

In the Matter of A. S. CAMPBELL Co., INC., EMPLOYER and UNITED  
ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA (CIO),  
PETITIONER

*Case No. 1-R-3070.—Decided August 7, 1946*

*Mr. Edmund V. Maloney*, of East Boston, Mass., for the Employer.  
*Mr. Donald Tormey*, of Boston, Mass., for the Petitioner.  
*Mr. Melvin J. Welles*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTIONS

Upon a petition duly filed, hearing in this case was held at Boston, Massachusetts, on June 7, 1946, before Julius Kirle, Trial Examiner. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

A. S. Campbell Co., Inc., is a Massachusetts corporation with its principal office and plant at East Boston, Massachusetts. It is engaged primarily in the manufacture of automobile bumpers and guards, and the assembling of farm trailers and plastic drain pipes for refrigerators. During 1945 it purchased for use in its operations, materials valued in excess of \$500,000, of which 90 percent was shipped to its plant from points outside the Commonwealth of Massachusetts. During the same period, the Employer manufactured products valued in excess of \$2,000,000, of which 85 percent was shipped to points outside the Commonwealth of Massachusetts.

The Employer admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

## III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

The Employer contends that the employees involved in this proceeding are ineligible for membership in the petitioning union under the constitution and bylaws of that organization. We have uniformly held, however, that the constitutional right of a petitioning union to accept certain employees as members is immaterial in the absence of any proof that the union will not adequately represent such employees.<sup>1</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

## IV. THE APPROPRIATE UNITS

The Petitioner desires to include all office, clerical, and technical employees of the Employer, excluding all supervisory employees, in the bargaining unit of production and maintenance employees which it currently represents. The Employer objects to the inclusion of these employees in the existing unit of production and maintenance employees because of the dissimilar interests of the two groups, and also contends that the office and clerical employees should constitute a unit separate and distinct from the technical employees. The Employer contends further that the technical employees are so few in relation to the total number of employees that they should not constitute a unit for the purposes of collective bargaining. The Employer and the Petitioner agree that the employment manager, procedure supervisor, trailer salesmen, guards, watchmen, nurses, chemists, plant engineer, and secretary to the president should be excluded from any unit or units found appropriate herein.

The Board's general policy has been to recognize differences in interests, background and functions between clerical employees and technical employees, and to place the employees comprising such groups in separate units where, as here, any of the parties concerned objects to their inclusion in a single unit.<sup>2</sup> In addition, the Board excludes

<sup>1</sup> *Matter of Boeckeler Associates and Chemprotin Products*, 60 N. L. R. B. 1208, and cases cited therein.

<sup>2</sup> *Matter of Wagner Electric Corporation*, 67 N. L. R. B. 1104, and cases cited therein.

office, clerical, and technical employees from units of production and maintenance employees.<sup>3</sup> Inasmuch as the technical employees herein concerned have functions, interests, and backgrounds different from those of the office and clerical employees, and inasmuch as the Employer objects to the inclusion of both groups in a single unit, we shall adhere to our usual policy of placing the employees in each of these groups in separate units, and apart from the already established production and maintenance unit. There is no merit in the Employer's contention that there is not a sufficient number of technical employees to constitute an appropriate unit for the purposes of collective bargaining. We have frequently held that one employee may not, but more than one employee may, properly constitute an appropriate unit.<sup>4</sup>

There remains for consideration certain employees whom the Employer would exclude from any unit as supervisory or confidential.

Uncontroverted evidence adduced at the hearing reveals that the following employees possess authority effectively to recommend the discharge or discipline of subordinate employees: bookkeeper (cash and accounts receivable); bookkeeper (general ledger and accounts payable); assistant—sales department; assistant—purchasing agent; and secretary to the sales manager. We shall, therefore, exclude these employees from both units hereinafter found appropriate as supervisory employees.

