

In the Matter of THE MURRAY CORPORATION OF AMERICA and
AMALGAMATED PLANT PROTECTION LOCAL No. 114, UAW-CIO

Case No. 7-R-1715.—Decided April 19, 1944

Mr. Frank H. Bowen, for the Board.

Butzel, Eaman, Long, Gust & Bills, by *Mr. G. H. Williams*, of Detroit, Mich., for the Company.

Mr. Irving E. Griffith, of Detroit, Mich., for the Union.

Miss Melvern R. Krelow, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Amalgamated Plant Protection Local No. 114, UAW-CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Murray Corporation of America, Detroit, Michigan, herein called the Company, the National Labor Relations Board, the Company, and the Union, on March 28, 1944, entered into a stipulation containing an agreed statement of facts and expressly waiving the holding of a hearing by the Board and notice thereof.¹ The Board hereby approves the stipulation.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Murray Corporation of America, a Delaware corporation, is engaged in the manufacture of aircraft, auto truck parts, and metal stampings. It owns and operates plants located at Detroit and Ecorse, Michigan, which are the plants involved in this proceeding. The total amount of raw materials shipped to both plants from points

¹The stipulation also provided for the incorporation of the Record in *Matter of The Murray Corporation of America*, Case No R-5270 (7-R-1306) as part of the record herein. Said record is hereby made a part of the record herein.

outside the State of Michigan substantially exceed \$55,000,000 annually. 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

Amalgamated Plant Protection Local No. 114, UAW-CIO is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On December 23, 1942, the Union notified the Company of its majority status and requested exclusive recognition as bargaining representative for plant-protection employees of the Company's Ecorse plant. The Company, on or about February 10, 1943, replied that it could not recognize the Union because of a provision in each of its contracts since 1937 with the International Union, United Automobile Workers of America, affiliated with the CIO, herein called the International, and Local #2 thereof, covering its production and maintenance employees, which precluded the contracting union from accepting for membership certain enumerated classes of employees, including plant-protection employees; and that in any event, the plant-protection employees at both its Detroit and Ecorse plants constituted a more appropriate unit. Thereafter the Union filed a petition, which was amended on April 10, 1943, to include plant-protection employees of both the Detroit and Ecorse plants. On June 10, 1943, a Board-ordered election was conducted pursuant thereto which did not result in the selection of a collective bargaining representative. Accordingly, the Board, on June 24, 1943, dismissed the petition. On March 10, 1944, the Union filed the petition herein alleging a change in conditions and that the employees in the unit now desire representation. The Company has refused to grant the Union's request for recognition, and contends that there has been no change in conditions and that there is no proper reason for another election at this time.²

The Company here reiterates its contention that the Union, being an affiliate of the International, is bound by the provision contained in the collective bargaining contracts with the International and Local #2 stating "that the term 'employees' shall not include, and that the Union will not accept for membership . . . plant-protection employees . . .," and therefore is estopped from seeking to represent the plant-protec-

² While the stipulation does not reveal the nature of the change in conditions alleged by the Union in its petition, inasmuch as approximately a year has elapsed since the Board last conducted an election in the unit hereinafter found to be appropriate, we find no merit in the Company's contention

tion employees. We have held such contention to be without merit in other cases³ as well as in Case No. R-5270.⁴ The Company has presented no arguments herein to persuade us to depart from such ruling.

A statement of a Field Examiner of the Board, appended to the stipulation, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.⁵

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 parties stipulated that if a unit of plant-protection employees is found appropriate, the unit shall comprise all plant-protection employees of the Company at its Detroit and Ecorse, Michigan, plants excluding investigators, supervisory (among others, and not by way of limitation, such as the superintendent, chief investigator, chief fire marshal, coordinator of civilian defense, pay-roll force, training staff lieutenant, captains, lieutenants, and sergeants) and clerical employees. The Company, however, contends that plant protection employees are to such a degree representatives of management that they should be excluded from any bargaining unit, and further, that collective bargaining is inconsistent with their status as civilian auxiliaries of the military police.

All plant-protection employees of the Company have for 2 years been civilian auxiliaries of the military police. However, these employees are hired and paid by the Company, and in all essential respects the customary employer-employee relationship is preserved. In view of these facts, and as previously found in Case No. R-5270,⁶ we find no merit in either of the Company's contentions; the Board has frequently held that militarized plant-protection employees may constitute an appropriate bargaining unit.⁷

We find that all plant-protection employees of the Company at its Detroit and Ecorse, Michigan, plants, excluding investigators, supervisory (among others, and not by way of limitation, such as the superintendent, chief investigator, chief fire marshal, coordinator of civilian defense, pay-roll force, training staff lieutenant, captains, lieutenants, and sergeants) and clerical employees constitute a unit appropriate for

³ See *Matter of General Motors Corporation Eastern Aircraft Trenton Division*, 51 N. L. R. B. 1366, and cases cited therein.

⁴ See footnote 1, *supra*.

⁵ The Field Examiner reported that the Union presented 89 designation cards, of which 86 were dated in March 1944, and 3 were undated. There are approximately 189 employees in the unit.

⁶ See footnote 1, *supra*.

⁷ See *Matter of Dravo Corporation*, 52 N. L. R. B. 322.

the purpose 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 the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of our Direction of Election, 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 The Murray Corporation of America, Detroit, Michigan, 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 Seventh 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 Amalgamated Plant Protection Local No. 114, UAW-CIO, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.