

In the Matter of WILLYS-OVERLAND MOTORS, INC. and MECHANICS
EDUCATIONAL SOCIETY OF AMERICA, LOCAL NO 4 (CUA)

Case No. 8-R-2117.—Decided May 16, 1946

Messrs. James F. Holden, Frank C. Lau, E. A. Schnell, and Ralph Preston, of Toledo, Ohio, for the Company.

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

Messrs. J. G. Meiner and Walter T. Lynch, of Cleveland, Ohio, for the Die Sinkers.

Hr. Howard Tausch, of Cleveland, Ohio, and Mr. Frank D. Morgan, of Toledo, Ohio, for the I. A. M.

Mr. B. M. Ettenson, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Mechanics Educational Society of America, Local No. 4 (CUA), affiliated with the Mechanics Educational Society of America, herein called M. E. S. A., alleging that a question affecting commerce had arisen concerning the representation of employees of Willys-Overland Motors, Inc., Toledo, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas E. Shroyer, Trial Examiner. The hearing was held at Toledo, Ohio, on March 28, 1946. The Company, M. E. S. A., The International Die Sinkers Conference, herein called the Die Sinkers, and the International Association of Machinists, herein called the I. A. M., 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. 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

Willys-Overland Motors, Inc., is a Delaware corporation with plant and offices in Toledo, Ohio, where it is engaged in the manufacture of civilian jeeps; the principal raw materials used by the Company are steel, iron, rubber, and glass. During 1945, the Company received at its Toledo plant such raw materials of a value in excess of \$10,000,000, of which more than 50 per cent was shipped to the plant from points outside Ohio. During the same period, the production of the plant exceeded \$8,000,000 in value, of which more than 50 per cent was shipped to points outside 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 No. 4 (CUA), is a labor organization affiliated with Mechanics Educational Society of America, admitting to membership employees of the Company.

The International Die Sinkers Conference is an unaffiliated labor organization admitting to membership employees of the Company.

International Association of Machinists is a labor organization admitting to membership employees of the Company.

III THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to M. E. S. A. as the exclusive bargaining representative of the employees of Department 109 of the Company until that labor organization has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that M. E. S. A. represents a substantial number of employees in the unit hereinafter found appropriate.¹

¹ The Trial Examiner reported that M. E. S. A. submitted a total of 35 cards, of which 33 were checked against the pay roll for the period ending March 12, 1946, and were found to be listed thereon, that the Die Sinkers submitted 23 cards which were all checked against the pay roll for the period ending March 12, 1946, and were found to be listed thereon.

In the unit for which M. E. S. A. petitions, there is a total of 68 employees and in that for which the Die Sinkers petitions there is a total of 51 employees. The record indicates that the total number of employees comprising Department 109 of the Company is 68.

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

These proceedings are concerned with Department 109 of the Company's Toledo plant. This department, one of many in this large plant, contains a craft group and several fringe groups which are functionally necessary to the proper performance of the department. The total number of employees in Department 109 is 68, of which 51 are employees who by reason of their skill are eligible for membership in the Die Sinkers. M. E. S. A. and I. A. M. each seeks to represent the department as a unit. The Die Sinkers contends that the craftsmen should constitute a separate unit because of their skill and singular unity of interest. All parties agree, and we concur, that leaders are not supervisory employees within the Board's customary definition and should be included in the unit to be found appropriate.

This particular controversy presents no new issue to the Board, for as early as 1938 we considered the problem of the appropriate unit for the employees in Department 109.² Later,³ the question was presented again to us, and, based upon the record in that case, all the employees in Department 109 were found to be an appropriate unit. In 1943, we directed that a "Globe" election be held to determine the question whether the appropriate unit should be department-wide or craft-wide.⁴ The Die Sinkers, which sought the craft unit, was unsuccessful in this election,⁵ and as a result the entire Department 109 was established as the appropriate bargaining unit, and the I. A. M. was certified as its representative. After this election the Company and I. A. M. entered into a collective bargaining agreement for Department 109. This contract, expiring May 9, 1946, was not urged as a bar to these proceedings.

In furtherance of the Die Sinkers' contention it presents evidence to show that the 51 employees are highly skilled, that they are segregated physically within the department, and that some of them have retained affiliation with the craft organization since the last election in 1943.

It is true, as we found before, that this group is a skilled craft group. Department 109 is housed in five separate buildings, and in only one of

² *Matter of Willys-Overland Motors, Inc.*, 9 N. L. R. B. 924, and 10 N. L. R. B. 160.

³ *Matter of Willys-Overland Motors, Inc.*, 35 N. L. R. B. 549, and 38 N. L. R. B. 462.

⁴ *Matter of Willys-Overland Motors, Inc.*, 52 N. L. R. B. 109, as amended in 52 N. L. R. B. 548.

⁵ *Matter of Willys-Overland Motors, Inc.*, 53 N. L. R. B. 1343.

these buildings, building No. 30, do the skilled craftsmen work.⁶ However, the record indicates that the craftsmen have participated in the benefits secured by I. A. M., the Union most recently certified as the bargaining organization for Department 109; that they have secured special concessions through the efforts of I. A. M.; that they have presented grievances to a committee composed of four employees, three of whom are craftsmen; that they have become members of I. A. M.; and that they have taken an active part in the leadership of I. A. M. These facts strongly indicate acceptance of the departmental unit by the employees whom the Die Sinkers seeks to carve out.

We are of the opinion that the Die Sinkers has not adduced sufficient evidence to justify departure from our previous conclusions. It is as true now as it was in 1943 that the craftsmen in Department 109 are physically segregated and marked by superior skill, yet it is also true that the entire department, including the Die Sinkers, is an integrated, functional group. Further, the department-wide unit is now firmly established. The craftsmen voted themselves into it in 1943 and have since collaborated in the efforts of their department-wide representative. We, therefore, conclude, rejecting the Die Sinkers' contention, that the departmental unit is the appropriate unit.⁷

We further find, in accordance with the foregoing conclusions and our previous unit findings, that all employees in Department 109 of the Company's Toledo plant, including die sinkers, trimmer die makers, header die makers, edger men, die repairers (in forge), die caulkers, die repair and alteration men, forge die alteration men, die repairers, trim die repairers, template makers, Keller Machine operators, shaper hands, shaper milling machine operators, planer hands, Do-all saw operators, die lay-out men, employees engaged in inspection and lay-out of dies and casts, apprentices to die sinkers and trimmer die makers, draftsmen, die utility men, machinist helpers, machine repairers, floor machinists, machinists, trim die setters, utility men die room crib, die storage attendants, and sweepers, but excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of

⁶ In building No. 30 there are also employees not belonging to nor eligible to belong to the Die Sinkers. The other four buildings and the employees working therein are: building No. 31, drop forge die designers (draftsmen), building No. 108, drop forge hammer men and pressmen; buildings No. K-1 and K-4, die storage department. The record indicates that expansion of the department into five buildings was the result of war activities. Within the near future the Company intends to consolidate the department in one building.

⁷ Member Reilly would affirm his position in *Allied Laboratories*, 60 N. L. R. B. 1196, and would deny craft severance here on the single ground that the die sinkers had once been given an opportunity to express their wishes before being assimilated into a large department organism.

Member Houston wishes to indicate his concurrence in this decision is not inconsistent with his position in *Allied Laboratories*, *supra*. He would deny to the craftsmen the opportunity to seek a craft unit again on the ground that they have acquiesced in being represented as part of the departmental unit and are effectively merged therewith.

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 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.

We will accord the Die Sinkers a place on the ballot. However, if it does not desire to participate in the election, it may withdraw within ten (10) days from the date of issuance of this Decision and Direction of Election by notifying the Regional Director of the Eighth Region.

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Willys-Overland Motors, Inc., Toledo, Ohio, 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 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 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 those employees 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 they desire to be represented by Mechanics Educational Society of America, Local No. 4 (CUA), affiliated with the Mechanics Educational Society of America, or by International Die Sinkers Conference, or by International Association of Machinists, for the purposes of collective bargaining, or by none of said organizations.