*Chief time study engineer:* This employee sets production standards on all production jobs for the Employer. He does not, however, determine wage rates. While there was some testimony adduced at the hearing that he sits in on conferences concerning labor relations, the evidence indicates that his only function in this respect is to furnish the Employer with time study information. He is not, despite the contention of the Employer to the contrary, either a managerial or a confidential employee within our definitions. However, his duties and interests are clearly dissimilar from those of the other office, clerical, and technical employees involved herein. We shall, therefore, exclude him from both units.

*Estimator:* The Employer contends that the estimator should be excluded from any appropriate unit as a confidential employee. This employee estimates the time it should take to complete each job, but does not determine job rates. Although his time estimates may be subject to grievances, he does not participate in the settlement of such grievances. We do not agree with the Employer's contention that the estimator is a confidential employee. However, the duties and interests of the estimator are very similar to those of the chief time

<sup>3</sup> *Matter of Ward Leonard Electric Co.*, 59 N. L. R. B. 1305, and cases cited in footnote 5 therein.

<sup>4</sup> See *Matter of The Central Foundry Company*, 20 N. L. R. B. 131, and cases cited therein.

study engineer, whom we have excluded from both units. We shall also exclude the estimator from these units.

*Secretary to the vice president of manufacturing:* She takes dictation, generally assists, and acts in a confidential capacity to the vice president of manufacturing, who is in a position to formulate, determine and effectuate management policies in the field of labor relations. Much of her work is concerned with matters pertaining to labor relations and management problems. We find that she is a confidential employee, and shall, therefore, exclude her from the units.

*Secretary (assistant in personnel):* She acts as general secretary to the personnel and industrial relations manager, types reports and files data on labor relations matters, and has access to the confidential files of the industrial relations manager. The latter is directly concerned with labor relations problems, and formulates, determines and effectuates management policies with respect to labor relations. We find that the secretary (assistant in personnel) is a confidential employee, and shall, therefore, exclude her from the units.

*Secretary to the works manager:* She takes dictation and generally assists the works manager, who is involved in all negotiations relating to union contracts, and in all grievances affecting employees in the plant, and is thus in a position to formulate, determine and effectuate management policies in the field of labor relations. We shall exclude the secretary to the works manager from the units as a confidential employee.

*Secretary to the treasurer:* She takes dictation from the treasurer; approximately 10 percent of this dictation is devoted to grievances and labor relations matters. In addition, this employee handles contracts, insurance policies, bank reports and other financial information pertaining to the Employer. Testimony was adduced at the hearing to the effect that the treasurer has not attended the most recent negotiations between the Employer and the union, but evidence that the treasurer is in a position to formulate, determine and effectuate management policies in the field of labor relations was uncontroverted. Accordingly, we shall exclude the secretary to the treasurer from the unit or units hereinafter found appropriate as a confidential employee.

We find that the employees in the following groups, 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, constitute separate units appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

1. All technical employees of the Employer, including draftsmen, plant lay-out engineers, and engineers, but excluding all office clerical employees, chief time study engineers, and estimators.

2. All office and clerical employees of the Employer, excluding bookkeeper (cash and accounts receivable), bookkeeper (general ledger and accounts receivable), assistant—sales department, assistant—purchasing agent, secretary to the sales manager, secretary to the treasurer, secretary to the vice-president of manufacturing, secretary to the works manager, secretary (assistant in personnel), secretary to the president, chief time study engineers, estimators, draftsmen, plant lay-out engineers, engineers, procedure supervisors, trailer salesmen, guards, watchmen, nurses, chemists, and plant engineers.

### DIRECTION OF ELECTIONS

As part of the investigation to ascertain representatives for the purposes of collective bargaining with A. S. Campbell Co., Inc., East Boston, Massachusetts, 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 First Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of National Labor Relations Board Rules and Regulations—Series 3, as amended, 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 in each of the units whether or not they desire to be represented by United Electrical Radio & Machine Workers of America (CIO), for the purposes of collective bargaining.