

Western Electric Company, Incorporated and Council of Western Electric Professional Employees—National, Petitioner.
Case No. 2-RC-8877. March 29, 1960

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 I. L. Broadwin, 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

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 and the Employer are in agreement that a unit of all professional engineering employees in the Employer's employ is appropriate.² The Employer's professional engineering force is organized into 10 basic occupational fields, each of which has an occupational code number and job description. These basic "horizontal" classifications and their code numbers are as follows: defense projects communications engineer-1901; development engineer-1910; planning engineer-1920; plant engineer-1930; equipment engineer-1940; designer engineer-1950; industrial engineer-1960; field engineer-1970; quality control engineer-1980; and technical publications engineer-1990.

Employees performing nonprofessional job tours associated with the above horizontal occupational fields have been classified as engineering associates with an occupational code No. 2900 and are assigned a work code number covering nonprofessional job tours within the related horizontal field.

The Petitioner seeks to include in the unit 5,646 employees in the 10 basic horizontal classifications who, it asserts, individually engage in professional work and individually exhibit in their work fulfillment of all four criteria set forth in Section 2(12)(a) of the Act.³

¹ Petitioner's request for oral argument is denied, as the record, including the briefs, adequately presents the issues and positions of the parties. *Amicus curiae* briefs were filed by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW), American Federation of Technical Engineers, and National Society of Professional Engineers.

² In 1952 Petitioner was certified as the bargaining representative of a unit which was "essentially professional" in character. 98 NLRB 1018.

³ Section 2(12)(a) defines a "professional employee" as:

(a) any employee engaged in work (1) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work,

Petitioner would also include 95 wage practices specialists (code No. 2750), 35 section chief, instructors, and 270 of the engineering associates as professional engineers.

The Employer agrees with the Petitioner as to the professional status of the 5,646 employees in the basic horizontal classifications but it contends that 15 of the industrial engineers, code No. 1960, are confidential and/or managerial employees. Contrary to the Petitioner, it would also include in the unit another 180 employees who fall within the basic horizontal classifications. However, it would exclude the wage practices specialists and section chief, instructors. It regards the former group as not engaged in engineering, or at least as not being professional engineers, and it contends that 40 of them are confidential and/or managerial employees. As for the section chief, instructors, the Employer claims they are supervisors and/or managerial employees. Both parties would exclude the engineering associates, code No. 2900, except for the 270 employees whom the Petitioner would include, contrary to Employer, on the ground that they have been misclassified.

Before turning to the unit placement of the disputed categories of employees, there must be resolved the primary dispute between the parties out of which arose this protracted proceeding. The basic dispute in the case is as to whether the Board should adopt, as urged by Petitioner, a specific formula containing educational and experience requirements, the individual fulfillment of which would be a prerequisite to inclusion in the unit, in order to satisfy Section 2(12) (a) (iv) of the Act. Asserting that the job descriptions of the above-mentioned 5,646 employees are deficient in that they do not specify education and experience attributes, the Petitioner has prepared an analysis of the education and experience of those employees. On the basis of this analysis, and upon consideration of requirements of various professional engineering societies and State licensing boards, the Petitioner has devised a formula which it believes "represents a reasonable evaluation of the advanced knowledge standard of Subdivision (iv) of Section 2(12) (a) in lieu of the 'knowledge of an advanced type . . . customarily acquired' by completed technical education."⁴ Petitioner seeks recognition by the Board of such a

(ii) involving the consistent exercise of discretion and judgment in its performance, (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time, (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes, . . .

⁴ The formula is as follows: A minimum advanced knowledge requirement of a technical degree or in lieu thereof, the minimum equivalent as represented in several alternative modes of advanced knowledge as follows: (a) a minimum of 3 years of technical education and 2 years of engineering experience, (b) a minimum of 2 years but less

standard or formula based upon work characteristics and, with respect to the employees covered by the 10 horizontal classifications, would include only those engaged in the prescribed work tasks who meet the standard. As indicated, Petitioner's analysis of the individual backgrounds of employees in the basic horizontal classifications has satisfied it that 5,646 of those employees are professional employees under the Act.

