

**In the Matter of INTERNATIONAL HARVESTER COMPANY, WEST PULLMAN
WORKS and UNITED FARM EQUIPMENT AND METAL WORKERS OF
AMERICA, AFFILIATED WITH THE C. I. O., LOCAL 161**

Case No. 13-R-2247.—Decided May 31, 1944

*Messrs. Robert E. Dickman and W. J. Reilly, of Chicago, Ill., for
the Company.*

*Meyers & Meyers, by Mr. Ben Meyers, of Chicago, Ill., for the Union.
Mr. William C. Baisinger, of counsel to the Board.*

DÉCISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Farm Equipment and Metal Workers of America, affiliated with the C. I. O., Local 161, herein called the Union,¹ alleging that a question affecting commerce had arisen concerning the representation of employees of International Harvester Company, West Pullman Works, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Jack G. Evans, Trial Examiner. Said hearing was held at Chicago, Illinois, on April 6, 1944. The Company and the Union appeared and participated. Both parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing upon the issues, and to file briefs with the Board. At the close of the hearing the Company moved to dismiss the petition on the grounds that (1) the proposed enlargement of the present office and clerical unit by the inclusion of the technical and professional employees whom the Union seeks to represent would create an inappropriate unit; (2) the technical and professional employees sought by the Union do not in themselves comprise an appropriate bargaining unit; and (3) inasmuch as the Union is not petitioning for an appropriate unit, no question affecting commerce has arisen concerning the representation of the Company's employees. For reasons stated in Section III and IV,

¹ The Union's name appears in the above caption as it was amended at the hearing.
56 N. L. R. B., No. 194.

infra, we hereby deny the Company's motion. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case,² the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

International Harvester Company, a New Jersey corporation, operates a number of plants in several States of the United States at which it is engaged in the design, manufacture, sale, and distribution of trucks, tractors, farm implements, and various war products and materials. This proceeding involves only the Company's plant at Chicago, Illinois, known as the West Pullman Works. During the year 1943, the Company purchased approximately \$1,000,000 worth of raw materials for use at the West Pullman Works, approximately 50 percent of which was transported to the plant from points outside the State of Illinois. During the same period the value of the finished products manufactured at the West Pullman Works exceeded \$2,000,000, of which about 50 percent was shipped from the plant to points outside the State of Illinois.

The Company admits and we find that at its West Pullman Works it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Farm Equipment and Metal Workers of America, Local 161, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

At the hearing the parties stipulated that on or about December 7, 1943, the Union advised the Company that it represented a majority of the employees within an alleged appropriate unit and requested recognition as their exclusive bargaining representative, and that on or about December 22, 1943, the Company, in reply to the Union's request, refused to accord the Union such recognition unless and until it is certified by the Board.

A statement prepared by a Field Examiner of the Board, introduced into evidence at the hearing, as supplemented by a statement made on the record by the Trial Examiner, indicates that the Union represents

² Subsequent to the hearing the parties entered into a written stipulation providing for the correction of an error appearing in the transcript. The stipulation is hereby made a part of the record and the transcript ordered corrected in accordance therewith.

a substantial number of employees within 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

History of collective bargaining at the West Pullman Works

On July 11, 1941, pursuant to the results of separate elections directed by the Board in a prior representation proceeding,⁴ the Board certified Farm Equipment Workers Organizing Committee, C. I. O., the predecessor of the Union's parent organization, as the exclusive bargaining representative of the production and maintenance employees at the Company's West Pullman Works, exclusive of die sinkers, and Chicago Die Sinkers Local 100 of International Die Sinkers Conference, herein called the Die Sinkers, as the exclusive bargaining representative of all die sinkers and die sinkers' apprentices.⁵ Shortly thereafter the Company entered into collective bargaining contracts with Local 107 of the Union's parent organization and the Die Sinkers covering the respective units of the employees for which the predecessor of the Union's parent organization and the Die Sinkers were the certified bargaining representatives. These contractual relationships have continued in effect to and including the present time. On or about October 12, 1943, pursuant to the results of a consent election conducted by the Board on July 17, 1943, the Company and the Union entered into a collective bargaining agreement covering all office and clerical employees of the West Pullman

³The Field Examiner's report as supplemented by the Trial Examiner's statement shows that the Union submitted 46 designation cards bearing the names of persons whose names appear on the Company's pay roll of February 14, 1944, which lists the names of 62 employees within the unit alleged appropriate by the Union.

