

In the Matter of PACKARD MOTOR CAR COMPANY and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW-CIO) and LOCAL 190 (UAW-CIO)

Case No. 7-R-1533.—Decided November 24, 1943

Mr. Carl N. Blinn, of Detroit, Mich., for the Company.

Maurice Sugar and *Jack N. Tucker*, by *Mr. Jack N. Tucker* and *Mr. John N. McDaniel*, of Detroit, Mich., for the U. A. W.

Mr. Joseph E. Gubbins, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, (UAW-CIO), and Local 190 (UAW-CIO), herein collectively called the U. A. W., alleging that a question affecting commerce had arisen concerning the representation of employees of Packard Motor Car Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert J. Wiener, Trial Examiner. Said hearing was held at Detroit, Michigan, on October 19, 1943. The Company and the U. A. W. appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Packard Motor Car Company is a Michigan corporation with its principal office and place of business in Detroit, Michigan. Prior to 1941 the Company was engaged at its Detroit plants in the manufacture

and sale of automobiles. In the ordinary course of business raw materials were purchased and transported to the Company's Detroit plants from points outside the State of Michigan; and finished products were sold and transported by the Company to points outside the State of Michigan. Beginning in 1941 and continuing through 1942 the Company has converted its manufacturing facilities to the manufacture of munitions and ordnance for the Governments of the United States and other of the United Nations. In its current war manufacturing activities the Company procures over 50 percent of the raw materials used from outside the State of Michigan and transports approximately 90 percent of the finished products, valued in excess of \$1,000,000 per annum, to points outside the State of Michigan. The Company admits for the purpose of this proceeding that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO), and Local 190 (UAW-CIO), are labor organizations affiliated with the Congress of Industrial Organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On October 22, 1940, the Company executed a joint collective bargaining agreement with the UAW and with Chapter No. 201 of the International Federation of Architects, Engineers, Chemists and Technicians, also affiliated with the Congress of Industrial Organizations. In this contract, the UAW was recognized as the exclusive bargaining representative of the production and maintenance employees; Chapter No. 201, however, was recognized as the representative of its members only.¹ On October 7, 1942, the Company executed another agreement with the UAW covering the same employees; Chapter No. 201, however, was not a party to this agreement.² It is undisputed that following execution of the foregoing contract, the former members of Chapter No. 201 became, and presently are, members of the UAW; that Chapter No. 201 has assigned its bargaining rights to the UAW; and that no jurisdictional dispute now exists between the UAW and Chapter No. 201. The UAW has requested recognition by the Company as the exclusive bargaining representa-

¹ The membership of Chapter No. 201 was confined to certain technical employees in the engineering and drafting departments who were not included in the production and maintenance unit.

² Although Chapter No. 201 was not a party to the agreement, the contract provided as follows:

"The Company also recognizes the International Federation of Architects, Engineers, Chemists, and Technicians and its Chapter No 201 as the representative of their members employed in the Plant."

tive in a separate unit of all the technical employees in the Company's engineering and drafting departments, including those for whom Chapter No. 201 had previously been recognized as the bargaining representative on a members-only basis. The Company refuses to accord such recognition.

A statement prepared by the Regional Director, introduced into evidence at the hearing, indicates that the UAW represents a substantial number of employees in the unit hereinafter found to be appropriate.³

We find that a question affecting commerce has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The UAW seeks a unit comprised of all draftsmen, checkers, designers, detailers, tracers, apprentices, blueprint machine operators, engineering record clerks, tool engineers, process engineers, process clerks, plant lay-out men, and plant lay-out clerks employed by the Company in the various subdivisions of the engineering and drafting departments set forth in Appendix A,⁴ excluding supervisory employees and employees represented by the UAW in accordance with the contract of October 7, 1942.⁵ The Company does not dispute the appropriateness of the unit but contends that the employees whom the UAW is seeking to represent should not be represented by the same union which represents the production and maintenance employees. We find the Company's contention to be without merit. The Act guarantees all employees freedom of self-organization including the designation of bargaining representations of "their own choosing."⁶ The Board has found appropriate a unit comprised of technical employees such as the UAW seeks herein.⁷ The qualifications, functions, and interests of such employees differ greatly from those of other less-skilled production and maintenance employees. We are of the opinion, therefore, that the technical employees in the engineering and drafting departments of the Company constitute a separate bargaining unit.

³ The statement of the Regional Director shows that the UAW submitted 244 official membership receipts and 70 authorization cards, of which 301 bear names of persons whose names are listed on the Company's pay roll of September 9, 1943; there are approximately 654 employees in the appropriate unit. All the official membership receipts are current and the authorization cards are dated as follows: 1 in January, 57 in February, and 12 in March, 1943.

⁴ The categories included in this unit cover those technical employees to which Chapter No. 201 had confined its membership.

⁵ Under the contract, the UAW represents all hourly rated employees except "representatives of the Management such as superintendents, foremen, or supervisors in charge of any class of labor, time-study men, plant-protection employees and confidential clerks."

⁶ See *Matter of Dravo Corporation*, 52 N. L. R. B. 322; *Matter of Phelps Dodge Copper Products Corp.*, 41 N. L. R. B. 973.

⁷ See *Matter of Boston Edison Company*, 51 N. L. R. B. 118.

We find that all draftsmen, checkers, designers, detailers, tracers, apprentices, blueprint machine operators, engineering record clerks, tool engineers, process engineers, process clerks, plant lay-out men, and plant lay-out clerks employed by the Company in the various subdivisions of the engineering and drafting departments set forth in Appendix A, excluding employees represented by UAW in accordance with the contract of October 7, 1943, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in said Direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Packard Motor Car Company, Detroit, Michigan, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Seventh Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America (UAW-CIO), and Local 190 (UAW-CIO), for the purposes of collective bargaining.

APPENDIX A

AC	Chassis Drafting	DSM	Aircraft Salvaging
AK	Body Styling	FPK	Aircraft Processing
AL	Body Drafting	GPK	Aircraft Processing
AR	Engineering Office Rec- ords	KPK	Aircraft Processing
AY	Marine Engine Drafting	MAC	Aircraft Drafting
AYS	Marine Engine Drafting	MPA	Aircraft Tool Designing
RPA	Marine Tool Designing	MPK	Aircraft Processing
RPK	Aircraft Processing	MPT	Aircraft Cutting Tool Eng.
UPK	Aircraft Processing	MRR	Aircraft Engineering
RPK	Marine Processing	MPP	Aircraft Tool Designers
RR	Plant Engineering Draft- ing	MTL	Aircraft Plant Layout
RRW	Plant Engineering Draft- ing	RPB	Marine Engine Layout
CPK	Aircraft Processing	MTM	Salaried Employees Only
DPK	Aircraft Processing	MTR	Salaried Employees Only