

In the Matter of TOWMOTOR CORPORATION *and* INTERNATIONAL UNION,  
UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT  
WORKERS OF AMERICA, C. I. O.

*Case No. 8-R-1552.—Decided July 5, 1944*

*Messrs. John H. Walker, H. L. Gaddis, D. M. O'Brien, and C. H. Hubbard, of Cleveland, Ohio, for the Company.*

*Mr. Steve Sabo, of Cleveland, Ohio, 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 Union, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Towmotor Corporation, Cleveland, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas E. Shroyer, Trial Examiner. Said hearing was held at Cleveland, Ohio, on June 16, 1944. 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. 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

Towmotor Corporation is an Ohio corporation operating a plant at Cleveland, Ohio, where it is engaged in the manufacture of industrial lift trucks. During 1943 the Company purchased raw materials valued in excess of \$7,000,000 more than 50 percent of which was

shipped to it from points outside the State of Ohio. During the same period the Company manufactured products valued in excess of \$12,000,000, more than 90 percent of which was shipped to points outside the State of Ohio.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On or about May 20, 1944, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request until such time as the Union is certified by the Board.

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

We find, in accordance with a stipulation of the parties, that all production and maintenance employees of the Company, excluding office and factory clerical employees, plant guards, timekeepers, confidential salaried employees, and all supervisory employees with authority to hire, promote, 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 find that the question concerning representation which has arisen can best be resolved by means of an election by secret ballot. The Company objects to the holding of an election at this time on the

<sup>1</sup> The Field Examiner reported that the Union presented 117 membership cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of May 28, 1944. There are approximately 324 employees in the appropriate unit

ground that charges of unfair labor practices filed by the Union are pending. Inasmuch as the Union has filed a waiver of any right to contest the results of any election that might be directed in the present case, on any ground set forth in its charges, we find the position of the Company to be untenable. We shall direct that the employees eligible to vote shall be those 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.

There is some controversy with respect to the eligibility of Frank Schoen and John Gorden to vote in the election. The Union contends that they are supervisory employees and, therefore, should be deemed ineligible. The record indicates that neither of them has any authority to effect, or effectively recommend, changes in the status of any employees. Accordingly, we find that they are eligible to vote in the election.

#### 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 Towmotor Corporation, Cleveland, Ohio, 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 Eighth 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 Union, United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.