

one of the contractors on the jobsite, to change the assignment of the disputed work from Orange and Rockland to Kempton. The record does not support the charge.

While the record does show a disagreement between Respondent and Kempton regarding Kempton's alleged breach of their collective-bargaining agreement, this is a matter outside the scope of the present proceeding. The only jurisdictional dispute, if any, which is suggested by this record relates to the assignment of the work in question to employees of Orange and Rockland represented by the IBEW rather than to plumbers represented by the Respondent. However, this last question was not the issue framed by the charge, it was not litigated at the hearing, and it therefore cannot constitute the essential element of the case against the Respondent.¹

Accordingly, as the record does not show a dispute within the meaning of Section 10(k) of the Act between Respondent and Carleton, the only issue which the formal documents called upon the Respondent to litigate, we shall grant its motion to quash the notice of hearing.

[The Board quashed the notice of hearing.]

MEMBER RODGERS took no part in the consideration of the above Decision and Order Quashing Notice of Hearing.

¹ *Local 450, International Union of Operating Engineers, AFL-CIO (The Austin Company)*, 119 NLRB 1424.

Airesearch Manufacturing Company of Arizona, a Division of the Garrett Corporation¹ and International Union of Electrical, Radio and Machine Workers, AFL-CIO, Petitioner. *Case No. 28-RC-957. June 15, 1962*

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 J. W. Cherry, Jr., 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 this case to a three-member panel [Members Leedom, Fanning, and Brown].

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

1. The Employer is engaged in commerce within the meaning of the Act.

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

2. The labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of the employees of the Employer within the meaning of Section 9(c) (1) and Section 2(6) and (7) of the Act.

4. The Employer is a California corporation engaged in the development and manufacture of units and systems for use in aircraft and space industries and by the United States Government. The operation here involved is located at Phoenix, Arizona, and is devoted to the development and manufacture of turbomachinery, pneumatic controls, and electro or electromechanical assembly. The nature of the Employer's operations is such that there may be some 600 to 700 active product lines in production at any given time. However, the quantity of any single item produced is small, 100 being viewed as a large order. The majority of items are made to individual specifications including test performance specifications. The developmental phases of the work consist of modification and improvement of existing items, and, less frequently, the conception and development of new products.

There are over 3,000 employees in the Phoenix division which is administratively organized into 15 departments, the heads of which report to a vice president in charge of the division. The only employees with whom we are concerned in this proceeding are in the following departments: manufacturing, manufacturing controls, quality control and inspection, engineering and test laboratory, plant engineering and maintenance, and cafeteria. The employees fall within 15 labor grades which are uniform throughout the plant: holiday, vacation, pension, and insurance benefits are the same for all employees, and all nonsupervisory employees have access to the same grievance procedure. Seniority is recognized on both a departmental and a plantwide basis. A uniform labor relations policy is in effect throughout the divisions of the corporation.

The Petitioner seeks a unit consisting of "All production and maintenance employees, including production inspectors and checkers, excluding all technical, experimental, development and laboratory employees, clerical, professional and office employees, and all supervisors and guards as defined in the Act." Both parties agree that a production and maintenance unit is an appropriate unit; they disagree, however, on the composition of such a unit. The Employer contends that some 425 additional employees should be included in the unit. Such employees fall generally into the categories of (1) employees in the engineering and test laboratory, (2) clericals, (3) leadmen, and (4) cafeteria employees.

Engineering and test laboratory employees: The vast majority of all orders placed with the Employer contain performance testing

specifications. The general processing of an order includes fabrication of parts in the Employer's production or development machine shop, or purchase from outside vendors; inspection in accordance with inspection manuals set up by the quality control department; assembly in the assembly groups; and some further static inspection. The items are then transported to the testing laboratory for functional testing as provided in the customer's specifications. Approximately 85 percent of the Employer's products are tested; 93 percent of the testing being carried out in the laboratory. The laboratory testing is conducted in an area which is contiguous to the main factory of the plant, but separated therefrom by railroad tracks.

Laboratory subdepartments Nos. 47-47, 47-60, 47-70, and 47-80 test a wide variety of valves, turbomachinery, and perform altitude, atmospheric, and flight vibrations tests. Employees in these several sections are classified as laboratory test technicians, laboratory development technicians, and there is one classification of mechanic-laboratory assembly A. The entry classification is labor grade 8; the progression from that class is four grade jumps to grade 12 and the remaining classifications are in labor grade 14.

In the standards laboratory (subdepartment 47-15) three instrumentation technicians are employed. They calibrate, adjust, and certify secondary standards on the basis of primary standards which have been certified by the Bureau of Standards.

The instrumentation laboratory (subdepartment 47-40) employs 30 to 35 employees who work in the mechanical and electronics fields. Their work consists of fabricating, maintaining, calibrating, and repairing the instrumentation used in both the production and laboratory areas. The more highly classified employees fabricate new test equipment. The employees are classified as instrumentation development technicians, instrumentation engineering technicians, instrumentation technicians, and laboratory development technicians. They are classified as grades 12, 14, and 15, and there is also a stock clerk grade 7.

The laboratory machine shop (department 47-25), also a subdepartment of the test laboratory, is located in the laboratory area. The employees in the shop, who number some 25, are classified as laboratory and general machinists, toolroom grinder, layout and fabrication welder, and stock clerk. They fabricate parts for test stands for use in the laboratory and also parts for equipment ordered by customers in order to conduct their own tests.

Finally the subdepartment 47-22, known as the development assembly, is administratively and geographically a part of the laboratory, has some 20 employees classified as laboratory assembly mechanics and engineering research mechanics, labor grades 12 and 14, respectively, and a grade 7 stock clerk. The employees assemble new or

modified turbines for qualification testing, make minor changes on production units, and assemble customers' testing equipment.

A large portion of the record in this case was directed toward adducing evidence concerning whether or not the disputed laboratory employees are or are not "technical employees." While there are no requirements for specialized education for these jobs, many of the employees have had various special courses. On the other hand, many employees possess the same basic skills as those whom the parties agree are included in the unit, though as a group they appear to be more highly skilled. We do not doubt that many, though not all of such employees could be viewed as "technical" according to the criteria previously established by the Board.² However, since our decision in *The Sheffield Corporation*, 134 NLRB 1101, this distinction, if found, would not alter our determination in this case.³ For, in *Sheffield* we held that even though certain employees were found to be technical, they would not automatically be excluded from a production and maintenance unit, but that the Board would look to certain additional criteria in determining their unit placement. The criteria were: "desires of the parties, history of bargaining, similarity of skills and job functions, common supervision, contact and/or interchange with other employees, similarity of working conditions, type of industry, organization of plant, whether the technical employees work in separately situated and separately controlled areas, and whether any union seeks to represent technical employees separately."

In the case before us the entire operation of the Employer is essentially technological, the testing function and the instrumentation utilized therein is an integral part of, and inextricably related to, the total production process. A product which has not been tested, or could not meet test specifications would be as unfinished a product as one whose parts had not been fully assembled. Whatever conclusion might be arrived at with respect to "experimental," "developmental," and laboratory testing employees in other industries, development is a distinguishing feature, if not the *raison d'être* of the Employer's business in the instant case. It therefore follows that employees engaged in testing are not by reason of their duties and functions such a distinct and homogeneous group as would justify constituting them a separate appropriate unit. Moreover, the employees in issue who work in the various laboratory subdepartments have regular contacts with the production and maintenance employees whom the parties have agreed to include in the unit; some have transferred from jobs in regular production and they may in turn progress to higher classifications in production jobs; their position classifications, labor grade

² *Litton Industries of Maryland, Incorporated*, 125 NLRB 722.