The Employer contends that no predetermined, inflexible formula such as suggested by Petitioner is justified. It asserts that, under Section 2(12) (a), it is the character of the work itself which determines whether the employees performing it are professionals; that all employees performing the same work must be classified as professional or nonprofessional as a group and not treated dissimilarly because of individual distinctions in background and experience; that the education and experience of any individual or group of employees are relevant and may be used by the Board where necessary as an aid in determining the nature of the work; and that work satisfying the requirements of Section 2(12) (a) can be performed by individuals with varying degrees of education and/or experience. Like Petitioner, the Employer contends that the aforementioned 5,646 employees are professionals, but it maintains that the other 180 employees in the basic horizontal classifications are also professional employees.

We have carefully considered the positions of the parties to this proceeding, including the positions taken in the *amicus curiae* briefs, and have concluded that the Petitioner's formula approach for determining whether professional work "is being engaged in by professional employees" is not warranted. Section 2(12) (a) defines a professional employee in terms of the work he performs. And Board decisions make it clear that it is the work and not individual qualifications which is controlling under Section 2(12) (a).⁵ Therefore, if the work satisfies the Act's criteria, the employees who engage in it are professional employees; if the work does not meet the specified requirements, the employees performing it are not professional employees. This is not to say that the background of individuals within a disputed group is an irrelevant consideration, for background is

than 3 years of technical education and 4 years of engineering experience; (c) a minimum of 1 year but less than 2 years of technical education and 6 years of engineering experience; (d) 8 years or more of engineering experience commensurate to the advance knowledge required in a formal professional education; and (e) a combination of technical education as covered by (b) or (c) respectively, and 2 years of engineering and 5 years of experience in advanced technical or highly skilled job in a field closely related to professional engineering.

⁵ See, for example, *Northwestern Bell Telephone Company*, 79 NLRB 549, 552, where the Board said, "In finding the plant engineers to be professional employees, we are not passing on the individual qualifications of each engineer, but rather upon the character of the work required of them as a group. This work we find meets the requirements of Section 2(12) (a) of the amended Act."

examined for the purpose of deciding whether the work of the group satisfies the "knowledge of an advanced type" requirement of Section 2(12)(a).⁶ If, as appears in this case with respect to those in basic horizontal classifications, a group of employees is predominantly composed of individuals possessing a degree in the field to which the profession is devoted, it may logically be presumed that the work requires "knowledge of an advanced type." Conversely, if few in the group possess the appropriate degree, it logically follows that the education characteristics of the work are not those requiring the utilization of advanced knowledge. This approach, unlike the Petitioner's, does not emphasize personal qualifications at the expense of the statutory mandate to make a determination of professionalism on the basis of work performed.

Accordingly, on the basis of the entire record, we find, in agreement with the parties, that the group of 5,646 employees in the 10 basic horizontal classifications referred to above are professional employees under the Act. We shall include them in the unit.⁷ As for the 180 employees whom the Employer has assigned to the same professional classifications, and whom the Petitioner would exclude from the unit as nonprofessionals, their work tasks, which Petitioner concedes fulfill the first three criteria of Section 2(12)(a), are the same as those of the aforementioned employees who we find, in agreement with the parties, are professional employees. Since these 180 employees are part of the much larger group of employees which is composed predominantly of employees who hold the appropriate technical degrees, we conclude that their work also satisfies all the requirements of Section 2(12)(a) and that they belong in the unit as professional employees.

Regarding the 270 engineering associates whom the Petitioner, contrary to the Employer, would include as professionals, the Petitioner and Employer have entered into a stipulation pertaining to all except those in the equipment engineering classifications. The stipulation is that the testimony of certain witnesses be considered as representative testimony upon which the Board may rely for a determination of the professional status of all employees covered by the stipulation. The classifications involved are as follows:

Engineer, Planning (Work Codes 21-28)

Sixty-one employees in this group are in dispute. The "composite" testimony was given by L. A. McCool, K. S. Johnson, and J. E. Huntley.

⁶ Cf. Section 2(12)(b) which makes personal qualifications a determinative factor by defining a professional employee as "any employee, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of paragraph (a), and (ii) is performing related work under the supervision of a professional person to qualify himself to become a professional employee as defined in paragraph (a)."

⁷ The Employer's contention that 15 of the industrial engineers are confidential and/or managerial employees is rejected below.

McCool is assigned to a planning tour associated with the professional planning engineering classification; he is classified as a non-professional engineering associate (code No. 2900). His work consists primarily of preparing manufacturing layouts for use by the shop in manufacturing mounting plates which are utilized to mount equipment in the various telephone exchanges. McCool's assignments, which originate from the engineer of manufacture, inform him as to the type of mounting plate that is going to be manufactured, the size of the mounting plate, the type of equipment which is going on the mounting plate, and where the equipment is to go. The information which McCool receives also indicates where the perforations are to be made on the mounting plate. A designer determines the thickness and size of the mounting plate. From this information, McCool determines where the plate is to be fabricated and what equipment and operations are required to perforate the plate. His layouts consist of instructions to the shop as to where the perforations are to be made on the plate in order for the equipment to be attached. McCool's work requires him to have a knowledge of steel which is used in forming the plate. This knowledge he has acquired from working with engineers. He also may be called in to discuss forming problems which arise in the shop and he may have to determine whether or not new tools are required for particular work; however, the tools are designed by a tool designer. McCool indicated that the only advanced knowledge in a field of science he utilizes in performing his tasks is the knowledge he has acquired from mechanical handbooks while working with engineers. McCool and the remaining 10 employees in his department claimed by the Petitioner to be professionals have had no college education. All have years of experience with the Company.

Johnson is assigned to a planning tour associated with the professional planning engineer classification; he is classified as a non-professional engineering associate (code No. 2900). Johnson is primarily involved in the procurement of special, company-designed machinery which is not readily available in standard machinery form. Johnson's work is the third step in a three-part sequence through which the special machinery is originated, designed, and manufactured. The idea for the special machinery is originated by planning engineer who, with a machine designer, produces the design for the particular machine. Johnson receives the drawings and specifications from the planning engineer and it is Johnson's function to form an estimate as to all costs connected with the manufacture of the machinery, i.e., cost of the machinery, engineering and design effort, inspection, and installation charges. After breaking down cost per unit from the detailed drawings, Johnson compiles figures for labor and material. If the machinery is to be manufactured by

the Company, Johnson prepares a "shop order" specifying which particular shop is to do the work. His principal function in this respect is to furnish a cost figure that would be available to carry out each of the steps in the manufacture of the machinery. If the special machinery is to be procured from an outside supplier, Johnson will ask for bids from the contractors. He may then make a recommendation, based upon his knowledge of the contractors' facilities as to which contractor should receive the contract for the manufacture of the machinery; the decision as to where to place the contract rests with the company buyer. Johnson has had 3 years of technical college training. In addition, he has a diploma from the company toolmaking school, attesting to his completion of a toolmaking apprenticeship. Prior to his present assignment, Johnson had been employed as a toolmaker and tool designer. In his present assignment, Johnson utilizes his knowledge of how the various parts of the special machinery are to be made in order to arrive at his cost analysis. This knowledge of machinery was acquired, to a large extent, as a result of Johnson's toolmaking course and practical shopwork. All of Johnson's cost assignments are checked for their accuracy by a concededly professional engineer who works in the same department as Johnson.

Huntley is assigned to a planning tour associated with the professional planning engineer classification; he is classified as a nonprofessional engineering associate (code No. 2900). Since 1952, Huntley's duties have been primarily concerned with preparing manufacturing layouts for the production of relays. In April 1958 Huntley's assignment was expanded to include the responsibility for the preparation of manufacturing layouts for relay covers and coil winding on flat type relays. A relay is an electromagnet consisting of a soft iron core around which are numerous turns of wire, consisting of one or more windings. By energizing the winding, the core of the relay is energized; the resulting magnetic sources open and close contacts which control other electric circuits. Relays are used in various types of equipment in the telephonic industry. The coil, which is built into the structure of the relay, consists essentially of turns of wire over a magnetic iron core. The function of the coil is to energize the electromagnet which it forms. When a new type of coil is to be manufactured, Huntley receives the specifications of the coil, analyzes them, and prepares a new manufacturing layout for the coil. Essentially, the layout is the directive to the shop indicating the various manufacturing processes and operations necessary to produce the coil. It is also Huntley's responsibility to handle complaints from the shop concerning manufacturing difficulties. On occasion, it has been necessary for Huntley to modify certain coil winding machinery in the shop in order to resolve the difficulty which had arisen during the manufacturing process. Since 1946 Huntley has been employed in

