

In the Matter of PACKARD MOTOR CAR COMPANY, TOLEDO DIVISION and MECHANICS EDUCATIONAL SOCIETY OF AMERICA, LOCAL 4 and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (CIO)

Case No. 8-RE-27.—Decided May 2, 1947

Marshall, Melhorn, Wall & Bloch, by Messrs. *Arnold F. Bunge* and *George T. Skinner*, and *Mr. F. W. Fennell*, all of Toledo, Ohio, for the Employer.

Messrs. *E. S. Streeter* and *Wilbur E. Bunde*, of Toledo, Ohio, for MESA.

Lamb, Goerlich & Mack, by Messrs. *Lowell Goerlich* and *Stephen Mack*, of Toledo, Ohio, for the UAW-CIO.

Mr. Emil C. Farkas, of counsel to the Board.

DECISION

AND

ORDER

Upon a petition duly filed, hearing in this case was held at Toledo, Ohio, on January 20, 1947, before Richard C. Swander, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. At the hearing the UAW-CIO moved to dismiss the petition on various grounds. The hearing officer referred this motion to the Board. For the reasons stated in Section III, *infra*, the motion is hereby granted.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Packard Motor Car Company, a Michigan corporation, operates a plant owned by the Defense Plant Corporation, at Toledo, Ohio, where it is engaged exclusively in research and development work on aircraft turbojet engines for the United States Government. The Employer purchases annually for use at this plant raw materials valued in excess of \$400,000, approximately 90 percent of which rep-

resents shipments from points outside the State of Ohio. Inasmuch as the Employer is engaged in experimental work, virtually all its manufactured products either remain at its plant or are shipped to points within the State.

The Employer admits and we find 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, herein called MESA, is an unaffiliated labor organization, claiming to represent employees of the Employer.

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, Local 12, is a labor organization, claiming to represent employees of the Employer.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

In April 1945, as the result of a Board conducted election in which MESA and the UAW-CIO participated, MESA was certified as the collective bargaining representative for all hourly rated employees in the Employer's experimental engineering division, known as the TX Division,¹ and on December 21, 1945, MESA executed a collective bargaining agreement with the Employer, covering these employees, for a period of 1 year. In April 1946, as the result of another Board conducted election in which the same parties participated, the UAW-CIO was certified as the collective bargaining agent for all power house, plant engineering, heat treat, plating, painting, gage inspection, shipping and receiving employees servicing the TX Division,² The UAW-CIO and the Employer subsequently executed a collective bargaining contract, covering the employees in this certified unit, for a term of 1 year commencing May 29, 1946.

On October 18, 1946, the UAW-CIO requested that the Employer renegotiate wage rates under its 1946 contract and on October 23, 1946, MESA requested the Employer to enter into negotiations for the purpose of executing a new agreement to replace its contract. On December 3, 1946, the Employer filed the instant petition contending, *inter alia*, that it was confronted with conflicting claims of the UAW-CIO and MESA, and requesting an investigation and certification of representatives.³ The Employer took the position, in effect, that

¹ *Matter of Packard Motor Car Company, Toledo Division*, 60 N. L. R. B. 871

² *Matter of Packard Motor Car Company, Toledo Division*, 65 N. L. R. B. 1005. On October 4, 1946, the Board issued a clarification of this certification so as to include in the unit, "tool crib and stores attendants employed in the maintenance, toolroom, steel and oil house cribs"

³ The pertinent portion of the Board Rules and Regulations—Series 4, governing a petition filed by an Employer, reads as follows:

Section 203 47 (b)

Such a petition, when filed by an Employer, shall contain the following:

a single unit embracing the employees represented by both labor organizations would be appropriate.

At the hearing the UAW-CIO urged as one ground for dismissal of the petition that, no question concerning representation exists inasmuch as two or more labor organizations have not presented conflicting claims that each represents a majority of the employees of the Employer in the unit claimed to be appropriate.⁴ We find merit in this position. We have heretofore interpreted our rule governing Employer petitions to require that it must appear, before such a petition will be entertained, that there are conflicting claims with respect to the unit or units claimed to be appropriate by the labor organizations rather than by the Employer.⁵ However, in the instant case it does not appear that either labor organization has, since the prior Board proceeding resulting in the certification of the UAW-CIO, made any claims upon the Employer to represent any employees of the Employer outside its contract unit, which in each instance is coextensive with the outstanding Board certification. Accordingly, inasmuch as the UAW-CIO and MESA have not presented the Employer with *conflicting* or overlapping claims, we find that no question concerning representation exists and shall dismiss the petition.

ORDER

As part of the investigation to ascertain representatives for the purposes of collective bargaining,

IT IS HEREBY ORDERED that the petition for investigation and certification of representatives filed by the Packard Motor Car Company, Toledo Division, Toledo, Ohio, be, and it hereby is, dismissed.

MR. JAMES J. REYNOLDS, JR., took no part in the consideration of the above Decision and Order.

Footnote 3—Continued

(3) A brief statement setting forth that a question or controversy affecting commerce has arisen concerning the representation of employees of the Petitioner in that two or more persons or labor organizations have presented to the Petitioner conflicting claims that each represents a majority of the employees in the unit or units claimed to be appropriate.

⁴ It also urged as grounds for dismissal that its contract with the Employer operated as a bar to the instant proceeding, and that the Employer failed to prove that the character of its jobs had changed substantially since the Board's prior certification. However, in view of our conclusion herein, based on the first ground, we find it unnecessary to consider these contentions.

⁵ *Matter of C. H. Sprague & Son Co., Seaconnet Division*, 72 N. L. R. B. 1401; *Matter of Wisconsin Public Service Corporation*, 64 N. L. R. B. 15.