

In the Matter of ELECTRIC AUTO LITE COMPANY and MECHANICS EDUCATIONAL SOCIETY OF AMERICA, LOCAL 4

In the Matter of ELECTRIC AUTO LITE COMPANY and MECHANICS EDUCATIONAL SOCIETY OF AMERICA, LOCAL 4

Cases Nos. 8-R-1503 and 8-R-1504, respectively.—Decided July 27, 1944

Messrs. James P. Falvey and George H. Souther, of Toledo, Ohio, for the Company.

Mr. Earl S. Streeter, of Toledo, Ohio, for MESA.

Mr. Edward Lamb, of Toledo, Ohio, for UAW.

Mr. Bernard Goldberg, 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 MESA, alleging that questions affecting commerce had arisen concerning the representation of employees of Electric Auto Lite Company, Toledo, Ohio, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Thomas E. Shroyer, Trial Examiner. Said hearing was held at Toledo, Ohio, on June 5, 1944. The Company, MESA, and International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 12, C. I. O., herein called the UAW, appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing, the Trial Examiner reserved for the Board a ruling on the UAW's motion to dismiss the petitions. For reasons hereinafter stated the said motion is hereby denied.<sup>1</sup> The

<sup>1</sup> UAW contends that the motion to dismiss the petition should be granted because MESA lacks jurisdiction to accept as members the employees in the units requested. The question of jurisdiction, as thus raised, is an internal union matter irrelevant to the issues here presented. *Matter of Star Publishing Company*, 4 N. L. R. B. 498; *Matter of L. A. Nut House*, 5 N. L. R. B. 799

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

Electric Auto Lite Company, an Ohio corporation, is engaged in the manufacture of various types of war material at its four plants in Toledo, Ohio. During the past year it purchased raw materials for use in the production processes of these plants valued in excess of \$1,000,000, of which approximately 50 percent was shipped into the State of Ohio from points outside the State. During the same period the Company manufactured products of a value in excess of \$5,000,000, of which more than 50 percent was shipped 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, unaffiliated, is a labor organization admitting to membership employees of the Company.

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

#### III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to MESA as the exclusive bargaining representative of its employees until MESA has been certified by the Board in an appropriate unit.

In support of its motion to dismiss the petition, the UAW claims, *inter alia*, that the employees whom MESA seeks to represent are presently covered by the contracts between the UAW and the Company. The claim is without merit. The contract between the UAW and the Company by its terms covers only those employees of the Company in the unit certified by the Board in Case No. R-650.<sup>2</sup> The UAW has

<sup>2</sup> *Matter of Electric Auto-Lite Company*, 10 N. L. R. B. 665. In that case, the Board certified the UAW as bargaining representative for a unit of production and maintenance employees, excluding office employees, after the UAW had lost a "Globe" election among such office employees.

never claimed to be, nor has it been recognized as, the bargaining representative of the employees involved herein prior to the present proceeding.

A statement of a Board agent, introduced into evidence at the hearing, indicates that MESA represents a substantial number of employees in the units hereinafter found appropriate.<sup>3</sup>

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 UNITS

With respect to the Aviation Division, Case No. 8-R-1503, MESA seeks a unit comprising all salaried office employees in the personnel, time-study, planning, mail, receiving, time, cost, purchasing, and miscellaneous departments, excluding interviewers in the personnel department, secretaries to the heads of the personnel, time-study, planning, cost, and purchasing departments, respectively, and all supervisors. The Company while agreeing generally as to the appropriateness of the aforesaid unit would also exclude all employees of the personnel, time, time-study, cost, and Defense Plant Corporation departments, all secretaries to heads of departments, the receptionist, telephone switchboard operator, tool order man in the methods department, and the purchase follow-up clerks and production control clerks in the planning department.

*Personnel department.* This department includes a personnel manager, an assistant personnel manager, two interviewers and four stenographers and clerks who handle personnel records. Pursuant to our usual policy of excluding employees who handle personnel matters, we shall exclude all the personnel department employees from the unit.<sup>4</sup>

*Time-Study department.* This department includes, in addition to the manager, two time-study men, the secretary to the manager, and two stenographer-clerks. The time-study men are limited in their duties to timing work operations in order to determine how many pieces of work can be expected per unit of time; they set no wage rates.

