

Clark, whom the Union would include, is known as the parts manager and normally directs the work of a subordinate, over whom he holds the power of discharge. At the time of the hearing this subordinate position was vacant, but President Ramsey had instructed Clark to locate and hire a new assistant. We shall exclude him as a supervisor.⁶

McCool, whom the Employer would include, is currently spending 90 percent of his time as a parts man. He also works all over the establishment, doing repair work and handling complaints. As an experienced Ford man, he was brought in for the purpose of rebuilding the entire service business. If satisfactory, he is expected to be placed in charge of all service employees. President Ramsey regards him even now as of higher rank than Parts Manager Clark. We believe that his interests are materially different from those of the other employees, and we shall therefore exclude him.⁷

Upon the entire record in the case, we find that all service department employees at the Employer's Malvern, Arkansas, place of business, including mechanics, body and fender men, painters, washers, lubrication men, and parts men, but excluding office clerical employees, professional employees, watchmen-guards, car salesmen, the prospective service manager,⁸ the parts manager, and all other supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

[Text of Direction of Election omitted from publication in this volume.]

⁶ *Continental Pipe Line Co.*, 78 NLRB 379, 383; *Brewster Pateros Processors, Inc.*, 73 NLRB 833; *Scanlon-Morris Division, Ohio Chemical & Mfg. Co.*, 71 NLRB 903.

⁷ *Muller Company, Ltd.*, 98 NLRB 737.

⁸ *McCool*.

WORDEN-ALLEN COMPANY and PAUL FISCHER, PETITIONER and TECHNICAL ENGINEERS' ASSOCIATION. *Case No. 13-RD-113. May 29, 1952*

Decision and Direction of Elections

Upon a decertification petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Helene Zogg, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

¹ At the hearing, the Union adduced evidence to show that the Employer had inspired and fostered the petition. A motion by the Union to dismiss the petition on this ground was referred by the hearing officer to the Board. As it is the Board's established practice to exclude from representation proceedings all matters relating to unfair labor practices the Union's motion is denied. For the same reason, all testimony with respect to the matter is hereby stricken from the record. *Jell-Well Dessert Company*, 82 NLRB 101, and cases therein cited; *G and M Lumber Co., Inc.*, 83 NLRB 1258.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Murdock].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The Petitioner, an employee of the Employer, asserts that the Union is no longer the representative, as defined in Section 9 (a) of the Act, of the employees designated in the petition. The Union, a labor organization, was certified by the Board as such representative on November 8, 1950, pursuant to a consent election.²

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The appropriate unit:

The Petitioner seeks decertification of the Union as the bargaining representative of all engineers and draftsmen (including blueprinters) in the Employer's drafting room, excluding the office force, salesmen, and shop employees. The Union contends that there should be separate elections among the engineers and draftsmen, on the ground that the former are professional employees, and the latter, technical employees. The Employer contends that at least some of the draftsmen, as well as the engineers, are professional employees. It further contends that the work of the engineers and draftsmen is so interrelated that both groups should be included, as in the past, in a single unit.³ The parties disagree as to the inclusion or exclusion of the chief engineer, squad leaders, and part-time employees.

The Employer is engaged at its plant in Milwaukee, Wisconsin, in the manufacture and fabrication of structural steel and jobbing. It erects structures of various types, including buildings and bridges. Its production and maintenance employees have been represented, since 1934, by Local 471, Bridge Structural and Iron Workers, A. F. L.; its engineers and draftsmen, since 1950, by the Union.

The engineers and draftsmen, although in separate departments, all work in the same room, designated as the drafting room, under the general supervision of the chief engineer.⁴ They are classified as engineers (class A and class B), engineering trainees, draftsmen (class

² Case No. 13-RC-1560.

³ The consent election in 1950, as a result of which the Union was certified, was held in an *agreed* unit of "all engineering and drafting employees . . . excluding office employees and supervisory employees as defined in the Act as amended, and further excluding all other employees of the Company." No question was raised at that time as to the professional status of any of the employees involved.

⁴ Except for the Employer's personnel man, there are no other employees located in the drafting room. The parties agree that the personnel man should be excluded from the unit.

A and class B), engineering trainees, draftsmen (class A and class B), drafting room trainees and billers, and blueprinters.⁵

The *class A engineers* design complete building units, structurally or architecturally, without immediate supervision, write specifications for buildings, and must be able to detail and check shop fabrication drawings. At times they have a class B engineer or an engineering trainee working under them. They have some personal contact with customers, and spend about 5 percent of their time in the field. Their work varies from day to day according to the type of building they have to design and whether they are working in the office or in the field. They are required to have a college degree in civil engineering or architecture or its equivalent in experience and night school work,⁶ and at least 6 years additional experience. Their salary range is from \$350 to \$500 a month.

The *class B engineers* also design complete building units, but work with supervision and instruction. They should be able to detail shop fabrication drawings, but do not check them. They have little contact with customers. About 10 percent of their time is spent in the field. As they work on all types of structures, their work is varied. Except on simple jobs, it is checked by the chief engineer or by a class A engineer. They are required to have a college education or its equivalent,⁷ and 2 years additional experience. Their salary range is from \$275 to \$350 a month. After acquiring sufficient experience, a class B engineer may become a class A engineer.

The *engineering trainees* work directly under class A or class B engineers, helping to design buildings. They must have sufficient background to learn the requirements of building and structure design. They are required to have a college degree or its equivalent.⁸ Their salary range is from \$200 to \$275 a month. Trainees are expected to become class B engineers.

The *class A draftsmen* detail and check structural drawings for any type of building without supervision, interpret engineering drawings, and design joints from such drawings. On jobs designed by the Employer, they work closely with the engineers, and should be qualified to work in the engineering department if necessary. They are required to have a college degree or its equivalent⁹ in experience or night school work and at least 6 years additional experience. Their

⁵ There are 9 class A engineers (including the chief engineer), 5 class B engineers, 3 engineering trainees, 11 class A draftsmen, 8 class B draftsmen, 7 drafting room trainees and billers, and 2 blueprinters.

⁶ Of the present class A engineers, 5 have college degrees. The other 4 have had from 11 to 27 years experience, and have taken courses in engineering or related subjects. Four of them were formerly draftsmen at the Employer's plant.

⁷ The present class B engineers all have college degrees in architecture or engineering.

⁸ The present trainees are all college graduates.

⁹ The present class A draftsmen have all had long experience, varying from 23 to 48 years, and most of them have taken courses in engineering subjects. However, only one has a college degree, and some have not even had a high school education.

salary range is from \$300 to \$400 a month. At the present time, one class A draftsman is assigned to the engineering department.¹⁰

The *class B draftsmen* detail with some supervision, but do not check drawings. They interpret engineering drawings and design simple joints with assistance from class A draftsmen. They are required to have a college degree or its equivalent,¹¹ and 2 years additional experience. Their salary range is from \$225 to \$300 a month. After acquiring experience, they usually become class A draftsmen. Two class B draftsmen are on loan to the engineering department at the present time, and will be permanently assigned to it in the near future, either as trainees or class B engineers.

The *drafting room trainees and billers* assist class A or class B draftsmen. They make simple details and bill material for shop use from detailed drawings. They are required to have a high school education or sufficient knowledge of mathematics to be able to learn the fundamentals of drafting. Their salary range is from \$150 to \$225 a month. After acquiring experience, they become class B draftsmen. One drafting room trainee is on loan to the engineering department at the present time.

The *blueprinters* print the drawings and bills made by the engineering and drafting departments, and distribute them in the shop. Their work is routine, and requires no special skill or training. Their salary range is the same as that of the drafting room trainees.

Upon the above facts and the record as a whole, we find, as the Employer and the Union apparently agree,¹² that the engineers and engineering trainees are professional employees within the meaning of Section 2 (12) of the Act. As previously noted, the Employer contends that some of its draftsmen are also professionals.¹³ We do not agree. It is true, as the Employer asserts in its brief, that many of the class A draftsmen have taken engineering subjects at night school or by correspondence to enable them to work out engineering details and, if necessary, to help out in the engineering department. The record discloses that they are capable of performing many of the functions of an engineer, and that they are called upon many times to do jobs which ordinarily would require an engineer. It does not appear, however, that their regular work as draftsmen requires "knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruc-

¹⁰ Six of the class A draftsmen have at one time or another worked in the engineering department. While there, they do the work of class A engineers so far as the preparation of drawings from calculations and line drawings is concerned. Most of them, however, do not have the engineering knowledge necessary to make the calculations.

¹¹ None of the present class B draftsmen are college graduates.

¹² The Petitioner takes no position on this question.

¹³ At the hearing, the Employer took the position that all the draftsmen, with the exception of the blueprinters, are professionals. In its brief, however, it makes this contention only as to its class A draftsmen.

tion and study in an institution of higher learning.” In this respect, therefore, they fail to meet the requirements of Section 2 (12) of the Act. We therefore find, as the Union contends, that the draftsmen are not professional employees within the meaning of the Act.

As the engineers and draftsmen are engaged in closely related work, are under common supervision, share the same working conditions, and have in the past been included in the same unit, we find that they may constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act. However, the Board is precluded under Section 9 (b) (1) of the Act from including professional employees in a unit with nonprofessional employees unless a majority of the professional employees vote for inclusion in such a unit. We must therefore ascertain the desires of the professional employees as to inclusion in a unit with the nonprofessional employees. We shall do this by special ballot in the separate election hereinafter directed.¹⁴

There remains for consideration the question of the inclusion or exclusion of the chief engineer, squad leaders, and part-time employees.

