

side or dayside, their dates of employment, their age, their sex, total weekly payroll for employees in Guild jurisdiction, and total night differential.

#### IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the Respondent, set forth in section III, above, occurring in connection with the operations of the Respondent, described in section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE REMEDY

Having found that the Respondent refused to bargain in violation of the Act by refusing to furnish the Union with the data described above, it will be recommended that the Respondent be ordered to cease from engaging in this conduct and upon request supply the Union with that information.

Upon the basis of the foregoing findings of fact, and upon the entire record, the Trial Examiner makes the following:

#### CONCLUSIONS OF LAW

1. Boston Record-American-Advertiser Division—The Hearst Corporation, is engaged in commerce within the meaning of the Act, and its operations meet the jurisdictional standards set by the Board.

2. Newspaper Guild of Boston, Local 32, American Newspaper Guild, CIO, is a labor organization within the meaning of Section 2 (5) of the Act.

3. All employees of the Respondent in the Boston Record-American-Advertiser Division plant in the advertising, business, circulation, and building service (janitors, elevator operators, watchmen, cleaning women, and matron) departments, and helpers in the composing room, excluding employees in the editorial department and employees who are now members of recognized craft unions, the publisher, assistant publisher, general manager, business manager, advertising director, associate or assistant advertising director, local advertising manager, classified advertising director, circulation director, chief accountant, building service superintendent, and all supervisors as defined in Section 2 (11) of the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

4. At all times since about 1938 the Union has been the representative for the purposes of collective bargaining of a majority of all the employees in said unit above described for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

5. By failing and refusing to furnish the Union with data listed below the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (5) of the Act: Information linking each employee in the appropriate unit with his salary or commissions received, and the names of all employees covered by the Union's contract with the Respondent, their classifications, whether day or night workers, their dates of employment, ages, sex, the total weekly payroll for employees covered by the contract between the Respondent and the Union, and the total night differential, the Respondent is engaging in unfair labor practices within the meaning of Section 8 (a) (5) of the Act.

6. By the aforementioned conduct, the Respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

[Recommendations omitted from publication.]

**ACF Industries, Incorporated and United Steelworkers of America, AFL-CIO, Petitioner. Case No. 3-RC-1661. April 20, 1966**

#### DECISION AND DIRECTION OF ELECTIONS

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.

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 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 appropriate units:

The Petitioner seeks a unit of all office clerical employees at the Employer's Babcock Street and Gittere Street plants, as well as at its offices in the New York Central terminal office building, all of which are located in Buffalo, New York. The Petitioner would exclude from the proposed unit all confidential secretaries, managerial personnel, technical employees, production and maintenance employees, guards, and all supervisors as defined in the Act. The Employer agrees that the unit requested is appropriate. The parties disagree, however, as to the unit placement of certain classifications of employees. The Employer contends that the timekeepers, shop clerks (with but one exception), and senior shop clerks at its plants should be excluded from the unit on the ground that their duties and interests are more closely allied with the production and maintenance employees than with the office clericals; and that the clerk, typists, receptionist, and telephone operators in the industrial relations department, and the clerk, cryptographic operator, and typists in the security department should be excluded on the ground that they are confidential employees. The Petitioner urges that the employees in the disputed categories should be included in the unit.

The Employer is engaged in the production of materials for the Atomic Energy Commission and private enterprise at its Babcock Street and Gittere Street plants. The Petitioner has, since its certification by the Board in 1950, represented the Employer's production and maintenance employees at the plants here involved. There is no history of collective bargaining covering the employees in the unit which the Petitioner now seeks.

The Employer employs 11 timekeepers, 9 of whom work at the Babcock Street plant and 2 of whom are employed at the Gittere Street operation. Their duties consist of checking employees' timecards when they enter the plant and observing whether the employees properly punch their time clocks and are physically present at their work. In addition, the timekeepers inspect employees' shop card assignments, maintain the employees' daily working time, and calculate their pay. This data is submitted to the production and maintenance foremen

for approval and is then transmitted to the payroll office. While the timekeepers, who work in an office located near the production area, do not perform any production and maintenance duties, they spend the major part of their working time on the production floor and are in constant contact with production and maintenance employees. Unlike the office clerical employees, who work from 8 a. m. to 5 p. m., the timekeepers on the first shift work from 7:00 a. m. to 3:30 p. m., the same hours maintained by the production and maintenance personnel, and the timekeepers on the second shift work from 6:30 p. m. to 2:00 a. m. Moreover, while timekeepers do not interchange with production and maintenance employees, neither do they interchange with the office clerical employees.