The Trial Examiner further tabulated the Union's showing as follows:

| Employee classification | Number on pay roll | Number of designations |
|---------------------------------|--------------------|------------------------|
| Draftsmen..... | 15 | 10 |
| Tool designers..... | 17 | 13 |
| Plant design engineers..... | 3 | 3 |
| Processing engineers..... | 5 | 5 |
| Time-study men..... | 7 | 3 |
| Chemists and metallurgists..... | 12 | 10 |
| Secretary-stenographers..... | 3 | (*) |
| | 62 | *44 |

*Although the Trial Examiner did not check the designation cards submitted by the Union for the 3 secretary-stenographers against the pay roll, it would appear that 2 of the secretary-stenographers signed cards.

⁴Matter of International Harvester Company, et al, 32 N. L. R. B. 40.

⁵33 N. L. R. B. 347.

Works, exclusive of certain enumerated categories among which were those employees whom the Union seeks to represent in the instant case. This contract is also still in effect.

Contentions of the parties

The Union seeks to represent what it describes generally as a unit of technical employees, and, as its primary position, desires that this group be added to the existing office and clerical unit, but, in the alternative, seeks the establishment of a separate unit comprised of these employees. This group of employees includes the following classifications of technical and professional workers: draftsmen, tool designers, processing engineers, and plant-design engineers in the mechanical engineering department; time-study engineers, time-study observers, and the special engineer in the methods and rates department; chemists and metallurgists in the metallurgical department; secretary-stenographers in the mechanical engineering, methods and rates, and improved methods departments; prospective metallurgists to be hired for the new roller bearing mill which is nearing completion; and the additional technical employees who are to be added to the improved methods department. The Union would exclude from this group of technical employees all supervisory employees within the Board's customary definition. The Company opposes both the primary and alternative positions of the Union, contending that these technical and professional employees do not have interests in common with the office and clerical workers; that the employees in the mechanical engineering, methods and rates, and improved methods departments perform managerial functions and consequently should not be a part of any bargaining unit; and that the secretary-stenographers are confidential employees who have access to matters pertaining to labor relations and should therefore be excluded from any unit.⁶

The West Pullman Works

The West Pullman Works consists of approximately 45 buildings located in a large enclosed area. The total complement of employees in the plant approximates 4,000 persons, of which about 3,300 are hourly paid, 550 are salaried non-supervisory employees, and 150 are salaried general foremen, foremen, and assistant foremen. The Company is constructing a new building within this area for manufacturing ball bearings which will be in operation sometime in July 1944, and will employ about 375 persons, of whom approximately 200 will be transferred from other departments of the plant. The various de-

⁶ The Company, while disputing the inclusion of the chemists and metallurgists in the office and clerical unit, apparently does not contend that these employees could not properly function as a separate bargaining unit.

partments in which the technical employees work are housed in several more or less adjacent buildings which are connected by means of ramps and areaways.

In general, the mechanical engineering department designs plant layouts, equipment, machinery, and machine tools; the methods and rates department sets and adjusts rates of pay on piece-rate jobs; the improved methods department formulates new and improved production methods and also studies suggestions made by employees with respect to improvements and changes in production methods; and the metallurgical department performs chemical and metallurgical tests upon materials and products to ascertain whether they conform to certain predetermined specifications.

These four departments, respectively, are under the direct supervision of the mechanical engineer, chief of methods and rates, foreman of improved methods, and chief plant metallurgist, each of whom is, in turn, under the supervision of the superintendent of the Works.

