

IN the Matter of PACKARD MOTOR CAR COMPANY *and* MECHANICS EDUCATIONAL SOCIETY OF AMERICA, LOCAL UNION #4, C. U. A.

IN the Matter of PACKARD MOTOR CAR COMPANY *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, LOCAL #12 (C. I. O.)

*Cases Nos. 8-R-1290 and 8-R-1299 respectively.—Decided
February 2, 1944*

Mr. Frank L. Danello, for the Board.

Messrs. Carl R. Binns and A. G. Dennison, both of Detroit, Mich., and *R. R. Rees and D. C. Livesay*, both of Toledo, Ohio, for the Company.

Messrs. Earl S. Streeter and Carl Fox, both of Toledo, Ohio, for the MESA.

Messrs. David A. Guberman, Thomas H. Burke and Edward J. Duck, all of Toledo, Ohio, for the UAW.

Mr. A. H. Danner, of Toledo, Ohio, for the Polishers.

Mr. David V. Easton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by Mechanics Educational Society of America, Local #4, herein called the MESA, and by Local #12, UAW-CIO, herein called the UAW, alleging that questions affecting commerce had arisen concerning the representation of employees of Packard Motor Car Company, Toledo, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Walter Wilbur, Trial Examiner. Said hearing was held at Toledo, Ohio, on December 16, 17, and 18, 1943. The Company, the MESA, the UAW, and Metal Polishers, Buffers, Platers and Helpers, Local Union No. 2, affiliated with the American Federation of Labor, herein called the Polishers, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evi-

dence bearing on the issues. At the hearing, the Polishers sought by motion to exclude all employees of the Company engaged as platers, polishers, and helpers from the purview of the petition filed by the UAW on the ground that any election among these employees at the present time would be premature. The Trial Examiner reserved ruling on this motion for the Board. For reasons hereinafter stated this motion is granted. 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, a Michigan corporation with its principal office in Detroit, Michigan, owns and operates several plants in and about the Detroit area; in addition thereto it has recently begun to operate a plant owned by the Defense Plant Corporation located at Toledo, Ohio, hereinafter referred to as the Toledo plant. We are concerned herein with the Company's operations at said plant. The Company is engaged at the Toledo plant in the manufacture of aircraft engine parts for the United States Government and others of the United Nations. The primary raw materials in use at said plant consist of steel and aluminum, 85 percent of which must be obtained from points outside the State of Ohio. The Company anticipates that during the first year of operations, it will have used a quantity of such raw materials valued in excess of \$1,000,000, and it expects to manufacture, during that period, finished products valued in excess of \$10,000,000, all of which are destined for shipment to points outside the State of Ohio.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Mechanics Educational Society of America, Local #4, is a labor organization affiliated with the Confederated Unions of America, admitting to membership employees of the Company.

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local #12, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Metal Polishers, Buffers, Platers, and Helpers, Local No. 2, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By letters dated September 10 and 15, 1943, respectively, the MESA and the UAW each sought recognition from the Company as the collective bargaining representative of certain of its employees. The Company refused both requests, and suggested to each labor organization that it resort to the processes of the Board.

Statements of the Field Examiner, introduced into evidence at the hearing, indicate that the MESA and the UAW each represent a substantial number of employees in the unit which each proposes as appropriate.¹

We find that questions affecting commerce have 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 DETERMINATION OF REPRESENTATIVES

The UAW seeks a unit comprised of all hourly paid non-supervisory employees of the Company, excluding salaried employees (with certain exceptions hereinafter discussed) and supervisory employees. The MESA seeks a unit comprised of several hourly paid classifications in both the tool room department and plant engineering division of the Company, major inspectors and lay-out inspectors in the inspection division, and certain salaried employees. The Polishers indicated an interest in all nonsupervisory employees engaged by the Company as polishers, platers, and helpers, and seeks to exclude all such employees from any unit found to be appropriate by the Board in this proceeding. The Company takes no position with respect to the above-mentioned units, but strongly contends that all salaried employees should be excluded therefrom.

The administration of the Toledo plant is shaped along lines similar to those in other plants operated by the Company, and is divided into the following divisions: Accounting, Administrative, Personnel, Purchasing,² Inspection (TG), Mechanical (TP), Plant Engineering (TR), Production Control (TS), Production Manufacturing (TD), and Standards (TT). All employees in the group in which the Polishers has asserted an interest are included within the TD division;

¹ The Field Examiner reported that the MESA submitted 61 designations bearing apparently genuine and original signatures; that 51 of these bore the names of persons appearing upon the Company's pay roll of October 16, 1943; and that said pay roll contained the names of 102 persons within the unit sought by the MESA.