The *chief engineer* is classified by the Employer as a class A engineer. However, he is also a vice president of the company, represents it in contract negotiations, and, in addition to his engineering duties, supervises the engineering and drafting departments. As the record shows that he has authority to recommend hiring, promotion, and discharge, and that his recommendations are usually adopted, we find, as the Petitioner and the Union contend, that he is a supervisor within the meaning of the Act. We shall exclude him because of his managerial and supervisory functions.

The *squad leaders* (three in number) are class A draftsmen who have been given the additional duty of assigning work to the other drafting department employees.¹⁵ They receive the engineering drawings and distribute them to the members of their respective squads according to ability.¹⁶ Thereafter, they are responsible for seeing that the detailed drawings are properly prepared within the time allotted; if they find they cannot get the work out on time, they appeal to the Employer's president or chief engineer for additional help. Occasionally they are consulted by management as to their opinion of the ability of men in their squads. However, they have no authority to hire, promote, or discharge; nor do they ordinarily recommend such action. They spend approximately 20 percent of their time in assigning work; the rest of their time they do the regular work of class A draftsmen. Their working conditions are the same as those of the

¹⁴ *Sonotone Corporation*, 90 NLRB 1236.

¹⁵ One of them, in addition, is responsible for the work of the blueprinters.

¹⁶ Each squad consists of approximately one-third of the draftsmen.

other class A draftsmen, and they receive no additional compensation for their work as squad leaders. In the absence of one of the squad leaders, another class A draftsman takes his place. Under all the circumstances, we find, contrary to the contention of the Union, that the squad leaders are not supervisors within the meaning of the Act. We shall therefore include them.

The *part-time employees* include 4 of the class A engineers, 1 class B engineer, and 1 drafting room trainee, all of whom work for the Employer 20 hours or more a week, usually in the evenings and on Saturdays.¹⁷ Although their hours are irregular, their duties are the same as those of the full-time employees in the same job classifications, and they are paid on the same basis.¹⁸ The Employer would include and the Union would exclude them. As our unit finding is based upon functionally related occupational categories, and all employees working at jobs within the unit are necessarily included and entitled to representation, irrespective of the tenure of their employment, we shall include them.¹⁹ We also find that they are eligible to vote in the election.²⁰

We shall direct separate elections in the following voting groups including, in each case, part-time workers, but excluding office employees, salesmen, shop employees, and supervisors as defined in the Act.

(a) All engineers and engineering trainees employed in the drafting room of the Employer's plant at Milwaukee, Wisconsin.

(b) All draftsmen (including the squad leaders), drafting room trainees and billers, and blueprinters, employed in the drafting room of the Employer's plant at Milwaukee, Wisconsin.

The employees in nonprofessional voting group (b) will be polled as to whether or not they desire the Union to represent them.

The employees in professional voting group (a) will be asked two questions on their ballots: (1) Do you desire to be included in a unit with draftsmen, drafting room trainees and billers, and blueprinters for the purposes of collective bargaining? (2) Do you desire to be represented for the purposes of collective bargaining by the Union? If a majority of the professional employees vote "yes" to the first question, indicating their desire to be included in a unit with nonprofessional employees, they will be so included. Their votes on the second question will then be counted together with the votes of the nonprofessional employees to decide whether the Union has been selected to represent the combined bargaining unit. If, on the

¹⁷ Most of these part-time employees also work for other architectural or engineering concerns; one is an instructor at Marquette University.

¹⁸ All employees in the drafting room are paid monthly, according to the number of hours worked.

¹⁹ *Commercial Equipment Company, Inc.*, 95 NLRB 354.

²⁰ *Commercial Equipment Company, Inc.*, *supra*.

other hand, a majority of the professional employees vote against inclusion, they will not be included with the nonprofessional employees. Their votes on the second question will then be counted to decide whether or not they desire to be represented by the Union in a separate professional unit. If a majority in either the professional unit alone, the nonprofessional unit alone, or the combined unit vote for the Union, the Regional Director conducting the elections directed herein is instructed to issue a certification of representatives to the Union for such unit or units.

[Text of Direction of Elections omitted from publication in this volume.]

UNDERWOOD CORPORATION (PACIFIC DISTRICT) and INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, CIO, PETITIONER. *Case No. 20-RC-1678. May 29, 1952*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before David Karasick, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Houston, Murdock, and Styles].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organization involved claims to represent certain employees of the Employer.

3. The Employer moved that the petition be dismissed on the ground that subsisting contracts with the Associated Service Department Employees of U. E. F., herein called the Association,¹ constitutes a bar to this proceeding. The Petitioner opposed the motion on the grounds of defunctness and schism in the ranks of the Association, and on the further ground that the contracts were about to expire. We find merit in the last stated ground, and need not therefore consider the other reasons in opposition to the motion. As the contracts offered as a bar expired on May 1, 1952, we find that they do not constitute a bar to the petition. The motion to dismiss the petition is hereby denied.

¹No appearance at the hearing or request for intervention was made by anyone in behalf of the Association.