

In the Matter of INTERNATIONAL HARVESTER COMPANY and UNITED FARM EQUIPMENT AND METAL WORKERS OF AMERICA, C. I. O.

*Case No. 3-R-886.—Decided December 11, 1944*

*Mr. Isadore Greenberg*, for the Board.

*Messrs. Robert E. Dickman and W. L. Hallam*, of Chicago, Ill., for the Company.

*Mr. Neil O. Eastman*, of Auburn, 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 United Farm Equipment and Metal Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of International Harvester Company, Auburn, 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 Syracuse, New York, on November 16, 1944. The Board, 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

International Harvester Company is a New Jersey corporation. We are here concerned with its plant at Auburn, New York, where it is engaged in the manufacture of airplane engine cowlings, farm implements, and truck castings. During the 12-month period ending No-

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ember 1, 1944, the Company used raw materials at its Auburn plant valued in excess of \$1,000,000, over 25 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 Auburn plant valued in excess of \$2,000,000, over 50 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

United Farm Equipment and Metal 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 August 24, 1944, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the plant-protection employees at the Auburn plant. The Company refused this request on the ground that the employees claimed by the Union do not constitute an appropriate bargaining unit.

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 urges that all plant-protection employees at the Auburn, New York, plant of the Company, excluding the chief and lieutenants, constitute an appropriate unit. The Company contends that the plant-protection employees are part of management and that their duties are supervisory and confidential in nature.

The plant-protection employees are charged with the duties of preserving law and order, protecting the Company's property against sabotage, and the enforcement of safety and fire rules. They make confidential reports to the management when they detect violations of company rules and in turn receive confidential instructions from management to keep certain employees under surveillance. Some of

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<sup>1</sup> The Field Examiner reported that the Union presented 15 authorization cards. There are approximately 21 employees in the appropriate unit.

the plant-protection employees are armed and all of them are sworn as special police by the city of Auburn, New York. Although at one time they were militarized, they have been demilitarized by the United States Army. Despite the peculiar relationship which plant-protection employees bear to management, they are not to be denied any of the rights or privileges granted under Section 7 of the Act,<sup>2</sup> since we have often held, as we do now, that plant-protection officers exercise monitorial, and not supervisory, functions. The record in the instant case offers ample evidence that the plant-protection employees have no disciplinary authority over the production and maintenance employees, so that while disciplinary measures may result from a report made by a plant-protection employee, such action is the conduct of the supervisor of the employees involved and not the conduct of the plant-protection employees.<sup>3</sup>

It cannot seriously be contended at this time that plant-protection employees who are deputized as city police lose thereby any of the benefits of the Act.<sup>4</sup>

We find that all plant-protection employees of the Auburn, New York, plant of the Company, excluding the chief, lieutenants, and any other 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 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, as amended, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with International Harvester Company, Auburn, New York, an election by secret ballot

<sup>2</sup> See *Matter of Chrysler Corporation, Highland Park plant*, 44 N. L. R. B. 881.

<sup>3</sup> See *Matter of Federal Motor Truck Company*, 50 N. L. R. B. 9.

<sup>4</sup> *Matter of Consolidated Steel Corporation, Ltd.*, 51 N. L. R. B. 333.

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 United Farm Equipment and Metal Workers of America, C. I. O., for the purposes of collective bargaining.