plant wide unit under contract between the Company and the predecessor of the petitioner from 1938 to 1944, when a separate contract was executed covering these employees due to a change in their supervision.² There are about 11 inspectors. The inspectors use rules, calipers, scales, micrometers, elongation and tensile machines, make lead tests, and chem-

¹ The Field Examiner reported that the Union submitted 107 application for membership cards; that there are 116 employees in the appropriate unit; and that 83 of the cards were dated in December 1944, 18 in January 1945, and 6 were undated.

² In 1943, the Company set up a separate department for inspectors under the ultimate authority of the Director of product inspection in New Jersey, each plant has a superintendent of product inspection over the inspectors. Prior thereto, the inspectors were under the supervision of the plant manager, as were all the other employees. Following this change, the Company refused to bargain with the Union on any basis other than a separate unit for inspectors.

ical tests in the course of their inspection. Part of their work is done on the floor of the plant and part in the laboratory. They have no authority to recommend the discharge or changes in the status of the production employees. Their duty is to pass or reject material and make reports. They exercise no supervisory authority over those whose work they inspect. The confidential nature of their duties is in regard to specifications and not labor relations. While the more recent bargaining history reveals a separation of inspectors from the remaining production and maintenance employees, we are of the opinion that their long inclusion in the plant-wide unit prior thereto and the fact that their recent separation was not due to any substantive change in their duties, warrants adherence to our customary practice of including them in a plant-wide unit. We shall, therefore, include them in the unit.³

Plant-protection employees are armed and wear the uniform of the Company. They guard the entrance to the plant, check the passes of those entering, patrol the grounds, look for fires, report violations of plant rules, and generally perform the duties usually associated with such employees. Since they are now neither deputized nor militarized,⁴ we shall include them in the unit.⁵

We find that all production and maintenance employees, including inspectors and plant-protection employees below the rank of sergeant, but excluding all office employees, the shift foremen, sergeants and their superiors in the plant-protection department, and all or 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

The Union has requested that the Board use the pay roll for the week ending January 14, 1944, to determine eligibility, since Union allegedly has prepared for an election based upon that pay roll. Inasmuch as no sufficient reason has been shown to warrant departing from our usual practice in this regard, 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.

³ See *Matter of Gardner-Denver Company*, 44 N. L. R. B. 1192.

⁴ Since shortly after December 7, 1941, the plant-protection employees had been auxiliary military police. Recently, however, they received their discharges from the Ninth Service Command.

⁵ *Matter of Joseph Bancroft & Sons Company*, 60 N. L. R. B. 1053.

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 General Cable Corporation, Los Angeles, California, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) days from the date of this Direction, under the direction and supervision of the Regional Director for the Twenty-first 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 & Machine Workers of America, C. I. O., for the purposes of collective bargaining.