a "planning" classification. For 20 years prior thereto, Huntley was employed as a draftsman by the Company. Huntley's formal education terminated with 1 year of high school. Since joining the Company, Huntley supplemented his education with evening school courses in high school algebra, geometry, and trigonometry. Subsequently, at a junior college, Huntley pursued college level mathematics and some physical science survey courses which were a requirement in order to gain admission to the college. Huntley testified that his education coupled with his experience in drafting, which put him "in close proximity with the engineers and their problems," qualified him to do the work to which he is presently assigned.

While the composite picture presented above shows work requiring considerable technical skill, we are not persuaded that it requires "knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning." Its essential attribute appears to be experience rather than a college education. In the circumstances, including the parties' stipulation, we find that all disputed employees in these work codes are not professional employees, and shall exclude them from the unit.⁸

Engineer, Plant (Work Codes 31-32)

Eight employees in this group are in dispute. J. A. W. Bennett's testimony was stipulated as determinative here.

Bennett is assigned to a nonprofessional "plant" tour; he is classified as a nonprofessional engineering associate (code No. 2900) and is employed in the telephone sales division of the Company. His department is responsible for the installation of new distributing houses or building additions to existing distributing houses. Distributing houses are responsible for repair of telephone sets and are located in various sections of the country.

In working on a distributing house installation or addition thereto, Bennett is provided with an equipment list prepared by planning engineers. Bennett reviews the equipment list and associated drawings to insure that all proper equipment necessary for the installation is contained therein as well as any associated equipment which would be required. Bennett discusses any additions to the equipment list with a planning engineer.

Bennett and others in his department also prepare preliminary cost estimates of equipment to be used by the Company in allocating funds for an installation or project. After the Company has approved a project, Bennett must prepare a detailed cost estimate which is used to check bids by contractors. Bennett is supplied with the cost data

⁸ *Westinghouse Air Brake Company, etc.*, 121 NLRB 636, 638; *Combustion Engineering, Inc.*, 117 NLRB 1589; *S. S. White Dental Manufacturing Company*, 109 NLRB 1117; *E. W. Bliss Company, Toledo Machine Tools Division*, 81 NLRB 428.

and "standards" used in preparing the cost estimates. He then submits a recommendation as to choice of contracts. However, assuming the contractors' reliability, the low bidder would generally receive the contract. Bennett must also insure that, in scheduling an installation of equipment, there will be no interference with current operations.

Bennett, a graduate of a technical high school, has had 1 year of college. In performing his tasks, Bennett utilizes his knowledge gained from his prior experience in the shop and his knowledge of the Company's equipment. This knowledge enables him to "do the work without the benefit of taking science or anything of that nature." Bennett employs some physics in his equipment installation work and simple arithmetic in cost estimating.

We find that Bennett's work also does not require "knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning." Accordingly, we find that the disputed employees in the above work codes are not professional employees within the meaning of the Act.⁹ Therefore, we shall exclude them from the unit.

Engineer, Designer (Work Codes 51-55)

Twenty-five employees in this group are in dispute. The composite testimony here was given by G. F. Pyde, F. W. Murphy, and R. L. Self.

Each of the above-named tool designers is assigned to a nonprofessional "designer" tour and is classified as a nonprofessional engineering associate (code No. 2900). Although each is qualified to design various types of tools and gauges, Murphy spends most of his time designing gauges; Pyde spends a majority of his time designing jigs and fixtures; and Self designs tools, dies, gauges, and machine tools. The tool designer's assignment is initiated by a planning engineer and the latter must approve the completed design. Pyde has received a tool design certificate from Newark College of Engineering; Murphy has less than 1 year of college education; and Self has had 1 year of nontechnical college education. Each has had an extensive background as a toolmaker or tool and gauge inspector. The record discloses that the work of the tool designer is highly skilled and technical, requiring a high degree of creativity. However, it is also clear that the essential attribute of the work is practical experience in the tool- and die-making field rather than a college degree or the equivalent thereof. In view thereof, we find that the work does not satisfy the requirements for professional status under the Act.¹⁰ Accordingly, we shall exclude the disputed employees in the above work codes from the unit.

