

tract was simply inartfully drawn and that no improper discrimination was intended. Consequently, we find it unnecessary in this proceeding to pass upon whether the Board would remove the contract as a bar upon sufficient evidence that the discrimination alleged herein by the Petitioner was in fact intended, or practiced.⁴ Accordingly, we find that the contract presently constitutes a bar to a Board determination of representatives, and shall therefore dismiss the petition.

[The Board dismissed the petition.]

Chairman Herzog took no part in the consideration of the above Decision and Order.

⁴Cf. Hughes Tool Company, 104 NLRB 318.

GENERAL ELECTRIC COMPANY, Petitioner *and* INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, CIO AND INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL, AND UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA

GENERAL ELECTRIC COMPANY *and* INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, CIO, Petitioner

GENERAL ELECTRIC COMPANY *and* UTICA DRAFTING ASSOCIATION, Petitioner. Cases Nos. 3-RM-75, 3-RC-1155, and 3-RC-1186. June 30, 1953

DECISION AND DIRECTION OF ELECTIONS

Upon petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held in these cases before John W. Irving, hearing officer. At the hearing, International Union of Electrical, Radio and Machine Workers, CIO, herein called the IUE, moved to withdraw its petition in Case No. 3-RC-1155. With the approval of the Regional Director, the motion was granted by the 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 National Labor Relations Act, the Board has delegated its powers in connection with these cases to a three-member panel [Members Houston, Murdock, and Styles].

Upon the entire record in these cases, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.
2. The labor organizations involved herein claim to represent certain employees of the Employer.

3. Questions affecting commerce exist concerning the representation of certain employees of the Employer within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

4. In Case No. 3-RM-75, the Employer's petition describes an alleged appropriate unit, based upon the claim of International Association of Machinists, AFL, herein called the IAM, of all production and maintenance employees at the Employer's French Road plant, Utica, New York, excluding office clerical employees, expeditors, guards, professional employees, foremen, and supervisors as defined in the Act. The following unions intervened in the case on behalf of such a unit of employees: The IAM; the IUE; United Electrical, Radio and Machine Workers of America, herein called the UE; and Mechanics Educational Society of America, herein called the MESA. Chauffeurs, Teamsters, Warehousemen and Helpers of America, Local 182, AFL, herein called the Teamsters, intervened specifically to seek a separate unit of truckdrivers. Respecting the production and maintenance unit, the sole issues between the parties pertain to the inclusion or exclusion of the categories of employees discussed below.

There are 3 truckdrivers and 1 chauffeur sought by the Teamsters. The truckdrivers devote 30 percent of their time, on average, to the actual task of driving the Employer's motor equipment, consisting of 2 "jeeps" and 2 stake body trucks (1½ tons). Their driving duties include snow plowing and removal, dirt removal, and local pickups and delivery. The balance of their time is spent on the plant premises in miscellaneous duties under the maintenance department, which includes cleaning up the docks and work areas, moving machines for installation, and general labor tasks. They also help load and unload their own trucks and perform minor truck maintenance work. The chauffeur drives a station wagon for more than 50 percent of his time in connection with general errands and plant passenger service locally. For the remainder of his time he is employed in the plant as general handyman. The 4 employees in question are supervised, together with about 55 other employees, by the material and maintenance supervisor in the plant, and are accorded the same working conditions as are the plant employees in the unit. On the basis of this record, including the fact that the truckdrivers spend more than 50 percent of their time within the plant performing duties unrelated to truckdriving, we shall deny the Teamsters' request for a separate unit, and shall include these 4 drivers in the production and maintenance unit.¹

There are about 25 clericals, classified as clerk typists, employed throughout the plant in different production departments, whose duties relate to the computation of piecework and hourly earnings of production employees. Each such

¹See Astor Packing Company, 80 NLRB 302; cf. The Burrowes Corporation, 102 NLRB 1149.

clerical works on the records of 20 to 25 specified factory workers, who are required to bring certain time and performance data to their assigned clerical. These clericals, among other things, verify quantities of work claimed to have been produced by pieceworkers, type vouchers for payment, and in connection with their general duties, perform key punch, stenographic, and filing work. They are under the immediate supervision of the payroll department located in the plant offices and, on occasion, are called upon to assist with the work in the payroll office for a day or two. They are interchanged with employees in the payroll department and in other plant offices, and are promoted to higher office jobs. They are salaried and have the same employment conditions as do other salaried employees, except that their working hours are like those of the factory help. We are of the opinion that the clericals in question are essentially time clerks whose duties in relation to the production workers are similar to those of plant clericals, generally, notwithstanding the facts that they are under the separate supervision of the payroll department, and may be interchanged with certain of the office clericals. Unlike the office clerical staff, their working conditions associate them more closely with the production employees. In accordance with established policy, we shall include them in the unit as plant clericals.²