There are 25 shop clerks at the 2 plants—20 at Babcock Street and 5 at Gittere Street. Of the 20 shop clerks at the Babcock Street establishment, 5 work in the production department office under the supervision of the general plant foreman. They work the same shifts as do the production and maintenance employees and have the same lunch hour. Approximately 80 percent of these shop clerks' time is spent in the general foreman's office, which is in the plant proper, where they perform such duties as keeping time and attendance records, filing blueprints, and running errands for the foreman. The balance of their time is spent on the production floor where they come into contact with the production and maintenance personnel. One shop clerk works in the plant engineering department under the supervision of the maintenance department foreman. His duties are substantially the same as the production department shop clerks mentioned above. Four shop clerks work in the receiving and shipping room of the material control and stores department under the supervision of the storekeeper, who in turn is responsible to the superintendent of stores and yards. Their duties consist of keeping clerical records of materials received, shipped, and disbursed. They work the same hours as the production and maintenance employees and come into contact with such employees in the course of their duties. Nine shop clerks work in the quality control department, which is located in the plant production area, under a chief inspector who has an office in the plant proper. Those clerks maintain inspection records and reports. Approximately 70 percent of their time is spent on the production floor insuring that the production and maintenance employees properly prepare the inspection reports. The last shop clerk at the Babcock Street plant works in the engineering department. The record discloses that he distributes drawings of the engineering department to various persons located in the plant. The Employer would agree to the inclusion of this employee in the unit. So far as appears from the record the five shop clerks at the Gittere Street plant perform

substantially the same duties as the shop clerks at the Babcock Street operation.

The Employer has two senior shop clerks, Edward J. Sharpe and Richard J. Gruzca. Sharpe's duties are of the same general nature as those of the shop clerks with the exception that a major part of his time is devoted to maintaining records which determine the rotation method for scheduling overtime work. Like the production department clerks at Babcock Street, Sharpe is under the supervision of the general foreman. Gruzca is employed in the storeroom of the material control and stores department where he prepares bills of lading, weigh bills, and freight bills in connection with shipping and receiving operations under the supervision of the traffic manager. He comes into frequent contact with a limited group of production and maintenance employees to the extent that records and other documents are transferred between them.

In view of the foregoing and the entire record in this proceeding, including the facts that the timekeepers, shop clerks, and senior shop clerks work in the production area in close cooperation with the production and maintenance employees, that they generally work the same hours as those employees, and that they do not interchange with the office clerical employees, we find that the timekeepers,<sup>1</sup> shop clerks,<sup>2</sup> and senior shop clerks are essentially plant clerical, rather than office clerical, employees. As the Board customarily declines to establish single units including both plant and office clericals where the issue is raised by the parties,<sup>3</sup> we shall therefore exclude the timekeepers, shop clerks, and senior shop clerks from the requested office clerical unit. However, as the Petitioner has expressed a desire to represent the plant clerical employees, we shall, in addition to establishing a separate unit for office clerical employees, follow our usual policy of according the plant clerical employees the opportunity through an election to express their desire as to whether or not they should be added to the production and maintenance unit currently represented by the Petitioner.<sup>4</sup>

We turn now to a consideration of the unit placement of the disputed categories in the industrial relations and security departments. The Employer would exclude the clerk, typists, receptionist, and telephone operators in the industrial relations department, and the clerk, cryptographic operator, and typists in the security department, on

<sup>1</sup> See *Badenhausen Corporation*, 113 NLRB 867; *Koehring Southern Company*, 108 NLRB 1131, 1133

<sup>2</sup> See *Badenhausen Corporation*, *supra*, footnote 1.