⁹ *Westinghouse Air Brake Company, etc., supra.*

¹⁰ *F. W. Sickles Company, 81 NLRB 390.*

Engineer, Industrial (Work Codes 61-62)

Seventy-three employees are in dispute here. The testimony which is determinative as to them was given by F. M. Kennedy, C. M. Waltons, and F. J. Vrona.

Each of the above-named employees is assigned to a nonprofessional "industrial tour" and is classified as a nonprofessional engineering associate (code No. 2900). The primary function of these essentially time-study employees is to set rates on production or inspection jobs. A rate is "the result of a time study compiled, adjusted, and issued to the shop informing them that they have to perform a certain amount of work in an allotted time." It is oftentimes necessary for the time-study employee to make numerous time studies of the job under consideration in order to develop standards for each operation from which are derived the ultimate rate for the job. He must, in making his studies, give consideration to such elements as fatigue, skill, and effort of the operator or inspector. On occasion, it is possible to set rates without making a time study by using predetermined time standards. As a result of their work, time-study employees are able to make valuable suggestions as to cost reduction.

Kennedy has a B.S. degree in economics; Vrona has B.A. and B.S. degrees in business and economics; and Walters has a B.S. degree in business administration. Walters testified that a good student could learn to do time-study work in a minimum of 12 weeks.

In accord with the Board's recent decisions involving time-study men doing essentially similar work as the employees involved herein, we find the disputed time-study employees to be technical, rather than professional, employees. Accordingly, we shall exclude them from the unit.¹¹

Engineer, Quality Control (Work Codes 21-28)

Twelve employees are in dispute in these work codes. The parties' stipulation provides that the work of J. W. Iler is representative and may be relied upon for a unit determination for all the employees.

Iler is assigned to a quality control tour associated with the professional quality control classification and is classified as a nonprofessional engineering associate (code No. 2900). His primary function is to assure the quality of products manufactured at the Employer's Kearny Works and shipped to customers. He also assures quality of products purchased from various outside suppliers of the Company.

In assuring quality of products made for the Company at plants of outside suppliers, Iler conducts surveys at these plants on a periodic basis. For example, on one assignment it was necessary for Iler to determine whether the outside supplier had sufficient facilities to manufacture coils in accordance with the Company's engineering re-

¹¹ *Vickers, Incorporated*, 124 NLRB 1051.

quirements and to determine whether the supplier was producing according to these requirements. The engineering requirements with which conformance was demanded and the degree of sampling to insure conformance were developed by a department other than Iler's own. Essentially, Iler recorded in the survey what he observed at the supplier's plant. Iler can recommend rejection of products which do not meet specification or have been damaged. He also develops statistical quality control data.

With regard to intraplant quality assurance, Iler has prepared surveys covering cable production at the Kearny plant. In handling a complaint concerning the coiling of cable, Iler recommended changing the coiling method which recommendation, after discussion with the responsible engineer, was incorporated into a shop practice handbook.

In performing his duties, Iler utilizes a full knowledge of the Company's manufacturing processes. He has had 2 years of college courses in engineering and experience as a quality checker, supervisor, and inspector prior to undertaking his present assignment.

We are not satisfied that Iler's work meets the requirements for professional status under the Act.¹² Accordingly, we shall exclude Iler and the other disputed employees from the unit.

Engineer, Equipment (Work Codes 41-45)

Ninety-one employees in this classification are in issue. As already noted, there is no stipulation of the parties affecting this group. And the posture of the evidence in the record concerning the employees' work is such that it affords an inadequate basis for determining their unit placement. For example, Employer's Exhibit No. 21 which was admitted in this connection contains merely conclusions concerning the work of 46 of the disputed employees as observed by supervisors, and was introduced through a superintendent who had nothing to do with the preparation of the exhibit and who had no actual knowledge of the work involved. On the other hand, the witnesses testifying in favor of the Petitioner's unit position indicated only a lack of familiarity with the actual work. In these circumstances, we shall permit these 91 disputed employees to vote subject to challenge.

As indicated above, the parties are in disagreement as to the unit placement of 95 wage practices specialists. The Petitioner seeks their inclusion in the unit as professional engineers whereas the Employer maintains that the work is not professional engineering. The parties have stipulated that the testimony of R. W. Howland and H. Clark should be considered representative and dispositive of the status of all the disputed employees.

