

In the Matter of WESTERN ELECTRIC COMPANY, INC. and AMERICAN
FEDERATION OF LABOR

In the Matter of WESTERN ELECTRIC COMPANY, INC. and UNITED·ELEC-
TRICAL, RADIO & MACHINE WORKERS OF AMERICA, C. I. O.

Cases Nos. 5-R-1412 and 5-R-1921, respectively.—Decided July 30, 1945

Mr. R. Dorsey Watkins, of Baltimore, Md., and *Mr. H. Kumball Prince*,
of New York City, for the Company.

Messrs. H. A. McFarland and *Guy Rebok*, and *Miss Rhoda Pearson*, of
Baltimore, Md., for the AFL.

Mr. David Scribner, by *Mr. Frederick R. Livingston*, of New York City,
and *Messrs. Herbert Hirschberg* and *Carl Kuhn*, of Baltimore, Md., for
the UE.

Mr. Al Philip Kane, of Washington, D. C., and *Messrs. W. H. Petry*
and *Elmer R. House*, of Baltimore, Md., for the TEW-NFTW.

Messrs. C. F. Rose and *C. K. Poske*, of Baltimore, Md., for the PBSEA.
Miss Katharine Loomis, of counsel to the Board.

DECISION .

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by American Federation of Labor,
herein called the AFL, and upon a petition duly filed by United Electrical,
Radio & Machine Workers of America, C. I. O., herein called the UE, each
alleging that a question affecting commerce had arisen concerning the rep-
resentation of employees of Western Electric Company, Inc., Point Breeze,
Baltimore, Maryland, herein called the Company, the National Labor Rela-
tions Board, by an order dated May 15, 1945, consolidated the cases and
provided for an appropriate hearing upon due notice before Earle K. Shawe,
Trial Examiner. Said hearing was held at Baltimore, Maryland, on May
24, 1945. The Company, the AFL, the UE, the Telephone Equipment
Workers—NFTW, herein called the TEW-NFTW, and the Point Breeze

Salaried Employees' Association, Inc., herein called the PBSEA, 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

Western Electric Company, Inc., is a New York corporation having its principal office in New York City. It is engaged in the manufacture, purchase, and sale of communication equipment for the Bell Telephone System. Its principal manufacturing plants are located in Chicago, Illinois, Kearney, New Jersey, Middle Village, Long Island, New York, and Point Breeze, Baltimore, Maryland. This proceeding concerns only the Company's plant at Point Breeze, Baltimore, Maryland, herein called the Point Breeze Works. During the year 1944, the Company's Point Breeze Works purchased materials and supplies amounting in value to more than \$23,000,000, 80 percent of which was purchased outside the State of Maryland. During the same period there were shipped from this plant finished products amounting in value to more than \$40,000,000, substantially all of which was shipped to points outside the State of Maryland.

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

II. THE ORGANIZATIONS INVOLVED

American Federation of Labor is a labor organization admitting to membership employees of the Company.

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.

Telephone Equipment Workers—NFTW, unaffiliated, is a labor organization admitting to membership employees of the Company.

Point Breeze Salaried Employees' Association, Inc., unaffiliated, 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 AFL, the UE, or the TEW-NFTW as the exclusive bargaining representative of the production and maintenance employees of its Point Breeze Works until one of these organizations has been certified by the Board.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the AFL represents a substantial number of employees in the unit which it claims to be 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 AFL, the UE, and the TEW-NFTW each seeks a unit of all production and maintenance employees of the Company's Point Breeze Works.² The unions are agreed that the unit should include cafeteria employees, but exclude procurement specialists, guards, firemen, chauffeur-guards, administrative and technical employees, and all supervisory employees of the rank of group chief and above. They are thus in agreement that the unit should be comprised of the Company's hourly paid production and maintenance workers, except that the UE would also include in the unit eight categories of salaried employees, contending that they are shop clericals. These classifications are production control clerks, department clerks, shop clerks, record clerks, stock record clerks, output tracers, production service clerks, and quality-accuracy inspectors. All are now represented by the PBSEA as part of a unit of salaried employees. The PBSEA, the AFL, and the TEW-NFTW seek their exclusion.

