

employed and the date of their separation from the service is speculative, we perceive no basis for excluding them from the voting group.

We shall accordingly direct an election in the following voting group: All traffic, plant, and commercial employees of the Employer at several places of business in Texas, including beginners, part-time janitors and janitresses, the secretary to Vice President Oscar Burton, the secretary to the plant superintendent, payroll clerks and employees at exchanges at Kosse, Chandler, and Hico, Texas, but excluding commercial representative cashiers, temporary employees, occasional employees, the secretary to the president, the secretary to Vice President Morris S. Burton, all employees at Athens, Commerce, Cooper, and Kaufman, Texas, professional employees, corporate officers,¹⁴ watchmen, guards, and all supervisors as defined in the Act.¹⁵

[Text of Direction of Election omitted from publication.]

¹⁴ The chairman of the board, the president, vice presidents, general manager, secretary-auditor, treasurer, assistant treasurer, and assistant auditor.

¹⁵ The Employer would exclude the wire chief at Stephenville. As the record shows that this person has the authority to discipline, to grant time off, and assign people working under him to various crews, we find he is a supervisor and exclude him from the voting group.

Westinghouse Electric Corporation and Sharon Westinghouse Employees Association, affiliated with Federation of Westinghouse Independent Salaried Unions,¹ Petitioner. *Cases Nos. 6-RC-1807 and 6-RC-1808. August 19, 1957*

DECISION AND DIRECTION OF ELECTION

Upon petitions duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Herbert Schutzman, 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 organizations involved claim 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 sever from an existing production and maintenance unit at the Employer's Sharon Works two groups of salaried employees: (1) Employees of the tool engineering department, including stenographers, designers, draftsmen, and clerks; and

¹ The name of the Petitioner appears as corrected at the hearing.

(2) employees of the traffic department, including clerks, stenographers, typists, and yardmasters. It prefers to have these employees added to the unit of salaried employees which it now represents. In the alternative, however, it is willing to represent them in a separate unit, in two separate units, or in any unit found appropriate by the Board. The Intervenor, International Union of Electrical, Radio and Machine Workers, AFL-CIO, and its Local Union 617, contends that the petitions should be dismissed because the units sought are inappropriate. It also requests dismissal on the ground that the Petitioner is not a union that traditionally represents the type of employees involved in this proceeding. The Employer takes the position that there should be 2 units at the plant, consisting respectively of all salaried employees and all hourly paid employees; it favors the Petitioner's request for severance of the 2 salaried groups from the production and maintenance unit as a step in that direction.

The Employer is a corporation engaged in the manufacture and sale of electrical equipment, supplies, and appliances in various States. At its Sharon Works at Sharon, Pennsylvania, the only plant involved in this proceeding, it has over 8,000 employees.

In 1940, in a case involving the same plant,² the Board found, in accordance with an agreement of the unions involved, including the Petitioner herein, that two separate units were appropriate: one consisting of all hourly paid employees and certain specified salaried employees,³ the other, of all salaried employees not included in the hourly paid unit. In subsequent cases in 1944 and 1950,⁴ the Board again found the hourly paid unit appropriate. Since 1940 the Petitioner has represented the salaried unit; and since 1950 the Intervenor has represented the hourly paid unit.⁵ At the present time there are approximately 2,000 salaried employees in the Petitioner's unit and 5,600 hourly paid employees and 540 salaried employees, including the 2 groups involved herein, in the Intervenor's unit.⁶

In support of its petitions, the Petitioner contends that the salaried employees it now seeks to represent are office clerical rather than plant clerical employees, and that they are functionally more closely allied

² *Westinghouse Electric and Manufacturing Company, Sharon Plant*, 19 NLRB 344.

³ This unit was described as "all hourly paid employees of the Company with the addition of Otto J. Manse [instructor of machinist apprentices], Albert Molnar [tool designer], Alice P. Joyce [inspectors' stenographer], salaried inspectors, employees in the Production Department [salaried production clerks and other plant clerical employees], and employees in the Stores and Shipping Department with the exception of those in the Purchasing Department but excluding supervisory employees." The Board noted in its decision that this unit included all production and maintenance employees and other employees whose work was closely associated with the manufacturing process.

⁴ *Westinghouse Electric and Manufacturing Company, Sharon Works*, 54 NLRB 1184, and *Westinghouse Electric Corporation*, 89 NLRB 8.

⁵ The Intervenor does not urge its current contract with the Employer as a bar to this proceeding.

⁶ The other salaried employees in the Intervenor's unit are general clerical workers, production clerks, and inspectors.

to, and have a greater community of interest with, the employees in the salaried unit than the employees in the Intervenor's unit. The Intervenor opposes severance of the two groups sought on the grounds that the tool engineering department is a heterogeneous collection of employees, including some who might be classified as craftsmen and others who are plant clericals, and that the traffic department employees are only a segment of the clerical employees in the shipping department. We turn therefore to a consideration of the evidence as to these two groups.

The employees in the tool engineering department are engaged in the designing of equipment and tools to be used in the manufacturing process. There are two sections of the department, under separate immediate supervision and located in different parts of the plant. One section designs tools for the manufacture of distribution transformers; the other for the manufacture of power transformers. Except for this distinction, the work in the two sections is similar. The distribution transformer section is located on the fourth floor of the main office building, which also houses many of the general offices of the plant. The power transformer section is in an office area of another building. Each section is under the supervision of a tool superintendent, who is responsible to the manager of plant layout. There are 16 employees in the department, including 5 class A tool designers, 2 class B tool designers, a tool specialist, a detail draftsman, a Weideman press operator, 2 information writers, 3 typists, and a secretary-stenographer.

The tool designers prepare designs for tools; they do no work in the toolroom where the tools are manufactured.⁷ They work from production drawings, using draftsmen's tools. Their contacts are primarily with engineers and supervisors, but they are occasionally consulted by toolroom employees. Except for the fact that they design tools rather than the Employer's products, their work is similar to that of the production draftsmen who are in the Petitioner's unit, and they have the same skills. Because of contractual arrangements between the Employer and the Intervenor, under which preference in filling vacancies is given to employees within the unit, most of the tool designers have come from the toolroom, which is in the Intervenor's unit. According to the Employer, however, although some knowledge of toolmaking is necessary for tool designing, actual toolroom experience is not essential, and during World War II many production draftsmen were transferred to tool designing. The tool specialist works on the development and tryout of new techniques or new ideas under the direction of the superintendent of tools. He performs his duties in the superintendent's office, but has occasion

⁷ Formerly the tool designing function was in the same department as the toolroom. Since 1943, however, the two departments have been separate.

at times to go on the plant floor in connection with the tryout of tools. His contacts are largely with supervision. The detail draftsman takes layout work prepared by the tool designers and completes the details for manufacturing purposes. The Weideman press operator makes punch sheets giving longitudinal and lateral dimensions for locating holes in sheet metal. He works from production drawings prepared by the product engineers. The information writers write up information for manufacturing purposes and issue requisitions for the purchase of material from the bill of material on the design. The secretary-stenographer and typists perform the usual duties of employees in these classifications. Upon the above facts, and the record as a whole, we find that the tool designers, the tool specialists, the detail draftsmen, and the Weideman press operator are technical employees, and that the information writers, typists, and secretary-stenographer are office clerical employees.

The employees in the traffic department deal with the routing of incoming and outgoing materials. They include 9 clerical employees and 2 yardmasters. The clerical employees include a traffic specialist, 2 senior traffic clerks, 2 junior traffic clerks, a clearance clerk, 2 billing clerks, and a stenographer. These employees arrange and pay for transportation, handle damage claims against carriers, and bill customers for shipping costs. They are located in an office on the second floor of one of the buildings, immediately over the shipping department. Since 1946 or 1947, they have been under the general supervision of the manager of purchases and traffic, who also has supervision of all purchasing, stores, shipping, receiving, and receiving inspection employees. Their immediate supervisor is the assistant traffic supervisor, who reports to the traffic section supervisor, and through him to the supervisor of traffic and shipping.⁸

In the course of their duties the traffic department employees deal with shipping orders which they receive from the shipping department, which is in the Intervenor's unit, but they also work closely with the purchasing, sales, order service, and accounting departments, all of which are in the Petitioner's unit. Because of the contractual provisions regarding the filling of vacancies, the traffic clerks have for the most part been recruited from the Intervenor's unit, particularly the shipping department. Experience in that department, however, is not necessary to qualify for appointment; knowledge of the work is acquired on the job or by attendance at a traffic school. As the clerical employees in the traffic department work in an office area of the plant, under separate immediate supervision from the

⁸ Another group of employees, referred to as traffic clericals, work on the shipping floor, under the supervisor of the shipping department, who reports to the traffic section supervisor. These employees, however, apparently are not considered part of the traffic department, and the Petitioner does not seek to represent them.

production and maintenance employees, we find, as the Petitioner contends, that they are office clericals.