<sup>3</sup> The Field Examiner reported that in Case No. 8-R-1503, MESA submitted 41 authorization cards; that the names of 39 persons appearing on the cards were listed on the Company's pay roll of May 8, 1944, which contained the names of 90 employees in the appropriate unit; and that the cards were dated as follows: 33 in March 1944; and 6 in April 1944. In Case No. 8-R-1504, the Field Examiner reported, MESA submitted 35 authorization cards; that the names of 32 persons appearing on the cards were listed on the Company's pay roll of May 8, 1944, which contained the names of 32 persons in the appropriate unit; and that the cards were dated as follows: 27 in March 1944; and 5 in April 1944. UAW relies on its contract with the Company, as establishing its interest.

<sup>4</sup> See *Matter of West Penn Power Company*, 55 N. L. R. B. 1353; *Matter of General Cable Company*, 55 N. L. R. B. 1143.

Since the time-study men perform no managerial functions and since neither they nor the stenographer-clerks have access to confidential information relating to labor relations matters, we shall include these employees in the unit.<sup>5</sup>

*Planning department.* The Company would exclude the purchase follow-up clerks and the production control clerks. The former follow up outside sellers by phone, mail, and personal visits in order to expedite deliveries. The latter schedule and follow up shop orders. None of these employees have either supervisory duties or access to confidential labor information. We shall include them in the unit.

*Miscellaneous.* This category includes, among others, the receptionist and P. B. X. operator neither of whom, it appears, comes into possession of confidential labor information in the ordinary course of their duties. We shall include them in the unit. The Company also seeks to exclude the tool man in the methods department. This individual orders tools from orders given to him and keeps file records as to tool progress. Since his work is clerical in nature and comprises no confidential or supervisory duties, we shall include him.

*Defense Plant Corporation department.* This department consists of three employees who were hired at the request of the Defense Plant Corporation, a Government-owned corporation, and work under the supervision of one of its representatives. While the Company pays their salaries it is reimbursed therefor by the Defense Plant Corporation. We shall exclude these employees from the unit.

*Cost and time departments.* The Company contends that the employees of these departments ought not to be included in the unit because at some time in the indefinite future these departments will be moved to the main accounting office of the Company situated some miles distant in another plant of the Company. However, since the removal of these departments to the main accounting office is not to occur within any definite period in the near future, and since they now constitute an integral part of the Aviation Division's office force, we shall include them in the unit.

*Secretaries to heads of departments.* MESA would include some of these secretaries, while excluding others. The Company seeks to exclude all of them. There is no evidence in the record which would justify the differentiation suggested by MESA. Since all department heads occupy supervisory positions with the Company, it is apparent that they and in turn their secretaries have access to confidential information concerning labor relations. Accordingly, we shall exclude all secretaries to department heads from the unit.<sup>6</sup>

<sup>5</sup> See *Matter of Oliver Farm Equipment Company*, 53 N. L. R. B. 1078.

<sup>6</sup> *Matter of Chrysler Corporation*, 36 N. L. R. B. 157; *Matter of General Cable Corporation*, 55 N. L. R. B. 1143.

We find that all salaried office employees in the Company's Aviation Division plant, including the time-study, planning, mail, receiving, cost, time, and miscellaneous departments but excluding all employees of the personnel department, all secretaries to heads of departments, the employees in the Defense Plant Corporation department, and all or any 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.

In the Champlain Street plant, Case No. 8-R-1504, MESA seeks a unit of all salaried employees in the planning department, excluding the manager and two of six assistant managers.<sup>7</sup> The Company contends that a plant-wide unit of office employees is the appropriate unit. In the alternative, if the Board should find the planning department unit appropriate, the Company urges the exclusion of the manager, all assistant managers, the two material purchasing supervisors, and the secretary to the manager. The planning department is located in a room of its own and its employees perform functions differing from that of other office employees in the plant. Since there is no evidence in the record that any other union is attempting to organize the office employees of the plant in question in a broader unit, we are of the opinion that a unit limited to employees of the planning department is appropriate at present. We shall exclude from the unit the manager, all the assistant managers, and the two material purchasing supervisors since the evidence indicates that they all come within the customary definition of supervisory employees. We shall also exclude the secretary to the planning manager because of the confidential nature of her duties.

We find that all salaried employees of the planning department in the Company's Champlain Street plant excluding the planning manager, the assistant planning managers, the material purchasing supervisors, the secretary to the planning manager, 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 shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the em-

<sup>7</sup> At the present time, MESA is the representative of and has individual contracts with the Company covering the tool and die division, methods division, engineering draftsmen, and nurses at the Champlain Street plant of the Company.

ployees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election hearing, subject to the limitations and additions set forth in the Direction:

### 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Electric Auto Lite Company, Toledo, Ohio, 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 employees in the units 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 those employees who have since quit or been discharged for cause, to determine whether they desire to be represented by Mechanics Educational Society of America, Local 4, unaffiliated, 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:

Mr. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Elections.