

In the Matter of THE CUDAHY PACKING COMPANY and UNITED PACK-  
INGHOUSE WORKERS OF AMERICA, C. I. O. LOCAL 70

*Case No. 18-R-1070.—Decided September 11, 1944*

*Mr. John Crowell*, of Chicago, Ill., *Mr. J. R. English*, of Omaha, Nebr., and *Mr. H. W. Reister*, of Sioux City, Iowa, for the Company.

*Messrs. John Davidchick* and *Bruce Nolan*, of Sioux City, Iowa, 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 Packinghouse Workers of America, Local 70, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Cudahy Packing Company, Sioux City, Iowa, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Francis X. Helgesen, Trial Examiner. Said hearing was held at Sioux City, Iowa, on August 15, 1944. 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. During the course of the hearing counsel for the Company moved to dismiss the petition. The Trial Examiner reserved ruling thereon. The motion is hereby denied. 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

The Cudahy Packing Company is a Maine corporation operating plants in several States. We are here concerned with its plant at 58 N. L. R. B., No. 37.

Sioux City, Iowa, where it is engaged in slaughtering and processing livestock. Over 50 percent of the livestock slaughtered at the Sioux City, Iowa, plant is shipped to it from points outside the State of Iowa and over 75 percent of the finished products of that plant is shipped to points outside the State of Iowa.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

United Packinghouse Workers of America, Local 70, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as exclusive collective bargaining representative of the watchmen at the Sioux City, Iowa, plant.

A statement of the Trial Examiner, read 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 contends that all watchmen at the Sioux City, Iowa, plant of the Company, excluding the chief watchmen and shift captains, constitute an appropriate unit. The Company contends that the duties of its watchmen are such that they come into conflict with the interests of the production and maintenance employees. The Company contends that the watchmen are part of management and are not employees within the meaning of the Act because they are deputized county police, armed, and uniformed.

The watchmen are charged with the duties of preserving law and order, protecting the Company's property against sabotage, and identifying all persons on the Company's premises. 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.

<sup>1</sup> The Trial Examiner reported that the Union submitted 10 membership cards. There are approximately 14 employees in the appropriate unit.

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

The record in the instant case offers ample evidence that the watchmen have no disciplinary authority over the protection and maintenance employees, so that while disciplinary measures may result from a report made by a watchman, such action is the conduct of the supervisor of the employees involved and not the conduct of the watchmen.<sup>3</sup>

It cannot seriously be contended at this time that watchmen who are deputized as county police lose thereby any of the benefits of the Act.<sup>4</sup>

We find that all watchmen at the Sioux City, Iowa, plant of the Company, excluding the chief watchmen, shift captains, 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 The Cudahy Packing Company, Sioux City, Iowa, 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 Eighteenth 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

<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, and cases cited therein.

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 Packinghouse Workers of America, Local 70, C. I. O., for the purposes of collective bargaining.