

In the Matter of GAR WOOD INDUSTRIES, INC., and AMALGAMATED  
PLANT PROTECTION, LOCAL UNION No. 114, U. A. W.-C. I. O.

*Case No. 7-R-1831.—Decided November 4, 1944*

*Messrs. Maurice Sugar and N. L. Smokler, by Mr. N. L. Smokler, of  
Detroit, Mich., for the Union.*

*Miss Ruth E. Bliefeld, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Amalgamated Plant Protection, Local Union No. 114, U. A. W.-C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Gar Wood Industries, Inc., Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert J. Weiner, Trial Examiner. Said hearing was held at Detroit, Michigan, on October 5, 1944. The Union appeared and participated. Although served with Notice of Hearing the Company did not appear.<sup>1</sup> All parties 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 an 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

In a prior representation proceeding involving the employees of the same company the Board found: "Gar Wood Industries, Inc., is engaged in the manufacture of gun carriages, winches, hoists, bodies,

<sup>1</sup> The Company's attorney, prior to the opening of the hearing, advised the Trial Examiner that it would not appear

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earth-moving machinery, and truck tanks at four plants in the Metropolitan area of Detroit, Michigan. The principal raw materials used by the Company are steel, brass, copper, cast iron, aluminum, and rubber. During the year 1941 the Company purchased raw materials and merchandise for its Detroit plants valued at approximately \$9,000,000, of which 75 percent was shipped to the plants from points outside Michigan. During the same period products finished at the Detroit plants were valued at approximately \$20,000,000, of which approximately 60 percent represented products shipped to points outside Michigan. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act."<sup>2</sup>

The Company did not enter an appearance at the hearing, and the only statement as to the business of the Company in the record is to the effect that the Company is engaged entirely in war work. Since there is no showing that there has been any change in business of the Company, we find, in accordance with the finding of the Board, *supra*, that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

Amalgamated Plant Protection, Local Union No. 114, of International Union, United Automobile, Aircraft and Agricultural Implementation Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On July 27, 1944, the Union requested the Company to grant it recognition as the exclusive bargaining representative of the Company. The Company did not reply to this communication, and on August 8, 1944, the Union filed its petition in the instant case.

A statement of the Field Examiner introduced into evidence at the hearing indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>3</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.

<sup>2</sup> See *Matter of Gar Wood Industries, Inc.*, 41 N. L. R. B. 1156. The present petition requests a unit comprising the plant-protection employees at Plants 2, 3, 4, 6, 6A, and 8.

<sup>3</sup> The Field Examiner reported that the Union submitted 33 application for membership cards, 32 of which bore apparently genuine original signatures; that the names of 32 persons appearing on the cards were listed on the Company's pay roll of August 21, 1944, which contained the names of 51 employees in the appropriate unit; and that 31 cards were dated July 1944, 1 was dated August 1944, and 1 was undated.

## IV. THE APPROPRIATE UNIT

The Union requests a unit consisting of all plant-protection employees at the Company's Plants 2, 3, 4, 6, 6A, and 8, excluding all clerical employees, the chief, assistant chief, and all supervisors with authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees or effectively recommend such action.

The plants enumerated in the petition are the totality of the plants of the Company in the Detroit Metropolitan area. Collective bargaining between the Company and other affiliates of the Union's parent body covering other groups of the Company's employees is conducted on the basis of the same 6-plant unit.

At the hearing the Union specifically requested the inclusion of lieutenants and sergeants in the appropriate unit. One of the Union's witnesses testified that the lieutenants and sergeants have no authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees or effectively recommend such action. Another witness for the Union stated, however, that the duties of the plant-protection employees at the Company's plants are the same as the duties of plant protection employees in other plants in the Detroit Metropolitan area who are represented by the Union under collective bargaining contracts. An examination of the Board's decisions in these cases involving the companies mentioned reveals that sergeants were either specifically excluded<sup>4</sup> or were not mentioned in Board findings excluding supervisory employees as customarily defined.<sup>5</sup> The titles of both "sergeant" and "lieutenant" connote supervisory authority and the record does show that these employees receive a higher rate of pay than the other employees in the plant-protection department, the sergeants receiving 5 cents an hour more, and the lieutenants 10 cents more per hour.

Under the circumstances we do not consider that the record satisfactorily establishes whether or not the sergeants or lieutenants in the Company's employ are supervisory employees within the meaning of our usual definition. We shall make no finding with respect to these classifications as such. We shall exclude from the unit "supervisory" employees, defining this term according to our practice as employees who have authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

<sup>4</sup> See *Matter of Chrysler Corporation, Highland Park Plant*, 44 N. L. R. B. 881; *Matter of Chrysler Corporation*, 46 N. L. R. B. 411; *Matter of Hudson Motor Car Co.*, 52 N. L. R. B. 399; *Matter of Chrysler Corporation*, 54 N. L. R. B. 510

<sup>5</sup> See *Matter of Briggs Mfg. Co.*, 49 N. L. R. B. 57; *Matter of Federal Motor Truck Co.*, 54 N. L. R. B. 984.

We find that all plant-protection employees employed in the Company's Plants Nos. 2, 3, 4, 6, 6A, and 8, excluding clerical employees, the chief, assistant chief, and all other supervisory employees who have 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 shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among employees of the Company in the unit found appropriate in Section IV, above, 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Gar Wood Industries, Inc., 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 the 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 those employees 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 Union No. 114, U. A. W.-C. I. O., for the purposes of collective bargaining.