From the Company's lists of employees received in evidence it appears that there are other classifications of salaried clerical employees whose interests, judging from their titles, are closely related to the eight categories sought by the UE. Yet the UE does not ask for their inclusion. It is doubtful, moreover, whether any of the salaried clericals ought to be bargained for together with procurement and maintenance employees. On the contrary, it would seem that all form a well-defined, homogeneous, white-collar group which should remain separate from the production and maintenance

¹ The Field Examiner reported that the AFL submitted 2,536 authorization cards and petitions, that the names of 1,694 persons appearing on the cards and petitions were listed on the Company's pay roll of April 22, 1945, which contained the names of 4,919 employees in the AFL's alleged appropriate unit, and that 17 of the cards were dated before 1943 and 2,519 were dated after 1943.

The UE submitted 1,449 authorization cards. The names of 865 persons appearing on the cards were contained in the aforesaid pay roll. The cards were all dated subsequent to February 7, 1944. At the hearing the UE submitted to the Trial Examiner 393 additional authorization cards which were not checked against any pay roll.

The TEW-NFTW submitted 970 authorization cards. The names of 840 persons appearing on the cards were contained in the April 22, 1945, pay roll. The cards were all dated subsequent to August 29, 1944. At the hearing the TEW-NFTW submitted to the Trial Examiner 309 additional authorization cards which were not checked against any pay roll.

The PBSEA submitted its current contracts with the Company covering "all salaried, non-supervisory" employees as evidence of its interest among eight categories of salaried employees whom the UE seek to represent.

² The Company takes no position concerning any of the issues raised in the case.

employees for collective bargaining purposes. Consequently, we shall exclude the salaried clericals in dispute.³

We find, therefore, that all production and maintenance employees of the Company's Point Breeze Works, including cafeteria employees,⁴ but excluding all production control clerks, department clerks, shop clerks, record clerks, stock record clerks, output tracers, production service clerks, quality-accuracy inspectors, procurement specialists, guards, firemen, and chauffeur-guards,⁵ all administrative and technical employees, all supervisory employees of the rank of group chief and above, 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.⁶

At the hearing some question was raised concerning a connection between the TEW-NFTW and the Point Breeze Employees' Association, Inc., a labor organization which we previously ordered disestablished in Case No. 5-C-1604.⁷ Therefore, while in this Direction of Election, we accord places on the ballot to all the labor organizations involved in the case at bar,⁸ our action in this regard shall not preclude us from obtaining complete compliance with the requirements of our order in Case No. 5-C-1604, if such requirements have not already been fully met.

³ At the hearing a question was raised as to the legality of the PBSEA. Also, the PBSEA raised the question of whether its current contracts with the Company constitute a bar to a present determination of representatives insofar as the eight disputed categories are concerned. Since the basis upon which we exclude these employees is unrelated to these issues, we find it unnecessary to pass upon them.

⁴ The record indicates that all production and maintenance employees, including the cafeteria employees, fall within job classifications listed by the Company in its 6,000, 7,000, and 8,000 series.

⁵ The guards, firemen, and chauffeur-guards also fall within the Company's 6,000, 7,000, and 8,000 series. Guards have a job classification of #7862, firemen a job classification of #8847, and the chauffeur-guards are those chauffeurs who come within job classification #7842 and who are militarized or deputized.

⁶ The AFL requests that it appear on the ballot as "Flash Local 23703, A F of L"; the UE that it appear as "United Electrical, Radio & Machine Workers of America—U E—C I O"; and the TEW-NFTW that it appear as "Telephone Equipment Workers—NFTW." The requests are granted.

⁷ See *Matter of Western Electric Company, Incorporated*, 57 N L R B 1177, enforced, 147 F (2) 519 (C C A 4), cert denied, 65 S Ct 1014.

⁸ Except the PBSEA, which is solely interested in the salaried clericals we have excluded.

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 Western Electric Company, Inc., Point Breeze, Baltimore, Maryland, 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 Fifth 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 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 "Flash" Local 23703, A. F. of L., or by United Electrical, Radio & Machine Workers of America—U. E.—C. I. O., or by Telephone Equipment Workers—N. F. T. W., for the purposes of collective bargaining, or by none of these organizations.