The technical aspect of the work performed by the majority of the employees sought by the Union is undisputed. Although we have included technical and professional employees within a unit containing office and clerical workers, absent contentions to the contrary,⁷ we have frequently had occasion to recognize the difference in interests, backgrounds, and functions between the two groups, and our general policy has been to place the employees comprising these groups in separate units.⁸ Accordingly, in view of the Company's objection to the inclusion of the employees sought by the Union in the same unit with the office and clerical workers, we shall, in accordance with our customary practice, deny the primary contention of the Union.⁹ However, we are of the opinion and conclude that the employees now sought to be represented by the Union, except for certain named exclusions, may properly constitute an appropriate bargaining unit.

There remains for consideration the composition of the unit.

The technical and professional employees in the mechanical engineering department: At the time of the hearing, there were 3 plant-design engineers, 5 processing engineers, 19 tool designers, and 11 draftsmen employed in the mechanical engineering department. All of these employees are under the supervision of the mechanical engineer who, in turn, is under the plant superintendent. They are located on the third floors of 3 adjacent buildings. The plant-design engineers plan and design building machinery such as conveyors, suction systems, electrical equipment, furnaces, and other fixed equipment

⁷ See *Matter of Consolidated Vultee Aircraft Corporation (San Diego Division)*, 54 N. L. R. B. 103.

⁸ See *Matter of Oliver Farm Equipment Company*, 53 N. L. R. B. 1078; and *Matter of Boston Edison Company*, 51 N. L. R. B. 118.

⁹ See *Matter of Spicer Manufacturing Corporation*, 55 N. L. R. B. 1491.

in the plant. When the Company contemplates the manufacture of a specific product, the plant-design engineers confer with the processing engineers to determine the requirements as to the building machinery. The processing engineers prepare partial and complete layouts of parts and units to be manufactured in the plant and confer with plant-design engineers, tool designers, various production foremen, and other technical and professional employees concerning the production methods to be used in manufacturing these products. Their layouts, which consist of work sheets, are submitted to the accounting department for cost estimates. The tool designers design tools, dies, jigs, and fixtures from the work sheets formulated by the processing engineers. The draftsmen draw detailed blueprints of the sketches made by the tool designers. The finished product is manufactured from these blueprints. The supervisory employees in this department consist of the mechanical engineer, assistant mechanical engineers, and the chief tool designer, all of whom the Union desires excluded from its proposed unit.

These technical and professional employees of the mechanical engineering department, in general, have had considerable education and training and possess creative and inventive ability. They must exercise initiative and judgment in their work. They receive approximately 25 percent more pay than do the highest paid personnel in the office and clerical unit. While it is true that these technical and professional employees possess considerable technical knowledge and ability, they exercise no supervisory functions nor do they, by virtue of their position, have access to matters relating to collective bargaining. In our opinion, they are not functionally or otherwise related to management. Accordingly, we shall include the plant-design engineers, processing engineers, tool designers, and draftsmen of the mechanical engineering department in the appropriate unit. However, we shall exclude the mechanical engineer, assistant mechanical engineers, and the chief tool designer, since they are admittedly supervisory employees.

The technical and professional employees in the methods and rates department: The Company employs approximately seven time-study engineers and time-study observers and one special engineer in this department. Both time-study engineers and time-study observers perform the same duties, experience being the sole distinguishing feature between them. They conduct time-studies of all piece work operations performed in the plant and establish piece rates for production employees. The wage rates set by the time-study employees are subject to the approval of the chief of the methods and rates department but, as a general rule, he accepts the findings made by these employees after a cursory review. The time-study employees par-

ticipate in collective bargaining conferences for the purpose of advising as to wage rates which are the subject of the negotiations. Inasmuch as the time-study engineers and time-study observers are primarily responsible for setting wage rates and since they participate in bargaining conferences, we find that they bear a close relationship to management and, accordingly, we shall exclude them from the appropriate unit.¹⁰ The special engineer in the methods and rates department, in addition to performing duties and functions similar to those of the time-study engineers and observers, also performs special assignments such as time-studies and other specialized investigations with respect to the efficiency of the various machine operations in the plant. He also may participate in bargaining conferences. We shall also exclude the special engineer from the appropriate unit.

