



GOVERNMENT OF PRINCE EDWARD ISLAND
LABOUR RELATIONS BOARD

J. J. Revell, B. Comm., M.B.A.
Chairman

L.W. Brammer,
Chief Executive Officer

DEPARTMENT OF LABOUR
P.O. BOX 2000,
CHARLOTTETOWN
PRINCE EDWARD ISLAND

DECISION OF THE LABOUR RELATIONS BOARD

IN THE MATTER OF:

THE PRINCE EDWARD ISLAND LABOUR ACT,

-and-

THE CONSTRUCTION AND GENERAL LABORERS & GENERAL
WORKERS IN CONSTRUCTION, INDUSTRIAL AND COMMERCIAL LOCAL 1079A.

APPLICANT;

-and-

DIAMOND CONSTRUCTION (1961) LTD.

RESPONDENT;

The application was filed with the Labour Relations Board on June 26, 1974, and processed in accordance with the Rules of Procedure of the Board. The Application for Certification was filed under Section 48C of the Act and, upon investigation, an Interim Certification Order was issued, dated July 4, 1974. The Application and Interim Certification Order described a unit appropriate for collective bargaining as "All Steel Setters employed with Diamond Construction (1961) Ltd. at Souris in the County of Kings, Prince Edward Island, on the Souris Construction project, but excluding Foremen and any employee above that rank". This Decision should, consequently, be distinguished from any decision relating to a concurrent application by the above Union for a unit of employees employed as labourers by the company in the Province of Prince Edward Island.

At the hearing held on August 5, 1974, to review the Interim Order, Counsel for the Employer questioned the jurisdiction of the Labour Relations Board to deal with the matter and argued that the matter was properly within the Federal jurisdiction and any such applications should be filed with and decided by the Canada Labour Relations Board.

The question of jurisdiction over the matter of labour relations is a complex one; one that has been examined over many years and there exists extensive judicial opinion in the field. Without attempting to summarize this body of opinion, it is the opinion of the Board that, in the instant case, the jurisdictional question essentially surrounds the question as to whether or not the work being carried out by the Employer at the Souris Construction site is an integral part of the interprovincial transportation facility connecting Prince Edward Island and the Province of Quebec, or whether the construction work is merely incidental to the transportation function and not identifiable in an integral manner with it. Should it be successfully argued that the work was an

integral and continuing part of the interprovincial transportation link, then, clearly, the matter should fall within the scope of Federal Government responsibilities as defined by the British North America Act and, as such, the Federal Government would have regulatory jurisdiction over labour relations associated with the work.

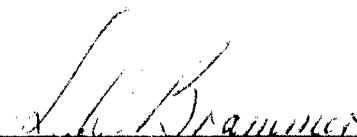
It is, however, the opinion of this Board, as a result of extensive examination and study, that the construction work associated with the building of the terminal falls within the scope of general construction work being carried out preparatory to the use of the facility as a part of the interprovincial transportation link. As such, the work should not be distinguished from any other normal construction work carried out within the boundaries of Prince Edward Island, other than as it is distinguished by the fact that the Government of Canada is the owner of the facility and will operate it upon its completion. Consequently, the Board is of the opinion that construction work of this nature falls within provincial jurisdiction and the Board, has authority to regulate labour relations in this and similar forms of activity.

The Company has questioned the identification of the Commissioner who has taken the affidavits initiating the application arguing that the Board did not have proper identification to accept the status of the Commissioner. The Board is satisfied, upon examination, that the affidavits initiating the application have been properly taken.

The Board is satisfied that the Applicant is a Trade Union within the meaning of the Prince Edward Island Labour Act and that the unit applied for is appropriate for collective bargaining. The Board is also satisfied, upon examination of the evidence, that the majority position, as required by the Act, has been met.

The Interim Certification Order of the Labour Relations Board is hereby confirmed and will be known as Board Order #3-74.

This Decision was taken by the Labour Relations Board on September 30, 1974, and is issued over the hand of the Chief Executive Officer.



L. W. Brammer
CHIEF EXECUTIVE OFFICER