³ Although Member Leedom did not join in the *Sheffield Corporation* case, he now feels himself bound by it.

ratings, hours of work method of compensation, employee benefits, and working conditions are similar to those of employees concededly within the unit. We thus find that their interests are closely allied to those of the other production and maintenance employees and accordingly direct their inclusion in the unit.

Clerical employees: The Petitioner seeks to exclude a number of clericals located throughout the plant area while the Employer seeks to include them in the unit on the basis that they are plant clericals. The general clerk and the receiving clerk in the receiving department work in partitioned offices located in the warehouse area. Such clerks do the paperwork necessary to institute inspection of shipments received and also perform the paperwork required when an unsatisfactory shipment is returned to the vendors. They have contacts with the receiving handlers and inspectors, are supervised by the receiving department foreman, and have the same hours and punch the same timeclocks as the other receiving department employees included in the unit.

The plant clerk in the shipping department works with the packers and checks the units being shipped. The shipping clerks type the necessary forms. Their offices are located in the shipping area, they are supervised by the shipping department foreman, work the same hours, and have the same working conditions as shipping employees included in the unit.

Production allocators and plant clerks employed in the shipping controls section also work in the shipping department area. These employees are responsible for the final allocation of products to customers and they make changes in original customer orders according to needs, cancellations, modifications, etc. They spend a majority of their time on the shipping lines, come in contact with packers and inspectors, and are subordinate to a supervisor in the manufacturing controls department.

Fabrication control is a subdepartment of manufacturing controls and employees therein classified as card-tape machine operators, schedule coordinators, and production schedulers are in dispute. The card-tape machine operators punch out job cards on the basis of work orders received and the cards are handed out through wickets to the dispatchers. A convertor reproduces a current job schedule on tape in the central computing system. The work of the schedule coordinators is to reschedule daily the items which have gone off schedule. Rescheduling is done on the basis of a report from the telecomputing system and requires a knowledge of the amount of time required for each operation and the flow of work in a shop. The schedule coordinators are required to coordinate with the production scheduler who prepares the initial schedule for new work. The production scheduler writes out work orders as a result of information relayed from a joint

committee of supervision which initially determines work schedules. These employees are located in an enclosed area of offices between the factory and assembly areas, and entrance is afforded by a doorway to the aisle. The employees work the same hours, have the same supervision, and share facilities with production employees included in the unit.

The Employer and Petitioner disagree as to the placement of a number of clericals employed in the quality control and inspection department classified as department clerks, plant clerks, general clerks, and clerk-typists. The plant clerks have desks out in the floor area, make visual inspections, prepare necessary paperwork, and check paperwork with inspection tags and nameplates on the completed units. The clerk-typists, general clerks, and department clerks type inspection reports and pass out blueprints from open racks to inspectors and checkers. They are supervised by the inspector foremen over the department in which they work, have daily contact with, and the same hours as, production employees and may progress to inspector classifications.

All of the clerical employees discussed above have the same method of compensation, benefits, and working conditions as the employees included in the unit; they are located apart from the office clericals and perform work related to production. Accordingly, we find there is a close community of interest between these clericals and the production employees and we shall include them as plant clericals in the unit hereinafter found appropriate.⁴

Other miscellaneous classifications: The parties also disagree on various additional categories of employees. Quality control technicians are employed in four subdepartments of the quality control and inspection department: material review, surveillance, inspection planning, and inspections, turbines, and overhaul. Their basic function is distinguishable from that of the inspectors in that they are responsible for seeing that the finished unit is a quality product. Employees are rotated in the first three subdepartments denoted above. Technicians in the material review subdepartment review parts to determine what discrepancies may exist between parts and their specifications and to determine whether the parts are usable. Reports are made to the material review board which is composed of military representatives and representatives from the quality control and the engineering departments. Technicians in the surveillance subdepartment work in assembly areas and with outside vendors. They survey assembly procedures to determine if a unit is being assembled so it will function properly.

