

seasonal employees comprise only 10 to 15 percent of the unit and the permanent employees are unquestionably a representative group of the employees in the unit. In view of their reasonable expectation of reemployment, we shall permit those seasonal employees who were employed at the end of the last working season to participate in the election herein.⁵

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

⁵ *Ibid.*

WILSON & Co., INC. and LOCAL No. 3, UNITED PACKINGHOUSE WORKERS OF AMERICA, C. I. O., PETITIONER. *Case No. 18-RC-1670. January 13, 1953*

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 Max Rotenberg, 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 [Chairman Herzog and Members Styles and Peterson].

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. 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 Petitioner seeks a unit of the Employer's time-and-cost clerks, stock clerks, and scalers at its Cedar Rapids, Iowa, plant, excluding the chief clerk, the assistant chief clerk, and divisional clerks. The Petitioner urges that the clerks it desires to exclude from the unit are supervisors. The Employer contends that the duties of the employees in the Petitioner's proposed unit give them access to confidential information, and therefore they should not be represented for purposes of collective bargaining by the same labor organization that represents the Employer's production and maintenance employees.¹ In the alternative,

¹ The Petitioner and the Employer are parties to a contract covering the Employer's production and maintenance employees. This contract excludes the employees involved in the instant case.

the Employer takes the position that if any unit of plant clerks is appropriate, divisional clerks do not have any supervisory authority and should be included in the unit.

The Employer employs approximately 36 time-and-cost clerks, 6 stock clerks, 8 scalers, and 4 divisional clerks, who are known as plant clerks. They work under the supervision of the chief clerk and the assistant chief clerk in foremen's offices located in different parts of the plant. All work the same hours and are paid on a weekly salary basis. Vacation and other employee benefits are the same for all of the employees. They perform various plant clerical duties, none of which pertains to the Employer's labor relations or which give them access to records concerning the Employer's labor relations.

Time-and-cost clerks: The principal duties of these employees is to check and compare the employees' worktime, as reflected on their timecards, with the same information reflected on the "time spread" record kept by the employees' respective foremen, and to post the results. They also perform miscellaneous clerical duties such as writing up employees' requisitions for supplies, repair orders, accident reports, and time orders with which production and maintenance employees obtain their checks. They also originate and process the side rate in the event production and maintenance employees work on a job other than their regularly rated job.

The Employer contends that the time-and-cost clerks are confidential employees, because they are present at a discussion between the foreman and the union steward and the employee involved in the first step in the grievance procedure. The time-and-cost clerk is present when the grievance is discussed in order to give necessary information to the foreman, inasmuch as he is likely to have compiled the report that started the grievance. The record does not show that these employees have any authority to make any recommendations or to adjust any grievances.

Stock clerks: These employees maintain records regarding the Employer's products that are brought into and transferred out of the department, and compile stock records of products on hand. They assist the foreman in taking inventory, and compile yield reports from which some of the Employer's sale prices are based. Although the Employer contends that they sometimes are present during a discussion of grievances, the record fails to disclose any instances where these employees were present during a grievance conference.

Scalers: The scalers weigh products that come into and go out of the department. Their figures are used in the making up of various test reports and yield reports from which the Employer computes

some of its selling prices. They also weigh the piecework production of employees in the production and maintenance unit.

Division clerks: The principal duty of these clerks is to substitute for other plant clerical employees who are absent from work. They also transmit instructions from the chief clerk or his assistant to other clerks, and instruct new clerks as to procedure. They do not direct any other employees in their work. A majority of their time is spent performing the same duties as the time-and-cost clerks, the scalers, and stock clerks.

The divisional clerks have no authority to hire, discharge, or discipline employees, or effectively to recommend such action. Any recommendations they may make in regard to discipline are subject to independent investigation and final action by the chief clerk and the foremen. The record does not permit a finding that the divisional clerks responsibly direct the work of other employees in a manner which requires the use of independent judgment. We are satisfied on the record as a whole that the divisional clerks do not possess supervisory authority within the meaning of the Act, and we shall, therefore, include them in the unit.²

The time-and-cost clerks, stock clerks, and scalers make up reports which the Employer uses in the operation of its business, and in computing its monthly and yearly profit-and-loss statements. The Employer considers these reports and data as confidential material.

Because the confidential information possessed by these plant clerks relates only to matters of a general or financial nature, and they do not assist or act in a confidential capacity to any persons exercising managerial functions in the field of labor relations, we find that they are not confidential employees.³

We find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act: All plant clerks of the Employer at its Cedar Rapids, Iowa, plant, excluding all other employees, office clerical, confidential, and professional employees, guards, and supervisors as defined in the Act.⁴

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

² *Bulldog Electric Products Company*, 96 NLRB 642; *Arnold Hoffman & Co., Incorporated*, 95 NLRB 907; *East Texas Steel Castings Company, Inc.*, 95 NLRB 1135.

³ *Bulldog Electric Products Company*, 96 NLRB 642; *Truscon Steel Company*, 95 NLRB 1005; *Republic Steel Corporation, Canton Plant, Central Alloy District*, 91 NLRB 904; *Ball Brothers Company, Incorporated*, 87 NLRB 34.

⁴ The record shows, and we find, that the chief clerk and the assistant chief clerk are supervisors within the meaning of the Act