

In the Matter of THE AMERICAN SWISS COMPANY and MECHANICS
EDUCATIONAL SOCIETY OF AMERICA, LOCAL NO. 4 (C. U. A.)

Case No. 8-R-1657.—Decided December 8, 1944

Mr. Frank L. Danello, for the Board.

Messrs. Marshall, Melhorn, Wall & Bloch, by *Mr. Arnold F. Bunge*,
of Toledo, Ohio, for the Company.

Mr. Earl S. Streeter, of Toledo, Ohio, for the M. E. S. A.

*Messrs. David A. Guberman, James R. Crowley, and Thomas N.
Russell*, of Toledo, Ohio, for the C. I. O.

Mr. Julius Kirle, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by Mechanics Educational Society of America, Local No. 4 (C. U. A.), herein called the M. E. S. A., alleging that a question affecting commerce had arisen concerning the representation of employees of The American Swiss Company, Toledo, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Samuel H. Jaffee, Trial Examiner. Said hearing was held at Toledo, Ohio, on November 1, 1944. The Company, the M. E. S. A., and the United Automobile, Aircraft and Agricultural Implement Workers of America (U. A. W.-C. I. O.), Local No. 14, herein called the C. I. O., 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 C. I. O. moved to dismiss the petition. Ruling on the motion was reserved for the Board. For reasons hereinafter set forth the motion is hereby 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. After the hearing, the C. I. O. filed a motion with the Board to dismiss the petition on the ground that the employees who had designated the M. E. S. A. as their bargaining

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representative have now withdrawn their designation and have re-affiliated themselves with the C. I. O. In view of our finding hereinafter that the unit sought by the M. E. S. A. is inappropriate, it is unnecessary to rule upon the foregoing motion.¹

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The American Swiss Company, an Ohio corporation, is engaged in the manufacture of bomb racks, projectiles, and other war materials at its plant in Toledo, Ohio. During the first 6 months of 1944, the Company used raw materials consisting of stainless steel and aluminum valued at in excess of \$350,000, of which 30 percent came from points outside the State of Ohio. During the same period, the Company manufactured products valued at in excess of \$900,000, all of which were shipped to points outside that State.

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 No. 4, affiliated with the Confederated Unions of America, is a labor organization admitting to membership employees of the Company.

United Automobile, Aircraft and Agricultural Implement Workers of America (U. A. W.-C. I. O.), Local No. 14, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNIT

The M. E. S. A. seeks a unit of all employees in the Company's tool and die room,² excluding foremen and supervisory employees. The C. I. O. contends that on the basis of its prior bargaining history with the Company a plant-wide unit in which the employees of the tool and die room are included is appropriate. The Company takes a neutral position.

Prior to 1941 there was no collective bargaining among the Company's employees. Since 1941, the C. I. O. has had a contract with the Company on a plant-wide basis. Among the approximately 230 employees of the Company, there are 12 tool and die makers. It does

¹ In this connection; see *Matter of American Stores Company*, 54 N. L. R. B. 756.

² It should be noted that while the petition seeks a unit of tool and die makers, and tool grinders, the evidence indicates that the only employees in the toolroom are tool and die makers, and that there are no tool grinders therein.

not appear that the tool and die makers, although cognizant of the plant-wide organizational activities of the C. I. O. in 1941, at any time, sought separate representation as a craft unit or protested the plant-wide organizational activities of the C. I. O. Following recognition of the C. I. O. as the bargaining representative of the Company's production and maintenance employees, all of the tool and die makers became members of the C. I. O.³ A tool and die maker was elected the first chairman of the C. I. O. plant-wide grievance committee; and thereafter the tool and die makers unanimously voted for the election of a tool and die maker as a member of such committee. The tool and die makers did not elect as they had a right to do, a steward from among themselves to act for them, but permitted the plant-wide grievance committee to handle their grievances without complaint or protestation. In May 1944, a supplement to the existing contract was executed at the request of the C. I. O. which pertained solely to the tool and die room, and provided for a bulletin board to be placed in the tool and die room, made provisions for apprentices, and suitable cranes for handling heavy tools and dies.⁴

Thus it appears that there has been no history of collective bargaining with the Company other than on a plant-wide basis; that the tool and die makers have acquiesced since 1941 in the exclusive bargaining agency of the C. I. O., as illustrated by their voluntary membership in that organization and by their acceptance of the benefits obtained by it in their behalf; and that during this time they made no effort to retain separate identity as a craft group. One of the most significant factors in determining the appropriateness of a bargaining unit is the form which self organization has taken in the past. Where a pattern of organization and bargaining history on a plant-wide basis has existed for a number of years, the Board has declined to find as appropriate a smaller unit composed of a fraction of the employees,⁵ whether a homogeneous craft group⁶ or an aggregation of employees in some but not all of the departments of a Company.⁷ An exception to this doctrine has been made in the case of craft groups under appropriate circumstances.⁸ However, the unit sought by the M. E. S. A. in the instant case is not within the exceptions heretofore recognized by the Board. In view of the established bargaining history on a plant-wide basis, we find that the unit

³ There is some evidence to indicate that the tool and die room employees were the last to join the C. I. O. Other than this, there is no indication of any reluctance to join.

⁴ The existing contract contained specific provisions for the tool and die room.

⁵ See *Matter of American Can Co.*, 13 N. L. R. B. 1252.

⁶ See *Matter of Columbus Bolt Works Company*, 56 N. L. R. B. 273; *Matter of Burt Foundry Company*, 45 N. L. R. B. 957.

⁷ *Matter of Toledo Scale Company*, 45 N. L. R. B. 472.

⁸ See *Matter of Goodyear Tire & Rubber Company*, 55 N. L. R. B. 918 and cases cited therein.

sought by the M. E. S. A. is inappropriate for the purposes of collective bargaining and we shall dismiss the petition filed herein.⁹

IV. THE ALLEGED QUESTION CONCERNING REPRESENTATION

Since the bargaining unit sought to be established by the petition is inappropriate as stated in Section III, above, we find that no question has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) of the National Labor Relations Act.

ORDER

Upon the basis of the above findings of fact and the entire record in the case, the Board hereby orders that the petition for investigation and certification of representatives of employees of The American Swiss Company, Toledo, Ohio, filed by Mechanics Educational Society of America, Local No. 4, (C. U. A.) be, and it hereby is, dismissed.

⁹ See *Matter of Doehler Die Casting Company*, 58 N. L. R. B 166.