

In the Matter of GENERAL MOTORS CORPORATION, ALLISON DIVISION
and INDIANAPOLIS LOCAL #5, UNITED AIRCRAFT ENGINE WORKERS,
INC., AFFILIATED WITH THE CONFEDERATED UNIONS OF AMERICA

In the Matter of GENERAL MOTORS CORPORATION, ALLISON DIVISION
and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND
AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW-CIO),
AFFILIATED WITH CONGRESS OF INDUSTRIAL ORGANIZATIONS

Cases Nos. 9-R-1419 and 9-R-1428, respectively.—Decided August 11,
1944.

Mr. Harry M. Hogan, by *Mr. Harry S. Benjamin, Jr.*, of Detroit,
Mich., for the Company.

Mr. Cassatt Martz, of Indianapolis, Ind., for Local #5 and the
Confederated.

Mr. Andrew Jacobs, of Indianapolis, Ind., for the C. I. O.

Mr. Joseph C. Wells, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon separate petitions duly filed by Indianapolis Local #5, United Aircraft Engine Workers, Inc., affiliated with the Confederated Unions of America, herein called Local #5, and International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), affiliated with the Congress of Industrial Organizations, herein called the CIO, alleging that questions affecting commerce had arisen concerning the representation of employees of General Motors Corporation, Allison Division, Indianapolis, Indiana, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Indianapolis, Indiana, on July 14, 1944. The Company, Local #5, United Aircraft Engine Workers, Inc., affiliated with the Confederated

Unions of America, herein called the Confederated,¹ and the CIO 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

General Motors Corporation is a Delaware corporation with its principal business office in New York City, and other offices located in Detroit, Michigan. For business reasons it functions through several unincorporated divisions, one of which is the Allison Division, which maintains plants in Marion County, Indiana, at which it manufactures aircraft engines and aircraft engine parts. A substantial portion of the goods and materials used by the Company at the Allison Division plants is shipped there from points outside the State of Indiana, and a substantial portion of the finished products of these plants is shipped to points outside the State.

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

II. THE ORGANIZATIONS INVOLVED

Indianapolis Local #5, United Aircraft Engine Workers, Inc., affiliated with the Confederated Unions of America, is a labor organization admitting to membership employees of the Company.

United Aircraft Engine Workers, Inc., affiliated with the Confederated Unions of America, is a labor organization admitting to membership employees of the Company.

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

III. THE QUESTIONS CONCERNING REPRESENTATION

The parties stipulated that the CIO on December 2, 1943, and Local #5 on April 12, 1944, each requested the Company to recognize it as the exclusive bargaining representative of certain employees within units alleged to be appropriate, and that the Company refused to

¹ Local #5, chartered by the Confederated, appeared as petitioner in Case No. 9-R-1419. The Confederated appeared as intervenor in Case No. 9-R-1428.

accord such recognition to either union prior to certification by the Board. With respect to the request for recognition made by the CIO, the Company contends that the Board's certification of the Confederated on April 22, 1943, is a bar to the petition filed by the CIO in Case No. 9-R-1428. The Company states in effect, that, although more than a year has passed since the Board's prior certification of the Confederated, the employees have expressed their desire as to which of the two contending unions shall represent them by their votes cast in four elections conducted by the Board during the past 4 years; and that, therefore, an election at this time will not effectuate the purposes of the National Labor Relations Act. The Confederated contends that its contract with the Company with respect to labor relations between the Company and the employees in the unit alleged to be appropriate is an effective bar to the petition filed by the CIO in this proceeding.

On July 19, 1940,² and on April 22, 1943,³ the Board certified the Confederated as the exclusive bargaining representative of the Company's production and maintenance employees. In September 1940, and in July 1942, the Confederated and the Company executed contracts concerning these employees. The July 1942 contract specified no termination date, and provided that termination could be effected by either party upon 60 days' notice. In July 1943 the parties began negotiations to modify the July 1942 contract. In June 1944, the parties, having been unable to agree upon certain matters, submitted their disputes to the National War Labor Board.⁴ Meanwhile, the parties continued to operate under the provisions of the July 1942 contract.

Inasmuch as the presently effective contract between the Company and the Confederated is one of indefinite duration, and has been in effect for more than 2 years, we find that it is not a bar to the petition filed by the CIO in this proceeding.⁵ Further, since the Board's last certification of the Confederated as the exclusive bargaining representative of the employees involved was issued more than a year ago, we find that such certification is no bar to the CIO's petition.⁶

A statement of a Board agent, introduced into evidence at the hearing, indicates that Local #5, and the CIO each represents a substantial number of employees in the unit it contends to be appropriate.⁷

² *Matter of General Motors Corporation, Allison Division*, 25 N. L. R. B. 720.

³ This certification, which was not published, followed an election held on June 2, 1942, which was set aside by the Board; another election held on March 4, 1943, and a run-off election held April 8, 1943.

⁴ At the date of the hearing in this proceeding, the National War Labor Board had not issued its decision regarding these disputes.

⁵ *Matter of The Trailer Company of America*, 51 N. L. R. B. 1106.

⁶ Cf. *Matter of Aluminum Company of America, Newark Works*, 57 N. L. R. B. 913.

⁷ The Board agent reported that Local #5 submitted application cards, and that a comparison of the names thereon with the names on the Company's pay roll revealed that 77 percent of the employees in the alleged appropriate unit appears to have authorized

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 UNITS

The petition filed by Local #5, in Case No. 9-R-1419, describes the unit it seeks as comprising "all timekeepers and employees performing similar work" in the Company's plants. It appears that "employees performing similar work" is intended by Local #5 to mean all hourly rated factory clerks, and that Local #5 does not seek to represent factory clerks who are compensated on a salary basis. The Company contends that the unit should comprise only hourly rated timekeepers, and should exclude salaried timekeepers and factory clerks. Neither the Company nor Local #5 submitted evidence to the effect that the nature of the work performed by salaried timekeepers is different from that performed by hourly paid timekeepers, or that the nature of the work performed by salaried factory clerks, whom Local #5 would exclude from the unit, is different from that performed by hourly paid factory clerks. We have stated frequently that for the purpose of determining appropriate bargaining units we will not distinguish between employees paid on a salary basis and those paid on an hourly basis solely on the ground of the difference in mode of payment.⁸ Accordingly, we shall not exclude from the unit salaried timekeepers whose duties are not supervisory. Although the timekeepers and all factory clerks appear to be clerical workers who might together constitute an appropriate unit, the record is void of any evidence which affords a reasonable basis for the inclusion of some and the exclusion of other factory clerks. Since neither the number of salaried factory clerks⁹ employed nor the interest of Local #5 in such clerks is apparent, we shall exclude all factory clerks from the unit without prejudice to a different determination at a later date. We find that

Local #5 to represent them. The CIO does not seek to participate in an election among the employees in this unit.

The Board agent also reported that the CIO submitted authorization cards which were compared with the Company's pay roll by spot-check, and that said comparison indicates that 68 percent of the employees in the appropriate unit appears to have authorized the CIO to represent them.

Since the Confederated had been certified by the Board in April 1943, and is currently recognized by contract as the exclusive bargaining representative of the employees in the unit sought by the CIO, it was not requested to submit evidence in support of its claim to represent these employees.

The Company and the Confederated contend that the method used by the Board agent—the spot-check mentioned above—to determine that the CIO represents a substantial number of employees in the unit alleged to be appropriate was "irregular and improper." We find this contention to be without merit. See *Matter of Republic Aviation Corporation*, 54 N. L. R. B. 539, and *Matter of Bethlehem-Hingham Shipyard, Inc.*, 54 N. L. R. B. 631.

⁸ *Matter of Jones & Laughlin Steel Corporation, Pittsburgh Works*, 57 N. L. R. B. 357.

⁹ Nor does the record reveal the number of the hourly paid factory clerks.

all timekeepers in the plants of the General Motors Corporation, Allison Division, located in Marion County, Indiana, excluding 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.

In substantial accordance with a stipulation of the parties in Case No. 9-R-1428,¹⁰ we find that all production, and maintenance employees and mechanical employees in plants numbers 1 to 7, inclusive, of the General Motors Corporation, Allison Division, Marion County, Indiana, excluding officers and directors of General Motors Corporation, Allison Division, sales managers and assistant sales managers, factory managers and assistant factory managers, directors and employees of the personnel and industrial relations department, directors of purchases and assistant directors of purchases, superintendents and assistant superintendents, general foremen, foremen and assistant foremen, and all other persons working in a supervisory capacity, including those having the right to hire or discharge and those whose duties include recommendation as to hiring or discharging (but not leaders), time-study men, plant-protection employees, all clerical employees, chief engineers and shift operating engineers in power plants, designing (drawing board), estimating, and planning engineers, draftsmen, and detailers, technical school students, metallurgists, and indentured apprentices,¹¹ 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 questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the respective units who were employed during the pay-roll period immediately preceding the date of the Direction herein, subject to the limitations and additions set forth in the Direction.

¹⁰ The unit proposed by the stipulation is substantially the same unit found appropriate by the Board, in accordance with the Stipulation of the same parties in its prior determination (*Matter of General Motors Corporation, Allison Division*, 40 N. L. R. B. 1387).

¹¹ The parties agreed that the following employees are within such exclusions: process engineers, responsible for the quality and precision of product, who are on salary; field servicemen, who follow up, render product service in the field, who serve as trouble shooters, and who are on salary; laboratory attendants, who conduct tests and studies, and research-work on the materials used in the manufacture of product, and who are on salary; inspection engineers, who check function and operation from the standpoint of performance, of efficiency and durability of production, and who are on salary; storekeepers, who control the procurement, issuance, and distribution of parts, commodities, and supplies, and who are on salary.

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 General Motors Corporation, Allison Division, Indianapolis, Indiana, with respect to the employees employed at the plants located in Marion County, Indiana, operated by said Company, 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 Ninth 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 of the Company in each of the groups described below 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 elections:

(1) All timekeepers in the plants of the General Motors Corporation, Allison Division, located in Marion County, Indiana, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether or not they desire to be represented by Indianapolis Local #5, United Aircraft Engine Workers, Inc., affiliated with the Confederated Unions of America, for the purposes of collective bargaining; and

(2) All production and maintenance employees and mechanical employees in plants numbers 1 to 7, inclusive, of the General Motors Corporation, Allison Division, Marion County, Indiana, excluding officers and directors of General Motors Corporation, Allison Division, sales managers and assistant sales managers, factory managers and assistant factory manager, directors, and employees of the personnel and industrial relations department, directors of purchases and assistant directors of purchases, superintendents and assistant superintendents, general foremen, foremen and assistant foremen, and all other persons working in a supervisory capacity, including those having the right to hire or discharge and those whose duties include

recommendation as to hiring or discharging (but not leaders), time-study men, plant-protection employees, all clerical employees, chief engineers and shift operating engineers in power plants, designing (drawing board), estimating, and planning engineers, draftsmen and detailers, technical school students, metallurgists, and indentured apprentices, to determine whether they desire to be represented by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), affiliated with the Congress of Industrial Organizations, or by United Aircraft Engine Workers, Inc., affiliated with the Confederated Unions of America, for the purposes of collective bargaining, or by neither.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Elections.