The yardmasters work with a joint crew, sponsored by four railroads, which spots cars and does switching within the plant. Although the Petitioner requests the inclusion of the yardmasters, it stated on the record that if the Board feels that they do not properly belong in the same unit with the clerical employees who make up the rest of the traffic department, it is willing to exclude them. As there is no evidence that the yardmasters are office clerical employees, we shall exclude them from the voting group set forth below.

In opposing the petitions, the Intervenor relies principally on the fact that the two groups involved have in the past been included in the hourly paid unit. But although the Board frequently considers bargaining history as a factor in unit determinations, it is not conclusive when other considerations are present.⁹ Here the Board made its original unit determination on the basis of a stipulation of the parties. Since that time, however, the Employer has made organizational changes affecting the employees involved. Thus, while tool designing was originally in the same department with the toolroom, which was and still is a part of the hourly paid unit, it is now in a separate department; and the traffic department has been put under the same general supervision as the purchasing department, which has at all times been excluded from the hourly paid unit.

On the record now before us, it is clear, as we have found, that the tool engineering department is composed of technical and office clerical employees, and that the traffic department employees, with the exception of the yardmasters, are all office clericals. As it is contrary to Board policy to include office clericals in a production and maintenance unit,¹⁰ or to include technical employees when any party objects to their inclusion,¹¹ we do not believe that the history of bargaining should be given conclusive weight in this case.

The Petitioner seeks to add the tool engineering and traffic department employees to the unit of salaried technical and office clerical employees it now represents. As these employees, whom the Petitioner seeks to sever from the existing production and maintenance unit, appear to be the only technical and office clerical employees in the plant who are not now included in the Petitioner's salaried unit, we find that they may properly be represented as a part of that unit.¹² As

⁹ *International Smelting and Refining Company, Raritan Copper Works*, 106 NLRB 223.

¹⁰ *Mission Appliance Corporation*, 108 NLRB 176.

¹¹ *Hancock Electronics Corp.*, 116 NLRB 442; *Humble Oil and Refining Company*, 115 NLRB 1485; *Pollock Paper Corporation*, 115 NLRB 231.

¹² The Board will not ordinarily include technical employees in the same unit with office clerical employees if objection is raised to their inclusion by any of the parties. *Barrett Division, Allied Chemical & Dye Corporation*, 116 NLRB 1649; *Otis Elevator Co.*, 116 NLRB 262. Here, however, the Intervenor does not base its objection to the unit sought by the Petitioner on that ground.

previously noted, however, the Intervenor also contends that the petitions should be dismissed on the ground that the Petitioner is not a union which traditionally represents the type of employees involved in this proceeding. It argues that the Board's decision in *American Potash and Chemical Corporation*¹³ requires such traditional status for severance of the technical and office clerical employees here sought by the Petitioner. The *American Potash* decision makes no reference to technical employees and we see nothing in the Board's discussion of the craft severance problem in that case suggesting that the intent of that decision was also to announce a Board rule for the severance of technical employees in the future. The Board has consistently granted severance to technical employees in the past without regard to the nature of the union seeking to represent them. Continuation of this practice now is no more than consistent with the Board's long standing recognition of the more distinctive community of interest in conditions of employment among technical employees than among craftsmen. It is for this reason that the Board excludes technicals from a larger bargaining unit whenever any party objects to their inclusion¹⁴ while refusing to exclude craftsmen on mere request.¹⁵ We therefore find no merit in the contention that the Petitioner in this case is disqualified from representing the technical and clerical employees. However, in view of the historical pattern of bargaining for these employees, it would not be consistent with Board policy to permit the requested merger without first granting this group an opportunity, by means of a separate election, to express their desires on this question.¹⁶ We shall therefore direct an election in the following voting group:

All technical and office clerical employees of the tool engineering and traffic departments at the Employer's plant at Sharon, Pennsylvania, including tool designers, tool specialists, the Weideman press operator, the detail draftsman, information writers, the stenographer-secretary, and typists in the tool engineering department, and the traffic specialist, traffic clerks, billing clerks, the clearance clerk, and the stenographer in the traffic department, but excluding yardmasters and all supervisors as defined in the Act.

If a majority of the employees in the voting group vote for the Petitioner, they will be taken to have indicated their desire to be included in the unit now represented by the Petitioner, and the Regional Director conducting the election directed herein is instructed to issue a certification of results of election to the Petitioner to such effect. In the event a majority do not vote for the Petitioner, these employees

¹³ 107 NLRB 1418.

¹⁴ *Hancock Electronics Corp.*, *supra*.

¹⁵ *Associated Cooperatives, Inc.*, 112 NLRB 1012.

¹⁶ *Wisconsin Electrical Power Company*, 107 NLRB 1204; *Western Electric Company, Inc.*, 108 NLRB 396; *Westinghouse Electric Company*, 81 NLRB 337.

shall remain a part of the existing unit and the Regional Director will issue a certification of results of election to such effect.

[Text of Direction of Election omitted from publication.]

MEMBER RODGERS, dissenting:

I do not agree with the majority in declining to apply the criterion adopted by the Board in *American Potash and Chemical Corp., supra*, that the union seeking severance be the one which traditionally represents the type of employees sought for purposes of separate representation. Precisely the same reasons which persuaded the Board to adopt that criterion in cases involving craft and departmental severance are applicable to a case such as the instant one where severance of technical employees is sought. In *American Potash* the Board took cognizance of the disruptive economic and social conditions that result from subdividing plantwide units into smaller units and weighed that consideration in the light of the right of employees to organize along craft or departmental lines. In permitting severance to smaller groups, the Board sought to strike a reasonable balance by granting severance elections, not indiscriminately, but only when it was clear that the smaller groups were distinctly craft or traditionally departmental in character, and were sought by a union traditionally devoted to their special problems. The Board's purpose was to make certain that its craft severance policy would not be misused to establish extent-of-organization units or for fragmentizing plantwide units, and that where severance was accorded the basic considerations for severance were observed.

It is clear to all who are familiar with the Board's processes that the policy generally with respect to the severance of technical employees has, for all intents and purposes, paralleled the policy with respect to the severance of craft and departmental employees. To create a distinction between the two is to lose sight of the basic premises that underlie the severance doctrine. In my opinion, it is highly tenuous to justify, as the majority has done, the disparate treatment of technical employees vis-a-vis craft and departmental employees on the ground of a "more distinctive community of interest in conditions of employment among technical employees than among craftsmen." Indeed, if the degree of community of interest is to be the measuring rod, the logic seems misplaced in view of the high degree of cohesiveness of craft groupings in the industrial world, and their highly distinctive community of interests which gave rise, in the first instance, to the recognition of their separate status. In brief, I feel that the creation of distinctions without a difference such as this one can only serve to make Board policies more incomprehensible when the direction we take should be toward greater clarity and simplicity.

For these reasons, I would apply the traditional union test to the severance of technical employees, and since the Petitioner is admittedly not a union which traditionally represents technical employees, I would dismiss the petition.

Graver Construction Company and Teamsters, Chauffeurs & Helpers Local 79, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL-CIO, Petitioner

Paul Smith Construction Company and Teamsters, Chauffeurs & Helpers Local 79, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL-CIO, Petitioner

Cleveland Electric Company and Teamsters, Chauffeurs & Helpers Local 79, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL-CIO, Petitioner

Diversified Builders, Inc. and Teamsters, Chauffeurs & Helpers Local 79, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL-CIO, Petitioner

B. B. McCormick & Sons and Teamsters, Chauffeurs & Helpers Local 79, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL-CIO, Petitioner

Patrick Air Force Base Contractors Association, Petitioner and Teamsters, Chauffeurs & Helpers Local 79, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, AFL-CIO. Cases Nos. 12-RC-128, 12-RC-130, 12-RC-134, 12-RC-135, 12-RC-146, and 12-RM-5. August 19, 1957

DECISION, ORDER, AND DIRECTION OF ELECTIONS

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

1. Patrick Air Force Base Contractors Association, hereinafter referred to as the Association, Paul Smith Construction Company,

¹ Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Leedom and Members Bean and Jenkins].

The Union's request for oral argument is denied as it does not appear to be necessary in the light of the record and briefs.