

In the Matter of HALL SCOTT MOTOR CAR COMPANY, EMPLOYER and  
INTERNATIONAL ASSOCIATION OF MACHINISTS, DISTRICT LODGE #115,  
PETITIONER

*Case No. 20-R-1851.—Decided December 13, 1946*

*Pruitt, Hale, and Coursen*, by *Mr. C. C. Sawyer*, of San Diego, Calif.,  
for the Employer.

*Mr. A. C. McGraw*, of Oakland, Calif., for the Petitioner.

*Mr. Ralph Winkler*, of counsel to the Board.

DECISION  
AND  
CERTIFICATION OF REPRESENTATIVES

Upon a first amended petition duly filed, the National Labor Relations Board on September 12, 1946, conducted a prehearing election among employees of the Employer in the alleged appropriate unit, to determine whether or not they desired to be represented by the Petitioner for the purposes of collective bargaining.<sup>1</sup>

At the close of the election, a Tally of Ballots was furnished the parties. The Tally shows that there were approximately nine eligible voters of whom six voted for the Petitioner, one voted against the Petitioner, and one voted under challenge.

Thereafter, a hearing was held at San Francisco, California, on October 17, 1946, before Thomas J. Davis, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Hall Scott Motor Car Company is a corporation engaged in the manufacture and sale of marine and bus engines at Berkeley, Cali-

<sup>1</sup> The employer contends that the present proceeding involves substantial issues and that the Regional Director was therefore without authority to direct a prehearing election. The only issues raised by the Employer relate to the status of the guards as employees under the Act and the Petitioner's competence to represent the guards in view of the fact that it represents the Employer's production and maintenance employees. The Board has so frequently decided these issues adversely to the position taken by the Employer that we can find no abuse of discretion in the Regional Director's directing that an election be held in the premises. See cases cited in footnote 3, below.

fornia. In 1946 the Employer purchased raw materials having an approximate value of \$6,000,000, of which more than 50 percent was obtained from outside the State of California. During the same period the Employer shipped almost all its finished products, valued at approximately \$8,000,000, to points outside the State.

We find that the Employer is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization claiming to represent employees of the Employer.

## III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of a unit of approximately nine guards and one fireman, contending (1) that the aforesaid individuals are not employees within the meaning of the Act; and (2) that the Petitioner represents the Employer's production and maintenance employees<sup>2</sup> and is therefore precluded from representing the guards and fireman.

The guards in question are uniformed and bear side arms; they are not deputized. In addition to performing the customary duties of plant-protection personnel, they are required to detect, prevent, and report violations of plant rules which involve, among other things, the proper punching of time cards, the proper use of company property, the identification and authorization of personnel removing company materials and driving company vehicles from the premises, and compliance with city ordinances. The fireman's principal responsibility is the prevention and extinguishing of fires and the organization of an auxiliary fire department. All these employees are under the Employer's exclusive control.

We have previously considered and resolved adversely to the Employer's contentions the issues herein presented.<sup>3</sup> Accordingly, we find no merit to the contentions in the present case.

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

## IV. THE APPROPRIATE UNIT

There is no disagreement as to the grouping of employees in the proposed unit. Accordingly, we find that all guards and firemen em-

<sup>2</sup> In a consent election held on September 12, 1946, the production and maintenance employees selected the Petitioner as their exclusive bargaining representative.

<sup>3</sup> *Matter of Monsanto Chemical Company*, 71 N. L. R. B. 11. *Matter of Cudahy Packing Company*, 65 N. L. R. B. 10, 12. *Matter of Craig Shipbuilding Company*, 65 N. L. R. B. 97; *Matter of Solar Manufacturing Corporation*, 65 N. L. R. B. 1366, 1368.

ployed by the Employer at its plant in Berkeley, California, but excluding production and maintenance employees, switchboard operator, methods analysts, production planner, confidential messenger, plant messenger, office and technical employees, accounting clerks, blueprint machine operators, comptometer operators, design engineers, pay-roll clerks, purchasing clerks, service department clerks, stenographers, shipping clerks, tabulating machine operators, tool designers, employees in the industrial relations department, foremen and assistant foremen, confidential employees with access to information respecting personnel, confidential secretaries to top management personnel, all cafeteria 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

The results of the election held before the hearing show that the Petitioner has secured a majority of the valid votes cast and that the challenged ballots are insufficient in number to affect the results of the election. Accordingly, we shall certify the Petitioner as the collective bargaining representative of the employees in the appropriate unit.

#### CERTIFICATION OF REPRESENTATIVES

IT IS HEREBY CERTIFIED that International Association of Machinists, District Lodge #115, has been designated and selected by a majority of the employees in the unit described in Section IV, above, as their representative for the purposes of collective bargaining and that, pursuant to Section 9 (a) of the Act, the said organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

MR. JAMES J. REYNOLDS, JR., dissenting:

It is clear from the record that the duties of the employees constituting the appropriate unit in this case are monitorial as well as custodial in nature. For the reasons stated in my dissenting opinion in the *Monsanto Chemical Company* case,<sup>4</sup> which I find equally applicable here, I would dismiss the present petition.

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<sup>4</sup> 71 N. L. R. B. 11.