The Field Examiner further reported that the UAW submitted 214 designations bearing apparently genuine and original signatures; that 184 of these bore the names of persons appearing upon the afore-mentioned pay roll; and that said pay roll contained the names of 446 persons within the unit sought by the UAW.

The record contains evidence indicating that the Polishers represents 3 persons in the group in which it claims an interest; that said group contained 12 persons as of the date of the hearing herein; but that, by January 15, this number will have increased to 18.

² None of the unions herein seeks to represent employees attached to these four divisions.

the unit sought by the MESA consists of employees in the TG, TP, and TR divisions; and the unit sought by the UAW would include all hourly paid non-supervisory employees in the TG, TP, TR, TS, TD, and TT divisions, as well as certain salaried employees in the TT and TP divisions.

The group sought by the Polishers

As noted above, the Polishers seeks to exclude all polishers, platers, and helpers from participating in any election hereinafter directed as a result of this proceeding, contending that any election among these employees would be premature. The UAW contends that the showing of representation made by the Polishers among these employees is not sufficiently substantial to warrant their separation from other employees of the Company. It appears that although, generally, the Company now has engaged a representative group of employees, as of the present date it has employed less than half the estimated total of polishers, platers, and helpers.³ The record further indicates that the Polishers, whose asserted interest may not now appear substantial, may well have an increased interest in the selection of a collective bargaining representative at a later date when a representative group of these employees will have been hired. All parties concede that these employees constitute a peculiarly skilled group. Since, absent any history of collective bargaining to the contrary, we would ordinarily find that such employees might properly function either as a separate unit or as part of a single plant-wide unit,⁴ we are of the opinion that these employees are entitled to exercise such a choice. However, we are of the opinion that an election at this time when less than 50 percent of the contemplated group has been employed would have less likelihood of reflecting a representative choice. Accordingly, we shall not conduct any election at this time among these employees, and shall exclude them from the elections hereinafter directed. Our finding in this respect, however, is made without prejudice to the entertainment of a new petition covering these employees at such time as a representative group will have been employed.⁵

The units sought by the MESA and the UAW

As hereinabove indicated, both the MESA and the UAW seek units which cross divisional lines of the Company. The former seeks

³ The record indicates that by the end of January 1944 the Company will have engaged approximately 50 percent of its total anticipated complement of employees. However, it further indicates that this is not true of those employees engaged as polishers, platers, and helpers, the Company submitting the following employment figures with respect to these employees: October 13, 1943, 2; Dec. 17, 1943, 12; Jan. 15, 1944, 18; June 1, 1944, 50.

⁴ See *Matter of Electrical Vacuum Cleaner Co., Inc.*, 44 N. L. R. B. 783; *Matter of Toledo Scale Company*, 45 N. L. R. B. 472.

⁵ Cf. *Matter of Lukas-Harold Corporation*, 44 N. L. R. B. 730.

a variegated unit composed of several crafts as well as other classifications of employees; the latter seeks an industrial unit. Each would include therein certain salaried employees whose exclusion is sought by the Company.

The salaried employees of the Company consist of various classifications of supervisory, administrative, clerical, technical, and militarized employees. All parties agree upon the exclusion of supervisory, administrative, and clerical employees; however, the UAW includes within its proposed unit all militarized personnel under the rank of lieutenant, and both the UAW and the MESA include within their respective units certain technical employees in the TT and TP divisions.⁶ Each of these last classifications of employees constitutes a group which we have customarily excluded from the industrial unit although permitting them to bargain collectively in units separate therefrom.⁷ We shall, therefore, exclude both technical employees and militarized personnel from the industrial group in which an election is hereinafter directed.

In anticipation of the foregoing finding, the UAW expressed an alternative desire that a separate election be conducted among militarized plant protection personnel. Since the record does not contain any particularized showing of representation by the UAW among these employees, we shall not conduct any election among them at this time. Our finding in this respect, however, is without prejudice to the entertainment of a future petition covering such employees. The foregoing applies equally to the technical employees claimed by the UAW and the MESA.

The remainder of the unit sought by the MESA consists primarily of several classifications in the tool room department (part of the TP division of the Company), as well as some classifications in the TR division, and major inspectors and lay-out inspectors in the TG division.