⁴ *Avco Corporation, Electronics and Ordnance Division, Evendale, Ohio*, 131 NLRB 921, 924. *Lilliston Implement Company*, 121 NLRB 868, 870; *Welex Jet Services, Inc.*, 119 NLRB 489, 491; *Ryan Aeronautical Co., Electronics Division*, 121 NLRB 1502, 1505 (schedulers and shipping and receiving clerks); *Waldorf Instrument Company, Division of F. O. Huyck & Sons*, 122 NLRB 803, 810 (blueprint control clerk).

Where units are sent out to customers with malfunctioning parts, the surveillance technicians will observe employees on the assembly lines both inside and outside the Employer's plant, to determine the cause for such malfunctioning and make a report thereon. Inspection planners (employed in the inspection planning and inspection, turbines, and overhaul) write detailed inspection procedures for use in inspection analogous to the production procedures written by operation planners. These technicians and the quality control clerk (subdepartment 84-83) work in completely enclosed areas, and they do not punch timeclocks. The technicians are among the most highly paid hourly employees; they work with a salaried engineer and may progress to salaried classifications. Planners, operations A, are employed in the rework department and in the development machine shop, two subdepartments of production. The planner in rework examines parts and checks blueprints on parts approved by the material review board for rework. They determine the type of work necessary and follow such work throughout the complete cycle. They plan the flow of work for maximum utilization of machines, and plan the sequence of operations to be adhered to. They possess the same type of skills and specialized knowledge as the planners in regular production who are salaried and excluded from the unit. The latter, however, spend less time in the shop area and write out all instructions, while, due to the pressure of time, the planners here involved transmit instructions orally through foremen. In the development machine shop, where scheduling time makes it essential, engineers may be on the floor to give verbal instructions for modifications of a part and where there is a little more time, the planners may make a quick written instruction with a sketch and answer questions of the machinists. The chief difference between the work of these planners and the excluded planners appears to be that in the latter case, time is available for preparation of blueprints to go along with instructions while the planners here involved must be physically in the production area because of the strict deadline requirements. Although they spend more time on the floor than the excluded planners, they are in the highest labor grade for hourly employees, and we find the nature of their functions, their duties, and their interests are similar to those of the excluded planners.

The development liaison men and engineering liaison men work out of an office in the engineering department which is on the second floor of the office area. They are supervised by the engineering department and share offices with office clericals and other hourly paid employees who are excluded from the unit. They have regular business contacts with salaried employees in their department. Their work generally consists of expediting in all areas, and contacts are made with production shops through the foremen. They spend about 50 percent of their time in outside vendors' shops.

We find that the nature of the functions, the diverse duties, interests, and conditions of employment of the operation planners, quality control technicians in subdepartments 84-51, 84-81, 84-82, 84-83, and the quality control clerk in 84-83, development liaison men and engineering liaison men, warrant their exclusion from the unit.⁵

Leadmen: The supervisory levels at the Phoenix division consist of division manager, assistant division manager, department managers, assistant department managers, general foremen, subforemen, leadmen, and group assistants. There is no disagreement with respect to any category except the leadmen in the various departments. They are in the highest labor grade of any employees in their group and receive a differential in pay of 25 cents per hour. The leadmen transmit directions and work assignments to employees, check and inspect work, and keep records of the work of the group. They initiate and draft the performance ratings which are considered in determining transfers, promotions, and pay increases and in deciding whether a probationary employee should be retained. They make recommendations pertaining to promotions, discharges, disciplinary action, and the adjustment of grievances. They participate in formal interviews with employees relative to their performance reviews. Leadmen participate in a management development program, a course of instruction given by the training section of the industrial relations department to all supervisory personnel from the departmental manager level through the leadmen level. The course includes training in company policy interpretation and administration, communications, human relations, and business economics. The courses are conducted on company time. The leadmen do not punch timeclocks. The evidence indicates that leadmen rarely perform the actual work on the machines, that past supervisory experience is considered on applications for leadmen positions, that in recruiting for leadmen the major job responsibilities are stated to include training of employees, recommendations regarding changes that will increase the efficiency of group, participation in merit review program, preparation of performance reviews, and communication of company policy and practice to employees. The leadman is also stated to be *required* to recommend need for additional employees or reductions in work force.

