

**Worden-Allen Company and Technical Engineers Association  
(Independent), Petitioner. Case No. 13-RC-4459. September 21,  
1955**

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 Frances P. Dom, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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 to represent all class A draftsmen, class B draftsmen, drafting squad leaders, billers, blueprinters, and drafting room trainees at the Employer's Milwaukee plant, excluding class A engineers, class B engineers, engineering trainees, office employees, salesmen, and production and maintenance employees. The Employer would include the engineers and engineering trainees. The Petitioner states that it does not wish to appear on the ballot in any election directed in a unit that either includes or is limited to such employees.

Bargaining History

The Employer is engaged in the manufacture and fabrication of structural steel and in steel jobbing. It also erects structures of various types.

In a consent election held in 1950, the Petitioner was certified as representative 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."<sup>1</sup> At the time of the election, no question was raised as to the professional status of any of the employees involved. Thereafter, the Petitioner represented all the engineering and drafting employees until January 25, 1952, when a decertification petition was filed with respect to the previously certified unit. In the decertification case,<sup>2</sup> the union (the Petitioner herein) asserted that there should be a finding of two appropriate units, one limited to draftsmen and the other limited to engineers. The Employer opposed this contention. While

<sup>1</sup> Case No. 13-RC-1560 (not reported in printed volumes of Board Decisions and Orders).

<sup>2</sup> *Worden-Allen Company*, 99 NLRB 410

finding that the engineers and engineering trainees were, unlike the draftsmen, professional employees, the Board concluded that, in view of the closely related character of the work of the two groups, their common supervision, similar working conditions, and bargaining history, a combined unit of draftsmen and engineers *might* be appropriate. However, as the Board was precluded by Section 9 (c) (1) of the Act from including professional employees in the same unit with nonprofessional employees unless a majority of the professional employees voted for inclusion in such unit, the Board directed separate elections for the professional and nonprofessional groups. The Board had no need to, and did not pass upon the question, whether, apart from the requirements of Section 9 (b) (1), there was sufficient divergence between the interests of the 2 groups to warrant separate self-determination elections on that ground alone.

In the decertification election held on June 24, 1952, the engineers voted to be included in the overall unit but the Petitioner herein did not receive a majority of the votes cast and the Regional Director issued a certification of results of election to that effect. There has been no collective bargaining in behalf of these employees since that time.

#### The Unit Contentions

As stated previously, the Petitioner would represent the nonprofessional unit of draftsmen only, while the Employer, citing the Board's action on the unit issue in the decertification case, asserts that the unit should also include the engineering employees.

In the prior case, the Board refused to find that two separate units of professional and nonprofessional employees were alone appropriate, and found instead that the combined unit, in which a decertification election was requested, might be appropriate. The Board did not have occasion to consider the further question, which is here presented, whether a separate unit of draftsmen and other technical employees is an appropriate unit, where there is no petition for an election in, and no union is seeking to represent, a broader unit.

The record in the prior case<sup>3</sup> shows that the engineers and engineering trainees design complete building units, while the draftsmen detail, check, and interpret engineering drawings, and otherwise process such drawings with the help of billers and blueprinters. The Board found that the work of the draftsmen, unlike that of the engineers, did not require such knowledge as to constitute them professionals. In view of the difference in the caliber of the work involved, and in view of the fact that, as Section 9 (b) (1) of the Act recognizes, professional employees have special interests which set them apart

<sup>3</sup> Since the hearing in the prior case, there has been no substantial change in the duties or conditions of employment of the employees involved. The record in that case has been incorporated in the record of the instant case by agreement of the parties.

from nonprofessionals, and as there has been no bargaining for either group during the past 3 years, we find, under the circumstances of this case, that there is sufficient divergence between the interests of the draftsmen and the other technical employees, on the one hand, and the professional employees, on the other, to warrant establishing a separate unit of the former. We therefore 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 class A draftsmen, class B draftsmen, drafting squad leaders, billers, blueprinters, drafting room trainees, employed in the drafting room of the Employer's Milwaukee, Wisconsin, plant, including regular part-time employees, but excluding class A engineers, class B engineers, engineering trainees, office employees, salesmen, shop employees, and supervisors as defined in the Act.<sup>4</sup>

[Text of Direction of Election omitted from publication.]

<sup>4</sup>The unit description conforms substantially to that of the nonprofessional voting group designated by the Board in the prior case.

**Mervin Wave Clip Company, Inc. and Retail, Wholesale & Department Store Union, C. I. O., Petitioner.** *Case No. 3-RC-1565, September 22, 1955*

### DECISION AND ORDER

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

The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

The labor organizations involved claim to represent certain employees of the Employer.

Upon the entire record in this case, the Board finds that no question of representation 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 for the following reasons:

The petition in this case was filed June 24, 1955. Petitioner on the same day mailed to the Employer a letter requesting recognition for a production and maintenance unit.

Earlier, in April or May 1955, the Intervenor, District 50, United Mine Workers of America, Local 13736, requested recognition of the