

In the Matter of SEMET-SOLVAY COMPANY and DISTRICT 50, UNITED  
MINE WORKERS OF AMERICA

*Case No. 3-R-959.—Decided May 8, 1945*

*Mr. Earl J. Hurd*, of Brooklyn, N. Y., and *Mr. G. E. Brandon*, of New York City, for the Company.

*Mr. Frank Podsiadlik*, of Syracuse, N. Y., 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 District 50, United Mine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Semet-Solvay Company, Syracuse, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene von Wellsheim, Trial Examiner. Said hearing was held at Syracuse, New York, on April 17, 1945. 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. 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

Semet-Solvay Company is a New York corporation engaged in the manufacture of benzol at Syracuse, New York. More than 60 percent of the raw materials used by the Company at its Syracuse plant during 1944 was shipped to it from points outside the State of New York. During the same period the Company shipped more than 60 percent

of the products manufactured at its Syracuse plant to points outside the State of New York.

The Company admits, for the purpose of this proceeding, 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, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive collective bargaining representative of its employees at the Syracuse plant until such time as the Union is certified by the Board.

A statement of a Field Examiner of the Board, introduced 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 urges that all production and maintenance employees at the Syracuse plant of the Company, including the guard, but excluding clerical, office, technical, confidential, and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining. The only controversy with respect to the unit concerns the guard. The Company would exclude him from the unit.

The Company employs one guard who checks the ingress and egress of all visitors and trucks at the plant gates. He is armed and militarized by the United States Army. In accordance with our usual practice of excluding militarized employees from units of production and maintenance employees, we shall exclude the guard from the unit.

We find that all production and maintenance employees at the Syracuse plant of the Company, excluding clerical, office, technical, and confidential employees, guards, 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.

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<sup>1</sup> The Field Examiner reported that the Union presented 19 application cards. There are approximately 22 employees in the appropriate unit.

## 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 Semet-Solvay Company, Syracuse, New York, 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 Third 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 District 50, United Mine Workers of America, for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.