

Finally, I do not view the 25-year bargaining history for the production and maintenance unit as supporting the finding that a separate unit of instrument mechanics is inappropriate. Examination of that history reveals, as already noted, that other units have been severed therefrom without noticeable loss in the collective strength of the production and maintenance employees, and I venture the opinion that the severance of these 12 instrument mechanics would not weaken the capability of the 280 production and maintenance employees to bargain effectively in the future. Moreover, there is no indication in this record that the inclusion of the instrument mechanics in the larger unit has resulted in a loss of separate identity; indeed, the very factors cited by the majority for their conclusion that the needs of the instrument mechanics have not been neglected by the Intervenor also indicate that the Employer and the Intervenor continue to recognize their separate identity and special interests. Accordingly, in the absence of evidence compelling the conclusion that the instrument mechanics do not, as craftsmen, share a community of interests separate and distinct from the community of interests they share with other employees in the existing production and maintenance unit, I believe this is a situation in which Section 9(b)(2) contemplates that a craft unit cannot be found to be inappropriate unless the employees in the proposed unit vote against separate representation. I therefore, dissent from my colleagues' refusal to direct the election as requested by the Petitioner.

Holmberg, Inc.¹ and Tool-Die and Moldmakers Guild, Independent, Petitioner. *Case 29-RC-209. December 28, 1966*

DECISION AND ORDER

On October 19, 1965, the Regional Director for Region 29 issued a Decision and Direction of Election in the above-entitled proceeding. Thereafter, in accordance with Section 102.67(c) of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer and the Intervenor, Local 1614, International Brotherhood of Electrical Workers, AFL-CIO, herein called the First Intervenor, filed timely requests for review of the Regional Director's Decision and Direction of Election on the grounds that the decision was clearly erroneous, that the Hearing Officer committed prejudicial error in quashing the Employer's subpoena seeking the production of Petitioner's bargaining agreements, and that there were

¹ The names of the parties appear as amended at the hearing.
162 NLRB No. 53.

compelling reasons for reconsideration of an important Board policy. The Board, by telegraphic order dated December 12, 1965, granted the request for review and stayed the election.

The Board has considered the entire record in this case with respect to the Regional Director's determination under review and the positions of the parties set forth in their briefs,² and makes the following findings:³

The Regional Director found, in accord with the Petitioner's request, that the tool-and-die makers, allied toolroom craftsmen and their apprentices, constituted a unit appropriate for purposes of severance.⁴ The Employer and the First Intervenor oppose severance, alleging that the employees in the proposed unit are not true craftsmen, and that the Employer's integrated operations result in a functional overlap between the toolroom employees and the pressroom employees. The employees in the requested unit are presently represented by the First Intervenor as part of the existing unit consisting of all the employees of the Employer. There is a 24-year history of collective bargaining between the Employer and the First Intervenor for the existing overall unit.

The Employer is engaged in the business of manufacturing metal stamp products in a one-story structure housing the tool and die, press operations, and office facilities. The employees in the unit sought spend, on an average, approximately 75 percent of their time in an area of the plant known as the toolroom. The toolroom is separated from other areas of the plant by a concrete wall which exists as a structural support for the roof of the building and as a device to muffle the noise and vibrations generated by the presses operating in the production area of the plant.

The evidence adduced establishes that there is considerable amount of overlap in the job duties of the employees in the unit sought and those of other employees in the plant. Thus, the diemakers may perform machine maintenance and machine rebuilding work that is identical to work performed by the maintenance mechanic, a classification outside the proposed unit. Additionally, the diemakers at times set dies, that is, place dies in a press, install them, and try out the product for sampling. That function is normally performed by the Employer's diesetters, a classification of employees not within the proposed unit. Diemakers are called upon to perform such work when the diesetters are unavailable because of heavy workloads.

² The First Intervenor has requested oral argument. This request is hereby denied because the record and the briefs adequately present the issues and positions of the parties.

³ In view of the disposition of the case herein, we find it unnecessary to rule upon the Hearing Officer's quashing of the *subpoena duces tecum*.

⁴ The International Union, International Association of Tool Craftsmen, described herein as the Second Intervenor, also seeks to sever the above-described unit.

When toolroom work is light or when the Employer lacks sufficient manpower to complete a particular job, employees in the unit sought may also be assigned to run power presses on the production floor, work normally done by press operators. On occasion, diemakers have bumped press operators to avoid layoff.

The record also discloses that there are times when jig borers and jig borer trainees, classifications within the unit sought, are called upon to perform work in the Employer's inspection department for extended periods of time.

The assignment of employees to perform jobs outside their classification is dictated, in most instances, by manpower requirements and the availability of employees for such assignments. When employees in the unit sought perform work other than tool-and-die work, they are supervised by the foremen who normally supervise those other functions.

Employees in the proposed unit not only do work outside their classification, but also frequently in areas outside the toolroom. Conversely, work at times is done in the toolroom by employees in classifications whose inclusion in the unit is not sought. Thus machinists, who normally work in the production area, also use the Employer's toolroom facilities and equipment to perform part of their work. At the time of the hearing, a project previously assigned to one of the diemakers under the direction of a project engineer was being performed in the toolroom by a newly employed lathe hand.

