

In the Matter of ANDOVER MOTORS CORPORATION and INTERNATIONAL  
ASSOCIATION OF MACHINISTS, A. F. OF L.

*Case No. 3-R-691.—Decided December 2, 1943*

*Mr. William Helfer*, of New York City, for the Company.

*Mr. C. W. Fairfield*, of Elmira, N. Y., for the Union.

*Mr. Louis Cokin*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Association of Machinists, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning representation of employees of Andover Motors Corporation, Elmira, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Elmira, New York, on November 9, 1943. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing counsel for the Company moved to dismiss the petition. The Trial Examiner reserved ruling. The motion is hereby denied. 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

Andover Motors Corporation is an Arizona corporation operating a plant at Elmira, New York, where it is engaged in the manufacture of auxiliary power plants. From June 1942 to October 1943, the Company used raw materials at its Elmira plant valued in excess

of \$100,000, approximately 95 percent of which was shipped to it from points outside the State of New York. During the same period the Company manufactured products at its Elmira plant valued in excess of \$100,000, over 90 percent of which was shipped to points outside the State of New York. The Company admits, for the purpose of this proceeding, that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATION INVOLVED

International Association of Machinists is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

On October 12, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the plant-protection employees at the Elmira plant. The Company did not reply to this request.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>1</sup>

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

The Union contends that all guards at the Elmira plant of the Company, excluding captains, sergeants, lieutenants, and the chief, constitute an appropriate unit. The Company contends that plant-protection employees do not constitute an appropriate unit because they are "the protective arm of management."

The Company's plant-protection force consists of 11 employees, all of whom are sworn United States auxiliary military police. Nevertheless these employees are hired, discharged, and paid by the Company. In view of these facts, and for the reasons stated in the *Dravo* case, we find no merit in the Company's contention.<sup>2</sup>

We find that all plant-protection employees at the Elmira plant of the Company, excluding captains, sergeants, lieutenants, the chief, and any other supervisory employees with authority to hire, promote,

<sup>1</sup> The Field Examiner reported that the Union presented 9 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of October 10, 1943. There are 11 persons in the appropriate unit.

<sup>2</sup> *Matter of Dravo Corporation*, 52 N. L. R. B. 322, and cases cited therein.

discharge, discipline, or otherwise effect changes in the status of 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 means of an election by secret ballot among the 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.

#### 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, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Andover Motors Corporation, Elmira, New York, 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 Third 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 the 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 any 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 or not they desire to be represented by International Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining.