

In the Matter of THE NATIONAL MACHINERY COMPANY and  
INTERNATIONAL ASSOCIATION OF MACHINISTS, AFL<sup>1</sup>

*Case No. 8-R-1365.—Decided May 12, 1944.*

*Bugbee and Johnson*, by *Mr. Harry S. Bugbee*, of Toledo, Ohio, and  
*Mr. J. H. Friedman*, of Tiffin, Ohio, for the Company.

*Mr. Kenneth Scott*, of Toledo, Ohio, *Mr. A. P. Nobozny*, of Cleve-  
land, Ohio, and *Mr. Fred Whitman*, of Tiffin, Ohio, for the Union.

*Mr. William Strong*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Machinists, AFL, herein called the Union, alleging that a question affecting commerce has arisen concerning the representation of employees of The National Machinery Company, Tiffin, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Tiffin, Ohio, on February 29, 1944. Thereafter, upon direction of the Board, a further hearing was held upon due notice at Tiffin, Ohio, on April 12, 1944, before William O. Murdock, Trial Examiner. The Company and the Union appeared and participated at both hearings. 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 Examiners' rulings made at the hearings are free from prejudicial error and are hereby affirmed. At the original hearing the Company moved for dismissal of the petition. The Trial Examiner reserved ruling for the Board. The motion is denied. All parties were afforded an opportunity to file briefs with the Board.

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<sup>1</sup> The names of the Company and of the Union, incorrectly shown in the record, were corrected at the hearing.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

The Company, an Ohio corporation, is engaged in the manufacture of machinery. During 1943 the Company used raw materials valued at approximately \$500,000, more than 50 percent of which came from sources outside the State of Ohio, and manufactured finished products valued at more than \$5,000,000, over 90 percent of which was shipped to points outside that State.

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

#### II. THE ORGANIZATION INVOLVED

International Association of Machinists, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

The Company has failed to reply to the Union's request for recognition as the exclusive bargaining representative of certain of the Company's employees.

At the hearing the Company sought dismissal of the petition on the ground, in part, that an election among the Company's employees would be disruptive of harmonious relations between the Company and its employees and would interfere with its war production. We find no merit in these contentions. Our experience persuades us that the exercise by employees of self-organizational and collective bargaining rights under the Act tends to further, rather than retard, effective production for the war effort.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</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> The Field Examiner reported that the Union submitted 132 authorization cards and that about 350 employees are in the alleged appropriate unit. At the first hearing the Company for the first time submitted its pay roll, and the Trial Examiner reported that of 132 cards submitted by the Union, 125 bore apparently genuine signatures of which 115 were the names of employees on the Company's pay roll containing 361 employees in the unit. At the second hearing the Company moved that the Union's cards be produced for reexamination as to their dates and the authenticity of the signatures upon them. The Trial Examiner reserved ruling for the Board. The motions are denied.

## IV. THE APPROPRIATE UNIT

We find, in substantial agreement with the stipulation of the parties, that all production and maintenance employees of the Company at Tiffin, Ohio, excluding clerical 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 Company employs at present about seven part-time production employees, who hold full-time jobs elsewhere. The standard work week at the Company is 40 hours, with overtime work for an additional 18½ hours a week. The part-time employees average from 12 to 24 hours of work for the Company weekly, and all have been in the Company's employ for at least 6 months. It is clear that these part-time employees, who are aiding the war effort by their additional work, spend a sufficient amount of time weekly and have a sufficiently substantial interest in wages, hours, and working conditions at the plant to entitle them to a voice in the selection herein of a collective bargaining agent.<sup>3</sup> The mere fact that these part-time employees by virtue of their full-time employ elsewhere may also be entitled to join in the selection of a collective bargaining agent at their prime place of employment, if of no moment.<sup>4</sup> Certain of the part-time employees hold supervisory positions at their places of major employment. We are concerned here solely with the status of these employees with the Company, and the record shows that none of these employees holds supervisory positions with the Company. We shall permit all of the part-time employees in the unit to participate in the election herein.

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 payroll period immediately preceding the date of the 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,

<sup>3</sup> We are not here confronted with a situation in which the employ of part-time employees is not bona fide.

<sup>4</sup> Cf. *Matter of Muncie Malleable Foundry Co.*, 9-R-1322, 56 N L R B 473, issued this day, where part-time employees were not shown to have worked regularly for a considerable period of time.

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 National Machinery Company, Tiffin, 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 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 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 Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining.