

In the Matter of WESTERN ELECTRIC COMPANY, INCORPORATED and
POINT BREEZE SUPERVISORS ASSOCIATION

Case No 5-R-2204.—Decided June 6, 1946

Mr. Charles Y. Latimer, for the Board.

Root, Ballantine, Harlan, Bushby, and Balmer, by Messrs. *Wilkie Bushby* and *Everett I. Willis*, both of New York City; and *Mr Kimball Prince*, of New York City; and *Mr. Dorsey Watkins*, of Baltimore, Md., for the Company.

Wineberg and Green, by *Mr. Everett L. Buckmaster*, of Baltimore, Md., for the Union.

Mr. Jerome J. Dick, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon an amended petition duly filed by Point Breeze Supervisors Association, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Western Electric Company, Incorporated, Point Breeze, Baltimore, Maryland, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Earle K. Shawe, Trial Examiner. The hearing was held at Baltimore, Maryland, on April 15, 16, 17, and 18, 1946. The Company and the Union appeared and participated.¹ 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 Company moved to dismiss the petition on various grounds. For reasons stated in Sections II, III, and IV, *infra*, the motion to dismiss 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.

¹ Eugene H. Wood appeared solely for the purpose of presenting a petition, bearing 238 alleged signatures of section chiefs, which stated that the signatories were opposed to representation by any union. Asked repeatedly by the Trial Examiner if he wished to apply for leave to intervene, Wood answered that he did not desire to do so.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Western Electric Company, Incorporated, a New York corporation with its principal office in New York City, 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, New York; and Point Breeze, Baltimore, Maryland. The Company's plant at Point Breeze is solely involved in this proceeding. During the year 1945, the Company purchased for use at its Point Breeze plant materials and supplies exceeding \$23,000,000 in value, 80 percent of which was shipped from points outside of the State of Maryland. During the same period, the Company manufactured finished products exceeding \$40,000,000 in value, 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 ORGANIZATION INVOLVED

Point Breeze Supervisors Association is an unaffiliated labor organization, admitting to membership only the Company's section chiefs.²

III. THE QUESTION CONCERNING REPRESENTATION

The Company has declined to recognize the Union as the collective bargaining representative of its section chiefs on the ground that as supervisors, they are not "employees" within the meaning of the Act. The status of supervisory personnel has been considered in a number of cases. Both the Board³ and the courts⁴ have held that, in relation to their employer, supervisors are "employees" within the meaning of

² Asserting that the Union is an association of employers and not employees, since it is composed of section chiefs who are part of management, the Company, in support of its motion to dismiss, contends that the Union is not a labor organization within the meaning of the Act. In Section III, *infra*, the section chiefs are found to be "employees" within the meaning of the Act. Accordingly, we find this contention to be without merit.

³ *Matter of Soss Manufacturing Company, et al.*, 56 N. L. R. B. 348, *Matter of Packard Motor Car Company*, 61 N. L. R. B. 4, and 64 N. L. R. B. 1212; *Matter of The Midland Steel Products Company*, 65 N. L. R. B. 997.

⁴ *N. L. R. B. v. Armour & Co.*, 154 F. (2) 570 (C. C. A. 10, November 5, 1945); *Jones & Laughlin Steel Corporation v. N. L. R. B.*, 146 F. (2) 833 (C. C. A. 5); *N. L. R. B. v. Skinner & Kennedy Stationery Company*, 113 F. (2d) 667 (C. C. A. 8).

the Act. Accordingly, we find that the section chiefs are "employees" within the meaning of the Act.

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 UNITS

The Union seeks a unit composed of all section chiefs at the Company's Point Breeze plant, excluding all production and maintenance employees, office and clerical employees, department heads, and all other supervisory employees. The Company contends, however, that the section chiefs have greater responsibilities and duties than the supervisors involved in the *Packard* case;⁵ that the establishment of the unit sought would not effectuate the policies of the Act, and would be contrary to public policy; and that recognition of a bargaining unit of such management personnel would destroy the usefulness of section chiefs as company representatives because divided loyalties would inevitably result.

The supervisory hierarchy in immediate and full-time charge of the Point Breeze plant consists of the following:

<i>Title</i>	<i>Number</i>
Works Manager	1
Engineer of Manufacture	1
Superintendents	10
Division Chiefs	42
Department Chiefs	112
Section Chiefs	359

The plant is organized into a number of small production shop units which are directed by division chiefs, and are referred to as divisional shops. These divisions are composed of departments headed by a department chief, and the departments in turn, are made up of sections directed by section chiefs.

Section chiefs, the lowest level of supervisors in the plant, are in immediate charge of from 2 to 15 rank and file employees. Their duties consist of distributing work in their section, training and evaluating their subordinates for the purposes of promotion or demotion; maintaining running records of schedules, work completions and repair reports; and keeping personnel records. In addition, section chiefs have the power to discharge for cause employees with less than 6 months service in grade, and employees with less than 2 years over-all service. They also may recommend the discharge of employees of more than 2 years' service. Moreover, they can transfer employees into and out of their sections. They also may hire new employees, provided their wages do not exceed the starting

⁵ *Matter of Packard Motor Car Company*, 61 N. L. R. B. 4 and 64 N. L. R. B. 1212.

rate, subject to the "screening" of these individuals by the Company's "employment organization."

Section chiefs are mainly governed in the performance of their duties by manufacturing department instructions issued by the Company. They are called upon in monthly meetings to make suggestions with respect to company policy, which may or may not be adopted by the Company. Although the section chiefs take part in collective bargaining, their functions are limited to the first step in the grievance procedure outlined in the collective bargaining agreements with various unions. On the whole, while section chiefs do have some latitude and discretion in the supervision of their sections and the application of company policy, it cannot be said that they actually formulate company policy.

We do not find persuasive the Company's attempt to distinguish this case from the *Packard* case on the ground that the Company is not engaged in mass production and that the Company's section chiefs have duties, powers, and responsibilities far beyond those of supervisors in the *Packard* case, and cannot therefore be classified as mere "traffic cops." As we stated in *Matter of Hudson Motor Car Company*,⁶ the nature of the duties and responsibilities of supervisors is not relevant, except insofar as it bears on the question of the proper grouping of supervisors for bargaining purposes.

In *Matter of Jones & Laughlin Steel Corporation, Vesta-Shannon Coal Division*,⁷ we discussed the purpose and policy of the Act. We pointed out that the National Labor Relations Act was intended to encourage the practice of collective bargaining as a means of settling labor disputes and that this policy was as applicable to labor disputes involving supervisors as to those pertaining to rank and file employees. Accordingly, we find no merit in the Company's argument that the establishment of any unit of its section chiefs is against public policy and would not effectuate the policies of the Act.

Moreover, the Company's contention with respect to divided loyalties resulting from the recognition of a bargaining unit of section chiefs was rejected in *Matter of L. A. Young Spring & Wire Corporation* and cases following.⁸ As in those cases, we find that questions of divided loyalty and the like are matters which must be settled by the parties through their collective bargaining agreements.

The unit as proposed by the Union includes section chiefs who supervise production and maintenance employees as well as section chiefs who supervise clerical, administrative, and technical employees. Although the Company has not specifically objected to the unit on this ground,

⁶ 67 N. L. R. B. 368. See also *Matter of L. A. Young Spring & Wire Corporation*, 65 N. L. R. B. 298.

⁷ 66 N. L. R. B. 386. See also *Matter of L. A. Young Spring & Wire Corporation*, *supra*.

⁸ See e. g. *Matter of Jones & Laughlin Steel Corporation, Vesta-Shannon Coal Division*, *supra*.

we believe that the section chiefs who supervise production and maintenance employees should be included in one unit, and section chiefs who supervise clerical, administrative and technical employees in another. These are the bargaining patterns established for rank and file employees generally; they are also the form of organization which the Board has approved for the Company's own rank and file employees.⁹ These same patterns should be followed for the section chiefs. Accordingly, we shall establish two bargaining units, one for the section chiefs who supervise production and maintenance employees, and the other for section chiefs who supervise clerical, and administrative, and technical employees.¹⁰

We find that the following units of section chiefs of the Company's plant at Point Breeze, Baltimore, Maryland, are appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

1. All section chiefs who supervise production and maintenance employees, excluding section chiefs who supervise clerical, administrative, and technical employees, all production and maintenance employees, office and clerical employees, department heads, and all other supervisory employees.

2. All section chiefs who supervise clerical, administrative, and technical employees, excluding section chiefs who supervise production and maintenance employees, all production, and maintenance employees, office and clerical employees, department heads, and all other supervisory employees.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by separate elections 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.

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 Western Electric Company,

⁹ See *Matter of Western Electric Company, Inc*, 62 N. L. R. B. 1505

¹⁰ See *Matter of Jones & Laughlin Steel Corporation, Vesta-Shannopin Coal Division*, *supra*.

Incorporated, Point Breeze, Baltimore, Maryland, 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 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 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 whether or not they desire to be represented by Point Breeze Supervisors Association, for the purposes of collective bargaining.

MR GERARD D. REILLY, dissenting:

For the reasons stated in my dissenting opinion in *Matter of Packard Motor Car Company*, 61 N. L. R. B. 4, I am constrained to dissent from the majority opinion in this case.