The expeditors, of whom there are about 15, are employed on the production floor to see that the correct quantities and types of materials properly move from one operation to another. They sometimes physically move materials themselves to the operators or inspectors. There is evidence of some interchange between expeditors and production workers. They are hourly paid and have the same working conditions as do the production employees. However, their supervision emanates from the production and material control department located in the plant offices, and their line of promotion is into the production control office. As we find that the employment interests of the expeditors are closely allied with those of the production employees, we shall include them in the unit.³

The laboratory assistants: The Employer operates 2 model shops, 1 in the plant and 1 in the engineering department. The employees in the plant model shop are included in the unit by agreement of the parties. Those in the engineering model shop, called laboratory assistants, of whom there are about 22 in number, are in dispute. Their function, in essence, is to design, develop, and construct test models for new equipment from theories presented to them by the engineers. Their time is equally distributed between designing

²See Northwest Engineering Company, 73 NLRB 40; Telechron, Inc., 90 NLRB 931; H & B American Machine Co., 97 NLRB 9, Daystrom Furniture Division, 101 NLRB 343.

³See General Electric Company, 81 NLRB 654; Elastic Stop Nut Corporation of America, 87 NLRB 1532.

and building the model, with the advice and assistance of the sponsoring engineer. These employees are journeymen machinists, with additional qualifications, e.g., specialized academic training and education, and particular aptitude for the job, which the Employer characterized as "purely creative." The laboratory assistants work on wood, plastics, and metals, and utilize all the tools and machines of the machinists craft as well as all the various equipment of draftsmen and engineers. They are salaried, separately supervised within the engineering department, are not interchanged with other plant employees, and are promoted to positions of engineering and drafting supervisors. It appears that the duties of the laboratory assistants are not merely routine in nature but require judgment, initiative, and imagination. We find they are highly skilled technicians having interests substantially apart from those of the employees in the unit. Accordingly, we shall exclude them.⁴

In Case No. 3-RC-1186, the Petitioner, Utica Drafting Association, seeks a separate unit of the Employer's draftsmen. Although the IUE made no specific showing of interest as to the draftsmen, it moved to intervene in this case on the ground of its substantial interest showing as to the production and maintenance employees, contending that the draftsmen should be considered part of the overall unit, unless and until they are formally excluded by the Board. The hearing officer denied the motion to intervene, and we agree with this ruling. The draftsmen in question, as the record shows, are technical employees, and are therefore, according to Board policy, to be excluded from a production and maintenance unit where, as here, there is a dispute concerning their placement.⁵ In these circumstances, they are not essentially a part of the production and maintenance unit. Consequently, the IUE's interest showing for purposes of representing only a unit of production and maintenance employees is not sufficient to entitle it to a place on the ballot of the draftsmen in an election for their separate representation.

The Employer does not contest the appropriateness of the draftsmen unit. However, the contention was raised on the record, by the IUE, that the unit sought by the Petitioner here is inappropriate because it excludes tool designers employed elsewhere in the plant whose duties include drafting work. The contention has no merit. Although it appears that the tool designers draft designs for tools, they are not in our opinion draftsmen as such, nor are their interests in other respects such as would entitle them to be included in the draftsmen unit. Under the circumstances present in this case, we conclude that the draftsmen are sufficiently distinct in their interests and employment conditions to be

⁴See Bell Aircraft Corporation, 98 NLRB 1277; Bulldog Electrical Products Company, 96 NLRB 642; F. W. Sickles Company, 81 NLRB 390.

⁵See Swift & Company, 98 NLRB 746; The Ohio Steel Foundry Company, 92 NLRB 683.

represented separately, if they so choose in the elections hereinafter directed.⁶

Accordingly, we find the following units of employees of the Employer at its French Road plant, Utica, New York, are appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

(1) All production and maintenance employees, including the truckdrivers and chauffeur, the plant clericals classified as clerk typists, the expeditors, the plant model shop workers, the working leaders,⁷ but excluding the laboratory assistants, the draftsmen, the clerks in the superintendents' offices,⁸ office clerical employees, guards, professional employees, foremen, and supervisors as defined in the Act.

(2) All drafting detailers, drafting designers, drafting tracers, drafting calculators, but excluding the tool designers, all other employees, and supervisors as defined in the Act.

[Text of Direction of Elections omitted from publication.]

⁶ See Bethlehem Steel Company, 95 NLRB 1508.

⁷ By stipulation.

⁸ By stipulation.

THE DAVISON CHEMICAL CORPORATION, LAKE CHARLES DIVISION¹ *and* LODGE 1317 OF DISTRICT 31, INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL, Petitioner

THE DAVISON CHEMICAL CORPORATION, LAKE CHARLES DIVISION *and* LAKE CHARLES METAL TRADES COUNCIL, AFL, Petitioner. Cases Nos. 15-RC-936 and 15-RC-937. June 30, 1953

DECISION AND DIRECTION OF ELECTIONS

Upon petitions duly filed under Section 9 (c) of the National Labor Relations Act,² a hearing was held before Clarence L. Stephens, 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 Peterson].

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

¹ The names of the Employer and the Petitioner in Case No. 15-RC-936 appear as amended at the hearing.

² The petitions herein were consolidated by order of the Regional Director on May 4, 1953.