

In the Matter of VAUGHAN MOTOR COMPANY and INTERNATIONAL
ASSOCIATION OF MACHINISTS, LOCAL 63

Case No. 19-R-1184.—Decided February 16, 1944

*Messrs. Robert F. Maguire, H. G. Boutin, and Samuel Weiss, of
Portland, Oreg., for the Company.*

Mr. M. A. Lovay, of Portland, Oreg., for the Union.

Mrs. Augusta Spaulding, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Association of Machinists, Local 63, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Vaughan Motor Company, Portland, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph D. Holmes, Trial Examiner. Said hearing was held at Portland, Oregon, on December 21, 1943. The Company and Union 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 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

Vaughan Motor Company is engaged in the manufacture of lift trucks at Portland, Oregon. The principal raw materials used by the Company consist of steel, castings, magnetos, wheels, and tires. During the year 1942, the value of the raw materials purchased by the Company was \$600,000, approximately 85 percent of which came

to the plant from points outside Oregon. During the same period, the Company sold products valued at \$1,500,000, approximately 95 percent of which was sold and shipped to points outside Oregon.

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

II. THE ORGANIZATIONS INVOLVED

International Association of Machinists, Local 63, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

In August 1943, the Union asked the Company for recognition as sole bargaining representative of the Company's employees at the Main Street plant. The Company refused such recognition on the ground that the proposed unit was not an appropriate bargaining unit. On September 2, 1943, the Union filed the petition in this proceeding.

A statement prepared by the Trial Examiner indicates that the Union represents a substantial number of employees in the unit herein found appropriate for bargaining.¹

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 Company is engaged in the manufacture of lift trucks. At the time of the hearing the Company was conducting its manufacturing operations at two plants in Portland, Oregon, located at 835 Southeast Main Street, and at 710 Northeast 21st Street, respectively. For convenience the plants in the order named are designated herein briefly as the Main Street plant and the 21st Street plant.

The Union contends that the Company's factory employees at the Main Street plant, including employees in the machine shop, the heat

¹ The Union submitted 71 authorization cards bearing dates in 1943 and the apparently genuine signatures of employees on the Company's pay roll of December 12, 1943. There are approximately 170 employees in the appropriate unit.

The parties agreed that the Trial Examiner should check the Union's cards against the Company's pay roll and prepare a statement of his findings and that the Trial Examiner's statement should become part of the record herein as an amendment to Board Exhibit No. 2. In accordance with the agreement of the parties, the statement so prepared by the Trial Examiner is hereby made, and is, part of the record in this proceeding.

The Union pointed out that the cards submitted in support of its petition were restricted to those signed by employees presently employed by the Company's Main Street plant. It is clear that the Union has not restricted its organizational activity to employees now at the Main Street plant, but the record does not disclose the extent of its organization among other employees of the Company.

treating, and the assembly departments, constitute an appropriate bargaining unit. The Company contends that a unit restricted to employees at the Main Street plant is not appropriate and that employees in like categories at both plants should be included in the same bargaining unit.

The Main Street plant is a block square. It includes two main divisions—the foundry and the factory. The lower floor houses the office, the foundry, and the machine shop, the laboratory, the welding department, and the heat treating department of the factory. On the upper floor is the assembly department of the factory. In October 1942 the Company found that the Main Street plant did not furnish sufficient space for the production required to meet its Government contracts. To supply extra space, the Company leased the 21st Street plant, the nearest suitable property, about 1 mile distant from the Main Street plant. To the new location, in January 1943, the Company transferred its final assembly department. The subassembly department for small parts remained at the Main Street plant. Practically no alterations were made at the 21st Street plant for the Company's accommodations and no heavy equipment was installed. The Company's present Government contracts expire on July 1, 1944, and are subject to prior cancellation. The Company's lease expires on July 31, 1944, and contains a renewal clause for a 2-year period. The Main Street plant remains fully equipped to manufacture the Company's finished products when production returns to its normal peak. If more space than the Main Street plant affords is permanently needed for production purposes, the Company will enlarge the Main street plant to meet its needs as soon as labor and materials are available for the purpose. The 21st Street plant is thus a temporary location, pending need and opportunity for additions to the Main Street plant. The Main Street plant and the 21st Street plant are under the direct personal supervision of the Company's superintendent, who designed its sole product. Under him are several foremen, including the foreman in immediate charge of final assembly at the 21st Street plant, and the welding, foundry, and subassembly foremen at the Main Street plant. There are approximately 240 employees at the Main Street plant. The 21st Street plant began operations in January 1943 with a crew of 21 employees transferred from the Main Street plant. New employees have been added to the 21st Street plant, and at the time of the hearing there were approximately 50 employees on the pay roll of that plant. The Company maintains separate pay rolls for the convenience of its office at the Main Street plant, as pay checks are forwarded to the 21st Street plant for delivery to its employees there employed. As its production needs require, the Company freely transfers employees for short periods of time from one plant to the

other. From January 1943, when the 21st Street plant began operations, until December 21, 1943, the day of the hearing, the Company had transferred, for periods of 2 or more weeks, 16 employees from the 21st Street plant to the Main Street plant, and 7 employees from the Main Street plant to the 21st Street plant. Welders and assembly workers, including men and women, are employed at both plants. Wage classifications of employees doing similar work in the plants are the same. The 21st Street plant is engaged in assembly operations only and is entirely dependent upon the manufacturing operations of the Main Street plant for its supply of work. The Company looks upon the work of both plants as a single production operation. When the Company discontinues its operations at the 21st Street plant and returns the final assembly department to its location at Main Street, it will transfer employees presently employed at the 21st Street plant to the Main Street plant. As reduction in its force becomes necessary, employees will be retained on the basis of seniority employment with the Company. Old employees now working at the 21st Street plant will be retained in preference to new employees at the Main Street plant.