The TR division is concerned with the maintenance and protection of the plant, and includes therein the plant protection employees hereinabove excluded from the industrial group, and employees engaged in various maintenance crafts. The MESA seeks to represent only those employees in this division engaged as electricians, carpenters, plumbers and steamfitters, millwrights, and power plant employees, excluding all other classifications therein.

⁶ The MESA and the UAW both seek the inclusion within their respective units of tool engineers, special assignment men, process engineers, tool designers, apprentice designers, and apprentice detailers attached to the TP division. In addition, the UAW would include blueprint machine operators and plant lay-out men attached to the TT division.

⁷ See *Matter of Dravo Corporation*, 52 N. L. R. B. 322 (militarized personnel); *Matter of Western Cartridge Company*, 46 N. L. R. B. 948 (technical employees). This policy is further evidenced by the establishment of separate units of such employees in other plants operated by the Company. See *Matter of Packard Motor Car Company*, 47 N. L. R. B. 932 (guards); *Matter of Packard Motor Car Company*, 53 N. L. R. B. 875 (technical employees).

We are of the opinion that the unit sought by the MESA, combining these maintenance craft employees with the other employees in the proposed unit, does not constitute a craft, multiple-craft, departmental, or divisional unit, nor is it delineated upon any functional basis. In view of the separation both functionally and administratively which exists between the maintenance craft employees and the tool room employees who constitute the largest single group in the unit sought by the MESA, we see no valid reason for combining these groups. This reasoning is equally applicable to lay-out and major inspectors sought by the MESA, who constitute only a small portion of the TG division. Accordingly, we shall not separate any of the employees in the TR division and in the TG division from the industrial unit.

However, in claiming the large majority of the classifications of employees engaged in the tool room, the MESA seeks to represent a group which is both functionally integrated and administratively identifiable. The record discloses that the tool room is a separate department of the TP division; that it is physically separated from the remainder of the plant by inclosures; that it operates under its own supervisors; and that there is comparatively little interchange of personnel between it and the other administrative units of the Company. We have, on previous occasions, found that such employees could properly function either as a separate unit or as part of an industrial unit,⁸ and in view of the showing made by the MESA among the employees, we are of the opinion that our determination of the unit issue with respect to them should depend, in part, upon their own desires to be expressed in the election hereinafter directed. We shall, therefore make no determination of the unit or units at this time, but shall defer such determination pending the outcome of the elections hereinafter directed.

The record indicates that the MESA does not seek to represent those employees in the tool room department engaged as electric truck drivers, stock movers, tool messengers, and janitors, contending that they are unskilled employees, not properly included within a skilled group for the purposes of representation. However, these employees perform their duties primarily in the tool room; such duties bear a closer functional relationship to those performed by other employees therein than to those of other employees of the Company not so engaged; and these employees are within the same administrative unit and are subject to the same supervision as the remaining tool room employees. Furthermore, they are admitted to membership by both the MESA and the UAW. We shall, therefore, include them within the voting group.

⁸ *Matter of American Propeller Corporation*, 43 N. L. R. B. 518; *Matter of Buick Motor Division, General Motors Corporation*, 40 N. L. R. B. 825.

Accordingly, we shall direct that separate elections by secret ballot be held among the employees of the Company at its Toledo plant within each of the groups listed below who were employed during the payroll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction. There shall be excluded from each of the voting groups, in addition to others specifically listed therein, all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, as well as all salaried employees. The respective voting groups shall be as follows:

(1) All employees in the tool room department of the Company, to determine whether they desire to be represented by the MESA, the UAW, or by neither;

(2) All remaining employees of the Company excluding those engaged within the accounting, administrative, personnel, and purchasing divisions, technical employees, plant-protection employees, and polishers, platers, and helpers, to determine whether or not they desire to be represented by the UAW for the purposes of collective bargaining.

DIRECTION OF ELECTIONS

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Packard Motor Car Company, Toledo, Ohio, separate elections 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 Eighth 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 following groups of employees of the Company, 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, supervisory employees with authority to hire, promote, discharge, discipline, or

otherwise effect changes in the status of employees, or effectively recommend such action, and salaried employees:

(1) All employees in the tool room department, to determine whether they desire to be represented by Mechanics Educational Society of America, Local #4, affiliated with the Confederated Unions of America, or by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local #12, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither;

(2) All remaining employees of the Company excluding those engaged within the accounting, administrative, personnel, and purchasing divisions, technical employees, plant-production employees, and polishers, platers, and helpers, to determine whether or not they desire to be represented by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local #12, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.