Howland and Clark are engaged in the job evaluation of hourly rated and salary rated jobs. Job evaluation consists of determining

¹² *F. W. Sickles Company, supra.*

the relative worth of jobs in order to avoid disproportionate wages and salaries for comparable duties. The assignment of a wage practices specialist is initiated when a line organization requests grading service on a particular job. The wage practices specialist observes the job under study, writes a job description and determines the relative value of the job by analyzing its various attributes in terms of education, experience, analytical ability, judgment, etc. Point values are assigned in accordance with the Company's job grading plan. The job is then "slotted" into a grade according to its point value and a pay rate assigned in accordance with the classification. The wage practices specialist must insure that the job evaluation determination is not inconsistent with the comparable jobs. In evaluating jobs it is necessary for the wage practices specialist to be conversant with the operations of the job he is evaluating. The record discloses that the essential attributes of wage practices work is a high degree of intelligence, ability to handle and evaluate facts, and a knowledge of the Company's operations. We find that the work does not satisfy the Act's requirements for professional status. Accordingly, we shall exclude the employees in this classification from the unit.

There remains for consideration the status of certain allegedly supervisory, confidential, or managerial personnel:

Petitioner would include section chief, instructors, in the unit whereas the Employer contends that they should be excluded from the unit because they are supervisors or have interests allied to management. These section chief, instructors, are graduate engineers who teach in the Company's engineering training program. The training program offers courses to graduate engineers at training centers located in Chicago, New York City, and Winston-Salem. These training centers are located in leased premises, unconnected with the Employer's manufacturing facilities. The relationship between the section chief, instructor, and the engineer undergoing training is one of instructor-student. While it does not appear from these facts and the entire record that the section chief, instructors, are supervisors under the Act, we find that they lack a community of interest with those in the unit.¹³ We shall exclude them.

Of those in the industrial engineering classification, code No. 1960, all of whom were found to be professional employees above, the Employer contends that 15 are confidential and/or managerial employees and that they therefore should be excluded from the unit.¹⁴ We agree with Petitioner that this contention has no merit.

The industrial engineers in question engage in auditing the wage incentive structure of various company factory locations. The pur-

¹³ Cf. *Westinghouse Air Brake Company, etc., supra*.

¹⁴ As we are excluding wage practices specialists from the unit for reasons given above, we find it unnecessary to pass upon Employer's contention that those employees also are confidential and/or managerial employees.

pose of the audit is to ascertain the degree of efficiency in administration of the wage incentive programs by local supervision. After an audit is completed at a particular location, a "closing conference" is held where the auditor discusses and recommends improvements in the administration of the wage incentive program. He may also make suggestions concerning the resolution of a grievance involving wage incentives. In addition to these duties, the employees in question also participate in annual engineering surveys, which is a confidential exchange of information between many major companies concerning salaries and classification of engineering employees. The function of the industrial engineers is limited to summarizing returns from other companies in graph or chart form for use by the Company. Also, the industrial engineers may be asked for their views concerning a wage incentive clause proposed for inclusion in a collective-bargaining agreement. None of these industrial engineers is employed in the labor relations division of the Company through which is channeled the information obtained from these engineers for use by highly placed executives of the Company, including a vice president who formulates and effectuates management policies in the field of labor relations.

We find that the above industrial engineers are neither confidential nor managerial employees as the Board defines these terms.¹⁵ As already indicated, they are included in the unit.

Accordingly, on the basis of the entire record, 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 professional engineering employees employed by the Employer, including these in the 10 basic horizontal classifications, but excluding engineering associates, wage practices specialists, section chief, instructors, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

¹⁵ *Chapman Valve Manufacturing Co.*, 119 NLRB 935; *The B. F. Goodrich Co.*, 115 NLRB 722.

Tennessee Chair Company, Inc. and United Textile Workers of America, AFL-CIO. Case No. 10-CA-4128. March 30, 1960

DECISION AND ORDER

On October 27, 1959, Trial Examiner Louis Libbin issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices, and recommending that the Respondent cease and desist therefrom and take certain affirmative action, as set forth in the