The Company has operated at its Main Street plant for about 25 years. The Company has recognized its foundry and factory as separate divisions of its plant. The foundry has always operated on a closed-shop basis, and the Company recognizes International Moulders and Foundry Union of North America as the bargaining representative of these employees. So far as the record discloses, the company has never recognized any labor organization as the bargaining representative of its factory employees. In September 1942, the National War Labor Board approved an increase for the Company's foundry employees, retroactive to April 1942. Thereafter, a committee of three employees, elected by employees in the several factory departments, conferred with the Company concerning a wage increase for the factory employees. The Company met with this committee on three or four occasions and, as a result of their negotiations, a request for wage increases for factory employees was submitted to the National War Labor Board. The negotiations between the Company and this committee were completed before January 1943, at which time, as noted above, the Company moved its final assembly department to the 21st Street plant and began its operations at that location.

In the spring of 1943, the Union began organizing the Company's employees and on July 27, 1943, filed with the Regional Director a petition for investigation and certification of representatives. In its petition the Union alleged that the appropriate bargaining unit for the Company's employees included all persons employed in the Company's machine shop, including employees of the welding, heat treat-

ing, and assembly departments, and the toolroom,² but excluding employees of the laboratory, the engineering department, and the stockroom, supervisory employees, office clerical employees; truck drivers, and janitors. On August 2, 1943, the Company and the Union entered into an agreement for a cross-check, based on the respectively appropriate union and employer records, to be made among employees at both plants in the agreed unit who were employed by the Company during the pay-roll period ending July 25, 1943. On August 10, 1943, the Regional Director reported to the parties that the cross-check disclosed that the Union represented 63 among the 179 employees then employed in the agreed bargaining unit. Immediately thereafter the Union asked the Company for recognition as the sole bargaining representative of the factory employees at the Main Street plant, excluding the employees at the 21st Street plant. The Company refused the request and, on September 2, 1943, the Union filed the petition in the instant proceeding.

Since the Company's factory operations at the Main Street and 21st Street plants clearly constitute a single continuous manufacturing operations, we conclude, on the basis of the entire record herein, that the appropriate unit for the Company's factory employees should include employees in like categories at both plants.

The Union would include within the bargaining unit all factory employees in the machine shop, heat treating, and assembly departments, and would exclude employees in the foundry, laboratory, welding, engineering, painting, and stockroom departments, truck drivers, janitors, office and clerical employees, and all supervisory employees.

The Company employs 10 welders at the Main Street plant and 1 welder at the 21st Street plant. The welders at the Main Street plant perform most of their welding work within their own department, but their work takes them to all parts of the plant. Whether they perform their welding work in the welding department or elsewhere in the plant, they work under the direct supervision of the welding foreman. The welder at the 21st Street plant works on assembly work under the direction of the assembly foreman when he is employed at that plant. If his work is not needed at the 21st Street plant, he is transferred to the welding department at the Main Street plant when he works under the direction of the welding foreman. Although other factory employees do no welding work, welders do set-up work when they are not needed for welding. The Company points out that welders were included in the agreed unit for the cross-

² The Company does not operate a toolroom. Tools owned by the Company are stored where used. Tool sharpening is done by a machine operator, who regularly uses the machine in production work.

check in the prior representation proceeding, noted above, and were among employees participating therein. Machinist welders are eligible to membership in the Union and they are included in the agreements between the Union and the Company's competitors at Portland, Oregon. We shall therefore include welders in the bargaining unit.³ Other categories of production and maintenance employees listed for exclusion by the Union are commonly excluded from craft units of machinists and machine operators, and we shall exclude them from the unit found appropriate herein.

The Company's superintendent has full charge of the Main Street and the 21st Street plants and has sole authority to hire and to discharge employees. The foreman at the 21st Street plant and the welding foreman and the assembly foreman at the Main Street plant make recommendations to him with respect to hire and discharge, and their recommendations are generally followed. The Company employs a number of subforemen who may make recommendations concerning the discharge of employees, but an independent investigation is conducted before any action is taken with respect to their recommendations. We shall make no disposition with respect to subforemen as a group, but we shall exclude from the bargaining unit the superintendent, the foreman, and all other supervisory employees within our usual definition of that term.

We find that all factory employees of the Company at the Main Street and the 21st Street plants, including employees in the machine shop, heat treating, subassembly, final assembly, and welding departments, but excluding employees in the foundry, the laboratory, the engineering and painting departments and the stockroom, truck drivers, janitors, office and clerical employees, the superintendent, the foremen, and all other 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 find that the question concerning the representation of the Company's employees can best be resolved by an election by secret ballot.

The unit found appropriate in Section IV, above, includes employees of the Company at the Main Street and 21st Street plants, and is more

³The Company employs several painters in the assembly departments at the Main Street plant and at the 21st Street plant. The record does not specifically disclose whether or not these employees participated in the cross-check noted above. Since the unit herein found appropriate is substantially a craft, rather than an industrial unit, we shall not include painters therein.

extensive than the unit sought by the Union in the instant petition. Since the Union presently appears to represent a substantial number of employees in this larger unit, we shall at this time direct that an election be conducted among them forthwith. If, however, the Union does not desire to participate in an election at this time, and shall notify the Regional Director, within five (5) days after the date of the issuance of this Decision and Direction of Election, of its desire to withdraw the petition herein, we shall set aside our Direction of Election and dismiss the petition.

Those eligible to vote in the election shall be all employees of the Company in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of the Decision and Direction of Election herein, subject to the limitations and additions set forth in the 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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Vaughan Motor Company, Portland, Oregon, 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 Nineteenth 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 periods 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 Association of Machinists, Local 63, for the purposes of collective bargaining.