The technical and professional employees in the improved methods department: At the date of the hearing, this department employed only one technical employee, the foreman. The Company contemplates hiring three or four additional technical employees for this department in the near future. They apparently will possess the approximate skill and ability of the processing engineers in the mechanical engineering department. The function of this department is to formulate, analyze, and put into effect new and improved methods of production. The Company maintains a labor management productive drive committee which reviews and accepts or rejects all suggestions made by employees with respect to new or improved methods of increasing productive efficiency. All new ideas accepted by the committee are reviewed by this department and, if found feasible, it recommends that they be put into effect. From the foregoing facts we are of the opinion that the prospective employees to be employed in the improved methods department should be included in the unit. However, we shall exclude the foreman as a supervisory employee.

Technical and professional employees in the metallurgical department and others: There are approximately 12 chemists and metallurgists, all of whom are under the supervision of the chief plant metallurgist, in the metallurgical department. These employees are located in adjacent areas of adjoining buildings. The Company contemplates hiring 2 or 3 additional metallurgists to be assigned to the new roller bearing plant when it commences operation. These metallurgists will also be under the supervision of the chief plant metallurgist and will perform the same functions as the metallurgists now working in the metallurgical department. The chemists perform various tests and routine analyses with respect to incoming materials to ascertain whether these materials conform to specifications. The

¹⁰ See *Matter of Oliver Farm Equipment Company, et al*, 53 N. L. R. B 202, and cases cited therein

materials upon which they perform these tests consist of ferrous and non-ferrous metals, resins, oils, greases, and paper. The metallurgists test incoming materials for tensile strength, conductivity, and other essential properties. They also perform numerous tests upon the products during the various stages of manufacture. A very small percentage of the work of this group involves research since this function is performed at other plants of the Company. However, the majority of these employees are college-trained persons who possess a marked degree of skill and technical knowledge in their field. Since they are technical employees possessing no supervisory or managerial authority we shall include the chemists and metallurgists of the metallurgical department and the metallurgists to be employed at the roller bearing plant in the appropriate unit.

Under the chief plant metallurgist are two assistant plant metallurgists who appear to exercise customary supervisory functions. We shall exclude both the chief plant metallurgist and assistant plant metallurgists from the appropriate unit.

The secretary-stenographers sought by the Union: As previously noted the Union desires to include in its proposed unit the three secretary-stenographers employed in the mechanical engineering, methods and rates, and improved methods departments, respectively. These employees are the confidential secretaries to the supervisory employees in charge of the above-enumerated departments. Since their duties are concerned with clerical matters exclusively and the unit sought, apart from these employees, is one comprised solely of professional and technical workers, we shall exclude the secretary-stenographers who act as confidential secretaries to the mechanical engineer, the chief of the methods and rates department, and the foreman of the improved methods department from the appropriate unit.

We find, in accordance with the foregoing findings of fact and upon the entire record in the case, that all plant-design engineers, processing engineers, tool designers, and draftsmen in the mechanical engineering department; all professional and technical employees in the improved methods department; and all chemists and metallurgists in the metallurgical department and the metallurgists in the roller bearing plant, of the Company's West Pullman Works, excluding all employees in the methods and rates department; secretary-stenographers to the mechanical engineer, chief of the methods and rates department, and foreman of the improved methods department; the mechanical engineer, assistant mechanical engineers, chief tool designer, foreman of the improved methods department, chief plant metallurgist, assistant plant metallurgists, and any other supervisory employees having 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 the Direction.¹¹

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 International Harvester Company, West Pullman Works, Chicago, Illinois, 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 Thirteenth 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 the United Farm Equipment and Metal Workers of America, Local 161, C. I. O., for the purposes of collective bargaining.

¹¹ The Union requested that its name appear on the ballot as hereinafter set forth in the Direction of Election