In the recently decided *Mallinckrodt*⁵ case, the Board, after reexamining its policies regarding craft severance, concluded that it would no longer limit itself to the restricted and rigid tests of *American Potash*⁶ in determining whether craft severance elections should or should not, be granted, but would instead base its determination upon a weighing of all relevant factors in each case before it. Applying that standard to the particular facts of this case, we are satisfied that severance would not be warranted here.

It is quite clear, to begin with, that the employees sought to be severed share a substantial community of interests with other employees in the existing bargaining unit. Thus they work in close proximity with such other employees, share with them the same locker room and cafeteria facilities, punch the same timeclock, have similar working conditions, and enjoy the same vacations, holidays, and health and welfare benefits.

Although the employees in the proposed separate unit undeniably possess special skills, their work is not confined to tasks requiring the exercise of such skills. As we have previously noted, the record

⁵ *Mallinckrodt Chemical Works, Uranium Division*, 162 NLRB 387.

⁶ *American Potash & Chemical Corporation*, 107 NLRB 1418.

shows a significant overlap in actual work assignments between employees within and without the proposed unit—diemakers at times performing duties of maintenance mechanics, diesetters, and operators; jig borers performing inspection work;—and employees outside the proposed unit frequently performing work in the toolroom. Moreover, it is evident from the nature of the Employer's business operation—the manufacture of metal stamp products—that the toolroom employees, even when engaged in their specialized tasks, perform work that is an integral part of the production process in which other employees in the existing bargaining unit are also engaged.

Bearing in mind the cohesive factors mentioned above, we are not persuaded that a finding is justified, simply on the basis of the employees' special skills, that the toolroom group possesses such a distinct homogeneity and such diverse interests of its own as to override the broader community of interests which it shares with the others in the existing unit with whom it has so long been associated for purposes of collective bargaining. In addition, there is nothing in this record to demonstrate that the common unit grouping of toolroom employees with other production and maintenance employees has not proved workable, or that the incumbent union is not equipped adequately to represent the employees whom the Petitioner would now carve out, and it is apparent that the interests of the toolroom group have not been ignored by the present bargaining representative. Thus, the record affirmatively shows that the pay rates of the tool-and-die makers are the highest in the plant and that their promotion is governed by special provisions in the contract between the IBEW and the Employer.

Our evaluation of all relevant factors, including the 24-year bargaining history, leads us to find that the overall interests to be served through maintaining the stability of the existing bargaining unit outweigh such special interest as the tool-and-die makers may have in setting themselves apart as a separate bargaining unit. We conclude, therefore, that the unit sought by the Petitioner is not appropriate.⁷ Accordingly, we shall dismiss the petition.

[The Board dismissed the petition.]

MEMBER FANNING, dissenting:

In this case, the Regional Director for Region 29 granted a petition for severance of a unit of tool-and-die makers, allied toolroom craftsmen and their apprentices, finding that those employees possess

⁷ In our view, the dissenting opinion does not appear to have given any consideration to the impact of the long history of bargaining upon the merger of the interests of all the employees. Nor does it state the factors which require preemption for the interests of a fragment of the existing unit.

the usual skills and qualifications of tool-and-die craftsmen and constitute a unit appropriate for collective bargaining. A majority of the Board, however, conceding the special skills possessed by these employees, concludes that they are not entitled to separate representation. I cannot agree.

As found by the Regional Director, the employees in question work in a separate toolroom, apart from the production area, and work under the separate supervision of the toolroom foreman for most of the time. These employees spend an average of 80 percent of their time in the performance of tool-and-die functions, and most of their remaining time is spent in work directly related to tool-and-die making. The Employer hires either experienced tool-and-die makers or apprentices, and has a 4-year apprenticeship program run under the auspices of the State of New York. At present, the Employer employs four apprentices under the program who are trained by the tool-and-die maker Class A. Several present employees successfully completed the program and received their certificates from the State. In addition, toolmakers own their own tools, traditionally used and owned by tool-and-die craftsmen, valued at between \$500 and \$1,000. Like others of their fellow craftsmen, the tool-and-die makers produce dies to extremely close tolerances on a variety of machines normally used by such employees. Further, as acknowledged by the majority, toolroom employees receive higher wages than all other employees and are governed by a special provision in the current contract with respect to promotions. No such provision appears for pressroom employees.

On occasion, certain pressroom employees do use machines in the toolroom, and tool-and-die employees have occasionally performed work in the pressroom when their own work is slow. As noted by the Regional Director, however, those assignments are made to forestall the necessity of laying off tool-and-die men at such times. He found that the "occasional" use of toolroom machines by press employees, and pressroom work by tool-and-die employees, were not sufficient to preclude severance.⁸

Such is the record before the Board, and it clearly establishes, as found by the Regional Director, that the tool-and-die employees constitute an appropriate craft unit which the Board has historically accepted for severance purposes.⁹ Despite the obvious craft skills of

⁸ Citing *Convair (Pomona)*, 122 NLRB 41, 43. See also *Boeing Airplane Company*, 86 NLRB 368, 375.

Indeed, the fact that some non-toolroom employees may on occasion use toolroom equipment is "immaterial" in deciding the question of severance of toolroom employees *General Dynamics/Telecommunications, etc.*, 140 NLRB 1286, 1287, and cases cited therein.

⁹ *General Dynamics/Telecommunications, a Division of General Dynamics Corporation, supra*; *Dalmo Victor Company*, 132 NLRB 1095; *Dana Corporation*, 122 NLRB 365; *Continental Can Co.*, 119 NLRB 1851; *E. I. DuPont de Nemours and Company*, 117 NLRB 849. See also *Armstrong Bros Tool Co.*, 74 NLRB 1361.

these employees and their performance of highly specialized craft functions, however, the majority finds that they do not possess "such a distinct homogeneity and such diverse interests of their own as to override the broader community of interests which they share with the others in the existing unit with whom they have so long been associated for purposes of collective bargaining." They cite no case for the proposition that journeymen tool-and-die makers, all of whom have undergone a substantial apprenticeship program, and whose craft skills are utilized inside and outside the toolroom, are not entitled to separate representation if they so choose.

Moreover, in reaching a result contrary to that of the Regional Director, the majority has chosen to draw broad conclusions which I do not find justified in view of the record herein. Thus, it is said that there is a "considerable amount of overlap" between the functions of employees within and without the unit sought to be severed, and that there is a "significant overlap" in work assignments. The Regional Director, however, found such instances to be *occasional* in nature, and noted that tool-and-die employees work on presses only when their own work is slow and then to avoid the necessity of layoffs. Further, to the majority it is "quite clear" that the tool-and-die employees share "a substantial community of interests" with other employees. To support a showing of such a "clear" and "substantial" sharing of interests, the majority cites the common locker room and cafeteria facilities, the "close proximity" in which all employees work, and the fact that all employees have the same vacations, holidays, and health and welfare benefits.¹⁰ Yet, no mention is made in this portion of the majority's opinion of the higher wage rates and special contractual provisions governing promotions enjoyed by tool-and-die makers;¹¹ items which seem to me more significant than the location at which employees eat or wash.

Although the majority states that it is judging this case under its newly announced standards in *Mallinckrodt Chemical Works, Uranium Division*, 162 NLRB 387, an examination of those standards and their application to the facts herein reveal that, in fact, conclusive weight is being given to the broader bargaining history. While

¹⁰ However, neither similarity of working conditions nor the close association of craft employees with others is a valid ground for the denial of the right of separate representation to craft employees. *B H Hadley, Inc.*, 130 NLRB 1622, 1625-26; *Griffin Wheel Company*, 119 NLRB 336. Moreover, the close proximity of the employees at the Employer's plant is hardly surprising in view of the facts that the plant is only a one-story structure and that there are 75 employees in all.

¹¹ Instead, these factors are cited elsewhere in the majority's opinion as indicating only that the interests (presumably separate) of the toolroom employees have not been ignored under the present bargaining structure. It should be apparent, however, that these factors are equally relevant to their discussion of the issue of whether the tool-and-die makers enjoy working conditions which are similar to, or separate from, those of the production and maintenance employees.

the history of bargaining at the Employer's plant is one of the factors to be considered under *Mallinckrodt* and does militate against the granting of severance herein, it is but one of the factors to be considered. And, in my view of the record, virtually all of the other factors dictate a result contrary to that reached by my colleagues. Thus, as found by the Regional Director, the tool-and-die makers are a distinct group of highly skilled craftsmen who perform the functions of their craft more than 80 percent of the time, and whose separate identity has been maintained in spite of their inclusion to date in the broader unit. Additionally, as shown above, their occasional work in the pressroom has not detracted from their high level of skills or their separate identity.¹² To me, these factors are more than ample to warrant a conclusion that these employees are entitled to the separate representation they seek. On the other hand, little in the present record, other than the mere length of the bargaining history, supports the conclusion of the majority herein. And, for the reasons set forth at some length in my dissenting opinion in *Mallinckrodt*, that factor may not be given controlling weight.

I would, for the reasons set forth above and in the decision of the Regional Director, grant the petition.

¹² The record does not indicate the nature or extent of integration of the Employer's production processes.

E. I. DuPont de Nemours and Company¹ (May Plant, Camden, South Carolina) *and* **International Brotherhood of Electrical Workers, Local Union No. 382, affiliated with International Brotherhood of Electrical Workers, AFL-CIO, Petitioner.**
Case 11-RC-1999. December 28, 1966

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Thomas C. Bradley, Jr. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.² Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, and by direction of

¹ The name of the Employer appears as amended at the hearing.

² During the course of the hearing, the Employer appealed a ruling of the Hearing Officer, excluding certain expert testimony comparing the manufacturing process at the Employer's plant involved herein and those in the steel, aluminum, lumber, and wet-milling industries. On August 18, the Board by telegraphic order granted the Employer's appeal and reversed the ruling of the Hearing Officer in that regard.