The testimony indicated that in the inspection section there would be approximately 8 supervisors for 150 employees without the lead-

⁵ See, *Waldorf Instrument Company, Division of F. C. Huyck & Sons*, 122 NLRB 803, 805, 808; *Copeland Refrigeration Corporation*, 118 NLRB 1364, 1366; *Reeves Instrument Corporation*, 117 NLRB 21, 23. The functions of the excluded quality control technicians are readily distinguishable from quality control personnel customarily included in a production and maintenance unit in cases such as *Wiedemann Machine Company*, 118 NLRB 1616, 1618; *Gerber Plastics Company*, 113 NLRB 462, 464; and *Metal Products Corporation*, 107 NLRB 94. In the cited cases the employees performed routine functions similar to those of inspectors, while the record in this proceeding indicates that the technicians here have duties which require the critical and effective analysis of a broad variety of production procedures.

men, 18 for 450 machine shop employees, 10 for 275 to 300 assembly employees, and 2 for 70 to 80 quality control employees. On some night shifts the only representatives of supervision are leadmen and on others the ratio would be as high as 1 supervisor to over 60 employees without leadmen. In the posture of this case, and considering the high degree of skill and precision required of employees by the nature of their work, close supervision would reasonably seem to be necessary.

On the entire record we find that the leadmen responsibly direct the work of the employees in their group and effectively recommend action affecting employees so as to constitute them supervisors within the meaning of Section 2(11) of the Act. Accordingly, we shall exclude them from the unit.⁶

Cafeteria employees: There are 17 hourly paid employees in the cafeteria engaged in the preparation and service of food. The cafeteria facilities are available to all employees. The cafeteria employees have the same benefits and conditions of employment as production and maintenance employees in the main plant. In accordance with customary Board policy, we shall include them in the unit,⁷ with the exception of those employed as cafeteria chefs who are excluded from the unit as supervisors.

We find that the following employees of the Employer constitute a unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act.⁸

All production and maintenance employees, including production inspectors and checkers, engineering and laboratory testing employees, plant clericals, and cafeteria employees, but excluding planners, operations A in departments 44-5V and 83-2, development and engineering liaison in department 93-14, quality control technicians in departments Nos. 84-51, 84-81, 84-82, and 84-83, the quality control clerk in 84-83, office clericals and professional employees, guards, leadmen, and other supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

⁶ *Transformer Engineers*, 114 NLRB 1325; *Lee-Rowan Manufacturing Company*, 129 NLRB 980; *Research Craft Mfg. Corporation, et al.*, 129 NLRB 723; *Knights of Columbus*, 129 NLRB 76. See also *City Transportation Company*, 131 NLRB 814, 818; *West Virginia Pulp and Paper Co.*, 121 NLRB 1; *WTOP, Inc.*, 115 NLRB 758; *General Telephone Company of Michigan*, 112 NLRB 46.

⁷ *Barber-Colman Company*, 130 NLRB 478; and see *Solar Electric Corporation*, 128 NLRB 85.

⁸ The unit found appropriate is larger than that sought by the Petitioner, and neither the exact size of the unit nor the exact interest of the Petitioner in the unit is clear from the record before us. Accordingly, we instruct the Regional Director not to proceed with the election herein directed until he shall have first determined that the Petitioner has made an adequate showing of interest among the employees eligible to vote in the unit herein found appropriate. Since the Petitioner has expressed reservations with regard to participation in an election in a broader unit we shall permit it to withdraw its petition upon notice to the Regional Director within 5 days from the date of issuance of this Direction, and shall thereupon vacate the Direction of Election.