<sup>3</sup> See *Badenhausen Corporation supra: Donovan Construction Company*, 105 NLRB 704. As the parties herein have contested the establishment of a single plant clerical-office clerical unit, we shall exclude the shop clerk in the engineering department, whom we find to be a plant clerical, from the office clerical unit, notwithstanding the parties agree that he should be included in the office clerical unit.

<sup>4</sup> See *Wilsn & Co., Inc.*, 97 NLRB 1388, 1390.

the ground that they are confidential employees. The Petitioner would include them.

The clerk in the industrial relations department is employed in the general office where she does general clerical work, including processing group insurance and compensation claims. She has access to, and is required to maintain the contents of, files containing lists of employees' salaries, personnel records containing information relating to the security status of employees, and material relating to the labor relations policy of the Employer. This material, however, is located in the general filing area and is accessible to all other employees. The typists in this department type compensation claims, reference checks, investigatory data, as well as undefined matters relating to the Employer's labor relations policy. The receptionist in this department receives visitors, contacts individuals whom the visitors seek, and directs the visitors to the security office to obtain admission to the plants. The telephone operators in this department at the Babcock Street plant operate PBX equipment and handle all outgoing and incoming local and long distance calls.<sup>5</sup> They are not required to monitor conversations.

The clerk in the security department handles material relating to the personal life history of employees who have been investigated for security purposes. In the course of her work, she processes and types security questionnaires as well as the correspondence pertaining to employees undergoing security investigation. However, she does not process material relating to the Employer's labor relations policy. The cryptographic operator in this department encodes and decodes messages sent to and received from Federal governmental agencies. On occasion, this employee transmits by teletype undefined information relating to the labor relations policy of the Employer. The typists in this department type information relating to security reports on employees undergoing security investigations and maintain files of such reports. They do not handle or file material relating to the Employer's labor relations policy.

While the employees whom the Employer would here exclude have access to matters relating to security investigations of employees, we are not persuaded that the record establishes that these individuals are confidential employees within the Board's definition of the term. As the Board recently pointed out,<sup>6</sup> the term "confidential employees" is limited so as "to embrace only those employees who assist and act in a confidential capacity to persons who formulate, determine *and* effectuate management policies in the field of labor relations." Nothing in the record before us suggests that the employees whom the

---

<sup>5</sup> The parties agree that the telephone operator at the Gittere Street plant should be included in the office clerical unit. We so find.

<sup>6</sup> *The B. F. Goodrich Company*, 115 NLRB 722.

Employer would exclude as confidential employees assist and act "in a confidential capacity to persons who formulate, determine *and* effectuate management policies in the field of labor relations" at the Employer's establishments. We therefore find that the employees here involved are not confidential employees and we shall include them in the requested office clerical unit.

We shall direct elections in the following voting group and unit:

All timekeepers, shop clerks, and senior shop clerks at the Employer's plants on Babcock Street and Gittere Street in Buffalo, New York, excluding all other employees, guards, and all supervisors as defined in the Act.

If a majority of the employees in the above voting group vote for the Petitioner, they will be taken to have indicated their desire to be included in the production and maintenance unit currently represented by the Petitioner, and the Regional Director shall issue a certification of results of election to such effect.

We find that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All office clerical employees at the Employer's plants located at Babcock Street and Gittere Street, and at its offices in the New York Central terminal office building, all in Buffalo, New York, including the telephone operator at the Gittere Street plant, the clerk, typists, receptionist, and telephone operators in the industrial relations department, and the clerk, cryptographic operator, and the typists in the security department, but excluding all confidential secretaries, managerial personnel, technical employees, production and maintenance employees, timekeepers, shop clerks, senior shop clerks, guards, and all supervisors as defined in the Act.

[Text of Direction of Elections omitted from publication.]

MEMBER RODGERS took no part in the consideration of the above Decision and Direction of Election.

---

**Logan Printing Co. and Amalgamated Lithographers of America, Local No. 4, AFL-CIO, Petitioner.** *Case No. 13-RC-4806.*  
*April 24, 1956*

#### DECISION AND ORDER

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