

In the Matter of CRUCIBLE STEEL COMPANY OF AMERICA, MIDLAND
WORKS AND NATIONAL DRAWN WORKS and DISTRICT 50, UNITED MINE
WORKERS OF AMERICA

*Cases Nos. 6-R-989 and 6-R-1020 respectively.—Decided October
16, 1944*

*Messrs. Reed, Smith, Shaw & McClay, by Mr. Paul J. Winschel, of
Pittsburgh, Pa., for the Company.*

Mr. John J. Barnes, of Pittsburgh, Pa., for the Union.

Mr. Bernard Goldberg, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by District 50, United Mine Workers of America, herein called the Union, alleging that questions affecting commerce had arisen concerning the representation of employees of Crucible Steel Company of America, Midland Works and National Drawn Works, Midland, Pennsylvania, and East Liverpool, Ohio, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Allen Sinsheimer, Jr., Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on September 12, 1944. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing, the Trial Examiner reserved for the Board a ruling on the Company's motion to dismiss the petitions on the ground that the units sought were inappropriate. For reasons hereinafter stated the said 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 an 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

Crucible Steel Company of America, a New Jersey Corporation, is engaged in the manufacture of iron and steel products at a number of plants throughout the United States, including the plants at Midland, Pennsylvania, and East Liverpool, Ohio, with which this proceeding is concerned. During the past year, these two plants which are operated as a single unit, used raw materials valued in excess of \$5,000,000, of which about 80 percent was shipped into the Commonwealth of Pennsylvania and the State of Ohio from other States. During the same period, the Company manufactured at these two plants, coke, iron, and steel products valued in excess of \$10,000,000, of which approximately 70 percent was shipped to points outside the State of Ohio and the Commonwealth of Pennsylvania.

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

II. THE ORGANIZATION INVOLVED

District 50, United Mine Workers of America, unaffiliated, is a labor organization admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING THE REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its militarized and non-militarized guards on the ground that the units sought are inappropriate.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the units hereinafter found appropriate.¹

We find that questions affecting commerce have 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 UNITS

The Union seeks two separate units, one comprising militarized guards, and the other non-militarized guards and guardettes, exclud-

¹ The Field Examiner reported that in Case No 6-R-989, the Union submitted 4 authorization cards in a unit consisting of 8 employees, (non-militarized guards), and that in Case No 6-R-1020, the Union submitted 26 authorization cards with the unit petitioned for containing 32 employees (militarized guards).

ing the superintendent of police, lieutenants, sergeants, and other supervisory personnel, at the Midland, Pennsylvania, and East Liverpool, Ohio, plants. The Company, while admitting the appropriateness of a two-plant unit, contends that guards, militarized and non-militarized, are members of the managerial hierarchy and as such their allegiance to management should not be divided by affiliation with any labor organization. Guards, militarized and unmilitarized, who are hired, paid and supervised by Company officials, as in the instant case, are employees of the Company and like other employees are entitled to the protection of the Act. While the guards do perform monitorial or police duties with respect to their fellow employees, they are not thereby created members of management, as contended by the Company. The Company's fear that if the guards are accorded their rights under the Act, their allegiance to the Company will be weakened, is also groundless. We have more than once pointed out that there is no incompatibility between union membership and honest, faithful discharge of duty to the employer.²

Accordingly, we find that the following units are appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

(1) All guards at the Midland, Pennsylvania, and East Liverpool, Ohio, plants of the Company³ who are members of the auxiliary military police, excluding the superintendent, lieutenants, sergeants, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

(2) All guards and guardettes at the Midland, Pennsylvania, and East Liverpool, Ohio, plants of the Company, who are not members of the auxiliary military police, excluding the superintendent, lieutenants, sergeants, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units who were employed during the payroll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

² See *Matter of Dravo Corporation*, 52 N. L. R. B. 322, *Matter of Commonwealth Edison Company*, 55 N. L. R. B. 465.

³ The Midland, Pennsylvania, and East Liverpool, Ohio, plants are about 6 miles apart and are operated as a single unit. The United Steelworkers of America, C. I. O., presently has contracts with the Company covering employees in both plants as parts of a single unit.

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 Crucible Steel Company of America, Midland Works and National Drawn Works, Midland, Pennsylvania, and East Liverpool, Ohio, elections 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 Sixth 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 units 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 those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the elections, to determine whether or not they desire to be represented by District 50, United Mine Workers of America, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Elections.