

IN the Matter of AMERICAN BRIDGE COMPANY and TECHNICAL & CLERICAL EMPLOYEES AMERICAN BRIDGE CO. OF AMBRIDGE PLANT.
AFFILIATED WITH NATIONAL FEDERATION OF SALARIED UNIONS

Case No. 6-R-1264.—Decided March 21, 1946

Messrs. John C. Irwin and J. L. Davidson, Jr., of Pittsburgh, Pa., for the Company.

Messrs. H. C. Jones and B. F. Hammerk, of Edgeworth, Pa., for the Union.

Mr. John J. Brownlee, of Pittsburgh, Pa., and *Mr. Manuel Wood*, of Ambridge, Pa., for the C. I. O.

Mr. C. G. Kessler, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by Technical & Clerical Employees American Bridge Co. of Ambridge Plant, affiliated with National Federation of Salaried Unions, herein called the Federation, alleging that a question affecting commerce had arisen concerning the representation of employees of American Bridge Company, Ambridge, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph Lepie, Trial Examiner. The hearing was held at Pittsburgh, Pennsylvania, on January 3, 1946. The Company, the Union, and United Steelworkers of America, C. I. O., herein called the C. I. O., 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. At the hearing the C. I. O. moved that, in the event an election is directed, the Federation be designated on the ballot with the words "American Bridge Company of Ambridge Plant" deleted from its name. The Trial Examiner referred the motion to the Board. For reasons appearing in Section V, *infra*, this motion is 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

American Bridge Company is a New Jersey corporation. We are here concerned with its Ambridge Plant at Ambridge, Pennsylvania, where it is engaged in the fabrication of structural steel for the manufacture of bridges, buildings, towers, and other structures. During the year 1945, the Company purchased for use at its Ambridge Plant raw materials valued in excess of \$1,000,000, of which approximately 25 percent represented shipments from points outside the Commonwealth of Pennsylvania. During the same period the Company manufactured at its Ambridge Plant finished products valued in excess of \$1,000,000, 80 percent of which represented shipments to points outside the Commonwealth.

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

II. THE ORGANIZATIONS INVOLVED

Technical & Clerical Employees American Bridge Co. of Ambridge Plant is a labor organization affiliated with National Federation of Salaried Unions, admitting to membership employees of the Company.

United Steelworkers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Federation as the exclusive bargaining representative of its clerical and technical employees.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Federation represents a substantial number of employees in the alleged appropriate unit.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.

¹ The Field Examiner reported that the Federation submitted 172 cards; that 156 of these cards bore the names of employees listed on the Company's pay roll of October 29, 1945; that the cards were undated; and that there are approximately 365 employees in the alleged appropriate unit. He further reported that the C. I. O. submitted 57 cards, and that one of the cards bore the name of an employee listed on the Company's pay roll of the same date. The C. I. O. is also relying on its May 2, 1945, contract with the Company, which it alleges covers several of the categories in issue in this proceeding, as proof of its interest in this proceeding. (See footnote 3, *infra*.)

IV. THE APPROPRIATE UNITS

The Federation seeks two separate units at the Company's Ambridge Plant, i.e., one consisting of all salaried or clerical employees with certain specified inclusions and exclusions, and the other consisting of all technical employees with certain specified inclusions and exclusions.² The Company and the C. I. O. are in general agreement as to the scope and composition of the two units, but dispute the Federation's proposed inclusion of salaried inspectors in the technical unit, and the proposed inclusion of countermen and scale clerks in the salaried or clerical unit on the ground that their work is more closely identified with production and that they are already covered by an existing contract between the C. I. O. and the Company.³

Salaried Inspectors

The Company employs in all about 30 inspectors; 22 of these are hourly paid and are admittedly included in the production and maintenance unit represented by the C. I. O. There is no dispute with respect to these 22 employees. The only issue relates to the remaining 8 inspectors who are salaried and whom the Federation would include in the technical unit. Both salaried inspectors and hourly paid inspectors perform the same duties, work the same hours, and are under the same supervision. None of the inspectors perform any supervisory or managerial functions. The earnings of these two groups are approximately the same, due in part to the fact that any wage increase secured by the C. I. O. on behalf of the hourly paid inspectors has been extended to the salaried inspectors.

The Federation would distinguish between the inspectors because of the difference of their mode of payment. The record discloses in this connection that the eight salaried inspectors have been with the Company on a salaried basis since before 1926. At that time, the Company began hiring inspectors on an hourly wage rate basis only, a practice which it has since followed. No change was ever

² The petition alleged as appropriate a unit of all clerical and technical employees. It was amended at the hearing as shown above.

³ The C. I. O. was certified on November 2, 1945, by the Board as the representative of all employees of the Ambridge Plant, excluding, among others, salaried or clerical employees and technical employees. The present contract between the parties was executed on May 2, 1945, and covers, except for specific exclusions, "all employees of the Company at its Ambridge plant * * * for whom the Union is or may be during the life of the agreement certified by the National Labor Relations Board as the exclusive bargaining representative." It is the position of the C. I. O. that, although the contract appears to exclude from its coverage the classification of salaried inspectors, in issue in this proceeding, it was not the intent of the contracting parties to exclude them from the contract's coverage and it is presently functioning as the bargaining representative of these employees, as well as the countermen and scale clerks who are also sought by the Federation.

effected in the mode of payment of these eight employees in order to safeguard certain privileges, such as the right to payment for unavoidable absences, which inure only to salaried employees. It is further apparent from the record, that, although the 1945 contract between the C. I. O. and the Company expressly excluded salaried employees,⁴ the contracting parties view this exclusion as applied to inspectors as not controlling and consider these salaried inspectors to be part of the production force and covered in many respects⁵ by the contract. We have repeatedly held that the method of compensation must have a direct relationship to the functions, skill, and status of the employees before it may operate as a demarcation factor.⁶ Accordingly, because it is clear that, except for the difference in the method of payment, there is no basis for distinguishing between the two groups of inspectors, we shall exclude the salaried inspectors from the technical unit.

Countermen

The Countermen, whom the Federation seeks to include within the salaried unit, work in the Company's storeroom. Their primary duty consists of issuing tools and supplies requisitioned by the production employees and issuing credits for all returned items. They are hourly paid. The C. I. O. has been bargaining for these employees as part of the production and maintenance unit; the record shows that it has processed grievances and secured wage increases in their behalf. It is apparent from the foregoing that the interests of these employees lie with those of the production and maintenance employees. We shall exclude them from the salaried or clerical unit.

Scale Clerks in Mechanical and Maintenance Department (Fabricating)

The scale clerks in the mechanical maintenance department, whom the Federation seeks to include within the salaried unit, perform duties of conductors, brakemen, and clerks in the scale house. As conductors, they direct the placement of railroad cars. As brakemen, they couple and uncouple cars, transmit signals from the conductor

⁴ Some of the salaried inspectors were once members of the Union. However, upon the Company's refusal to invoke the dues check-off provision of the contract with respect to salaried inspectors by reason of the exclusion from the contract of salaried employees, these inspectors interpreted the Company's action as notification of their ineligibility to remain members of the C. I. O. and withdrew.

⁵ As noted above, the Company is unwilling, however, to invoke the dues check-off provision of the contract with respect to the salaried inspectors.

⁶ See *Matter of Westinghouse Air Brake Company*, 64 N. L. R. B. 547.

to the locomotive crew, ride cars, apply hand brakes and throw switches. As clerks, they weigh cars and keep records of the movement of cars through the Company's yards, of demurrage, and do any other accounting required by the yard switch foreman. They are paid on an hourly basis and are considered by the Company to be part of the production and maintenance unit. We find that these employees are primarily engaged in production work, and that, in their clerical duties, they function as production clericals. We shall exclude them from the salaried or clerical unit.

We find, in substantial accordance with a stipulation of the parties and our foregoing determinations, that the following units, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, are appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

(1) All salaried or clerical employees of the Company's Ambridge Plant, including those employed in the categories set forth in Appendix A, but excluding those in the categories set forth in Appendix B, countermen, scale clerks in the Mechanical Maintenance Department (Fabricating), salaried inspectors, draftsmen, all plant protection employees, administrative (such as management staff, specialists, and others doing work of a confidential nature, and directly pertaining to management functions), confidential, professional and technical employees, all employees in the Industrial Engineering Department, all employees in the Industrial Relations Department, trainees, practice apprentices, supervisors and assistant supervisors;

(2) All draftsmen, tracer draftsmen, and engineers of the Company's Ambridge Plant, including those employees in the categories set forth in Appendix C, but excluding those in the categories set forth in Appendix D, salaried inspectors, clerical employees, administrative (such as management staff, specialists, and others doing work of a confidential nature, and directly pertaining to management functions), confidential, professional, all employees in the Industrial Engineering Department, supervisors, and assistant supervisors.

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 employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of

Elections herein, subject to the limitations and additions set forth in the Direction.⁷

DIRECTION OF ELECTIONS

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 American Bridge Company, Ambridge, Pennsylvania, elections 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 Sixth 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 employees in the units 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 elections, to determine in each unit whether they desire to be represented by Technical & Clerical Employees American Bridge Co. of Ambridge Plant, affiliated with National Federation of Salaried Unions, or by United Steelworkers of America, C. I. O., for the purposes of collective bargaining, or by neither.

⁷ As stated above, the C. I. O. moved that, in the event an election is directed, the Federation be designated on the ballot with the words "American Bridge Company of Ambridge Plant" deleted from its name. Apparently the C. I. O. objects to the incorporation of the Company's name as part of the Union's designation. We find no merit in this position. The Federation is clearly entitled to be designated on the ballot by its true name, which includes the words sought to be deleted.

APPENDIX A

INCLUSIONS WITHIN SALARIED UNIT

Manager's Office (Fabricating Division)

Telephone Operator
 Messenger to Pittsburgh
 Office
 Messenger
 Mail Clerk

Mechanical Engineering Department

File and Research Clerk
 Stenographer

Drawing Room

Stenographer
 Senior Clerk—Blueprint
 Room
 Clerk
 Blueprint Room Helper
 Blueprint Machine Operator
 Blueprinter
 Drawing Room Clerk
 Junior Clerk

Accounting Department

Stenographer—Office Supply
 Duplicator Machine Operator
 Junior Insurance Clerk
 Senior Tabulating Card
 Checker
 Pay-roll Audit Clerk
 Typist (Shipping)
 Typist and Mail Clerk (shipping)
 Billing Clerk (Shipping)
 Timekeeper
 Timekeeper (night)
 Junior Timekeeper
 Accounts Payable Clerk
 Utility Clerk
 Junior Cost Clerk—Contract
 Records
 Rate Clerk

Key Punch Operator
 Senior Coding Clerk
 Freight Clerk
 Tabulating Card Checker
 Junior Rate Clerk
 Cost Clerk—Stores Material
 Accounts Payable Clerk,
 Freight and Express
 Junior Clerk
 Senior Timekeeper
 Junior Clerk, Production
 Records
 Chief Cost Clerk
 Junior Tabulating Machine
 Operator
 Junior Clerk (piecework as-
 signment)
 Junior Clerk, Materials
 Junior Pay-roll Clerk
 Junior Voucher Clerk
 Adjustment Clerk, Materials
 Junior Cost Clerk—Construc-
 tion Records
 Adjustment Clerk, Materials
 Senior Accounting Clerk—
 Sub Contract Invoices
 Accounting Clerk

Order Office

Squad Leader
 Senior Stock Clerk
 Receiving Clerk, Order Office
 Junior Order Clerk
 Junior Clerk (Figures,
 Weights)
 Senior Order Clerk
 Order Clerk (Figures, Rivets
 and Cuts)
 Stenographer, Receiving and
 File Clerk
 Mill Order Clerk

Typist Clerk, Order Office	<i>Shipping Department</i>
Typist Clerk	Senior Production Clerk
Stenographer, Record and File Clerk	Clerk—Shipping
	Shipping Clerk
	Senior Clerk—Shipping
<i>Storeroom</i>	Chief Clerk—Shipping
Receiving Clerk, Storeroom	
Senior Clerk	<i>Inspection Department</i>
Stenographer	Chief Inspector's Clerk
Clerk	Shop Change Clerk
File Clerk	
<i>Industrial Engineering Department</i>	<i>Auxiliary Shop</i>
	Welding Coordinator
Punch Shear Dispatcher (Main)	<i>Beam and Column Shop</i>
Timekeeping and Routing Clerk (Templet)	Shop Clerk—Beam and Column
Routing Clerk following operations (Templet)	
Senior Templet Router (Templet)	<i>Main Shop</i>
Rate Clerk (Main)	Superintendent's Clerk
Junior Clerk (Light work and Eyebar)	
Rate Clerk (Tank)	<i>Master Mechanics Department (Fabricating)</i>
Timekeeper and Rate Clerk—Barge Yard	Senior Clerk
Relief Clerk (Plant General)	<i>Receiving Yards</i>
Production Timekeeper (Main)	Receiving Yard Clerk
Timekeeper Clerk (Machine)	<i>Master Mechanics Department—Shipyard</i>
Routing Clerk (Beam)	Clerk and Draftsman
Superintendent's Clerk (Forge)	
Shop Clerk (Bolt, Nut and Rivet)	<i>Warehouse (Army Ordnance)</i>
Rate Clerk (Bolt, Nut and Rivet)	Stenographer
Rate Clerk (Beam)	Junior Record Clerk
Rate Clerk, Welding (Auxiliary)	Senior Clerk
Junior Clerk (Machine)	Tag Clerk
Rate and Time Clerk (Barge)	Posting Clerk
Routing Clerk (Templet)	File Clerk
	Typist
	Senior Clerk (Warehouse)
	<i>Plate Shop No. 2</i>
	Superintendent's Clerk
	<i>Industrial Engineering Department</i>
	Shop Clerk (Machine)

APPENDIX B

EXCLUSIONS FROM SALARIED UNIT

General Manager's Office

General Manager
 Assistant to General Manager
 Clerk-Manager's Office
 Secretary

Manager's Office (Fabricating Division)

Manager
 Assistant to Manager
 Clerk—Manager's Office
 Foreman Office Janitors
 Secretary to Manager
 Stenographer-Clerk—Manager's Office
 Junior Clerk—Manager's Office
 Chief Telephone Operator

Manager's Office (Shipyard)

Assistant Manager
 Clerk—Navy Property and Equipment
 Stenographer

Mechanical Engineering Department

Secretarial Stenographer

Drawing Room

Secretarial Stenographer
 Chief Clerk

Accounting Department

Accountant
 Assistant to Accountant
 Chief Timekeeper
 Supervisor, Shipping Statements
 Chief Clerk—Mail and Office Supplies
 Secretary
 Statistics Clerk
 Chief Cost Clerk—Shipyard

Order Office

Chief Clerk
 Assistant Chief Clerk

Industrial Relations Department

Supervisor of Labor Relations
 Employment Supervisor
 Chief Clerk (In charge of Safety)
 Chief Clerk Check Office
 Stenographer

Paymaster's Office

Paymaster
 Assistant Paymaster
 Assistant to Paymaster

Casualty Department

Supervisor Nurses and Hospital
 Nurse
 Chief Nurse (Shipyard)

Storeroom

Storekeeper
 Assistant Storekeeper

Industrial Engineering Department

Accounting Superintendent,
 Rate Department
 Assistant to Superintendent,
 Rate Department
 Foreman, Rate Department
 Timestudy Engineer—Rate
 Department
 Typist—Rate Office
 Timestudy Engineer
 Senior Rate Clerk, Fitting
 (Main)
 Senior Rate Clerk (Beam and
 Column)
 Senior Route and Rate Clerk
 (Machine)

Shipping Department
Shipper

Warehouse (Army Ordnance)
Assistant Manager

Inspection Department
Chief Inspector

APPENDIX C

INCLUSIONS WITHIN TECHNICAL UNIT

Mechanical Engineering Department
Civil Engineer
Assistant Engineer
Draftsman

Tracer Draftsman
Detailer
Checker
Squad Leader

Drawing Room
Draftsman
Squad Engineer

Master Mechanics Department (Fabricating)
Draftsman

APPENDIX D

EXCLUSIONS FROM TECHNICAL UNIT

Mechanical Engineering Department
Chief Mechanical Engineer
Assistant Mechanical Engineer
Chief Electrical Engineer
Electrical Engineer
Civil Engineer
Welding Engineer
Assistant to Welding Engineer
Design Engineer
Draftsman and Investigator

Chief Draftsman
Chemist
Assistant Supervisor
Junior Chemist
Estimator
Scale Inspector (Supervisor of Scales)
Corrosion Engineer
Photographer
Chief Clerk
Drawing Room
Plant Engineer
Engineer