

ALLIS-CHALMERS MANUFACTURING COMPANY *and* LODGE 729, INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL, PETITIONER. *Case No. 9-RC-2152. January 28, 1955*

### Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Joe F. Odle, Jr., hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organization involved claims to represent employees of the Employer.<sup>1</sup>

3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

The Employer and the Intervenor contend that a 5-year contract between them, executed July 9, 1950, effective to July 10, 1955, is a bar to the instant petition. The Petitioner denies that the Employer, at the plant involved herein, is in the farm equipment industry and that the present contract is a bar.

The Employer, with 11 plants throughout the United States, is engaged in the manufacture of farm equipment, industrial type heavy equipment, and electrical equipment. The Norwood, Ohio, plant, the only one involved herein, manufactures electrical motors, centrifugal pumps, and textrope sheaves. Twenty percent of the output of this plant is utilized in the manufacture of farm equipment at other plants of the Employer and the remainder is sold to customers.

At the hearing, the Employer introduced into evidence 14 contracts covering employees at its 11 plants. Twelve of these contracts were for periods of 5 years and 2 were for shorter periods. In a previous case, involving the Employer's West Allis, Wisconsin, plant,<sup>2</sup> the Board found that 3 of the 4 major manufacturers of farm equipment, including the Employer, had contracts of 5 years' duration covering 38,000 employees. It there found that the Employer was engaged in farm equipment operations and that, as a substantial part of that industry was covered by contracts of 5 years' duration, such contracts were reasonable and a bar for their term.

It is clear from the record herein that the Employer is engaged in manufacturing farm equipment and that its Norwood, Ohio, plant

<sup>1</sup> Local 765, International Union of Electrical Radio and Machine Workers of America, CIO, herein called Intervenor, intervened on the basis of a contract interest.

<sup>2</sup> *Allis-Chalmers Manufacturing Company (West Allis Plant)*, 102 NLRB 1135.

is an integral part of its farm equipment operations. As the Board has previously found that 5-year contracts cover a substantial part of the farm equipment industry and are reasonable for their term, we find that the instant contract is reasonable and a bar to a present determination of representatives. We shall, therefore, dismiss the petition.<sup>3</sup>

[The Board dismissed the petition.]

CHAIRMAN FARMER, concurring:

I agree to dismiss this petition on the ground of contract bar. For the reason stated in my dissenting opinion in *Republic Aviation Corp.*, 109 NLRB 569, I reject the "substantial part of the industry" test as the permanent rule for determining whether or not a particular contract is a bar to an election. Nevertheless, while I stated in that opinion that I would adopt a flat 2-year rule, I now feel that the question of what should be the proper standard for determining the maximum period for which a contract should be recognized as a bar to an election is one which deserves further study and consideration before a final decision is made. I also believe that the problem is of sufficient national importance that the Board should entertain proposals from both labor and management before instituting a permanent rule.

In the meantime, and in order to expedite the handling of opinion cases, I have decided to recognize as a bar to an election any contract in an industry in which the Board has already determined that contracts longer than 2 years in duration constitute a bar to an election. The farm equipment industry is one in which the Board has previously determined that contracts of 5 years' duration bar petitions for elections during their term. Accordingly, I concur in the dismissal of the petition in this case.

MEMBER RODGERS took no part in the consideration of the above Decision and Order.

<sup>3</sup> Since the current contract between the Employer and the Intervenor has been in effect for more than 2 years, Member Rodgers would find that the contract is no bar to the instant petition. Accordingly, he would not dismiss the petition. See his dissent in *Republic Aviation Corp.*, 109 NLRB 569.

UNITED PRODUCTIONS OF AMERICA *and* SCREEN CARTOONISTS GUILD (IND.), PETITIONER *and* INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES AND MOVING PICTURE MACHINE OPERATORS OF THE UNITED STATES AND CANADA. *Case No. 21-RC-3647. January 31, 1955*

### Decision and Order

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Norman H. Greer, hearing