

In the Matter of STANDARD STEEL SPRING COMPANY and UNITED  
STEELWORKERS OF AMERICA, CIO

*Case No. 6-R-1096.—Decided June 21, 1945*

*Mr. Paul J. Heenan*, of Pittsburgh, Pa., and *Mr. J. E. Groves*, of Corapolis, Pa., and *Mr. R. W. Irwin*, of New Castle, Pa., for the Company.

*Mr. Phillip M. Curran*, of Pittsburgh, Pa., and *Mr. John H. Grittie*, of New Castle, Pa., for the CIO.

*Mr. Donald H. Frank*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Standard Steel Spring Company, New Castle, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Jerome L. Black, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on February 23, 1945. The Company and the CIO 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. During the hearing, the Company moved that the petition of the CIO be dismissed. The Trial Examiner referred the Company's motion to the Board. For reasons set forth in Section IV (*infra*), 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 an opportunity to file briefs with the Board.

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

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## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANY

Standard Steel Spring Company is a Pennsylvania corporation with its principal office in Gary, Indiana. The Company operates plants in the States of Indiana, Michigan, Illinois, and Pennsylvania. At its New Castle, Pennsylvania, plant, which is the sole operation of the Company involved in the instant proceeding, the Company is engaged in the manufacture of aerial bombs and leaf springs for heavy-duty trucks. During the year 1944, the Company purchased for its New Castle plant materials valued in excess of \$5,000,000, of which approximately 90 percent originated from points outside the Commonwealth of Pennsylvania. During the same year, the Company manufactured at the New Castle plant finished products valued at more than \$5,000,000. All products of the New Castle plant are at present manufactured pursuant to contracts between the Company and the United States Ordnance Department, and all products are eventually transported from the Commonwealth of Pennsylvania. Of the equipment at the New Castle plant, approximately 85 percent is owned by the Government of the United States.

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

## II. THE ORGANIZATION INVOLVED

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

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the CIO as the exclusive bargaining representative of its plant-protection employees on the grounds discussed in Section IV (*infra*).

A statement of a Board agent, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found 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

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<sup>1</sup> The Field Examiner reported that the CIO submitted 12 application-for-membership cards, all of which bore apparently genuine original signatures; that the names of 7 persons appearing on the cards were listed on the Company's list of plant-protection personnel of February 8, 1945, which contained the names of 9 employees in the appropriate unit, and that the cards were dated 10 in November 1944 and 1 in January 1945, and 1 was undated

## IV. THE APPROPRIATE UNIT

The CIO seeks to represent a unit composed of all the Company's plant-protection employees, excluding supervisory employees within our usual definition. The Company moved at the hearing that the CIO's petition be dismissed on the grounds that plant-protection employees are not employees within the meaning of the Act and that it would be contrary to the public interest for the Board to certify as a collective bargaining agent of plant-protection employees a union which includes in its membership the Company's production and maintenance employees.

The Company's plant-protection force consists of a supervisor of plant protection, a lieutenant, four sergeants, and nine guards. All nine of the guards are armed, uniformed, and deputized, but were released from militarization over a year ago. Generally described, their duties are those usually assigned to plant-protection personnel. Their collective functions consist of patrolling the plant area to guard against fire, infractions of safety rules, sabotage, and theft. They check the arrival and departure of railway freight cars, passenger automobiles, and trucks, and all persons entering or leaving company property. They make daily oral reports of violations of plant regulations and safety rules. They have authority to refuse intoxicated persons permission to enter the plant area, and authority to take immediate action to prevent any safety-rule infraction which might lead to injury to persons or property.

In support of its contention that the guards are not employees within the meaning of the Act, the Company asserts in its brief that the guards represent management. The guards do not formulate or determine Company policy. Without discretion they are obliged to fulfill definite duties in accordance with the Company's instructions. They are without authority to excuse or penalize employees guilty of wrongdoing. In sum, as respects other employees, guards are merely monitors. We have previously considered the contention that guards with similar duties and status are not employees within the meaning of the Act because of their purported relationship to management, and have found the contention to be without merit.<sup>2</sup>

The Company moved for the dismissal of the petition on the additional ground that it would be contrary to public interest to allow the CIO, which presently represents the Company's production and maintenance employees, to represent the plant-protection employees in the same union.<sup>3</sup> The CIO seeks herein a separate unit of plant-protection employees which, if established, will insulate their collective bargaining from that of other

<sup>2</sup> See *Matter of Bethlehem Steel Company*, 61 N L R B 892, and cases cited therein.

<sup>3</sup> The Company bases its argument upon the decision of the United States Circuit Court of Appeals for the Sixth Circuit in *N L R B v Jones & Laughlin Steel Corporation*, 146 F. (2d) 718. We do not acquiesce in the doctrine enunciated in that decision.

employees. We attach no weight to the implication, contained in the Company's argument, that membership in a union, even if composed in part of production and maintenance employees, tends to undermine the honesty of guards or their competence to execute their duties satisfactorily. The Board has repeatedly held that a union which represents other employees of a company may likewise represent that company's plant-protection personnel.<sup>4</sup> We are convinced that our practice of segregating such employees in separate bargaining units is sufficient to protect the special status of these employees. A representative of the CIO stated at the hearing that both units of employees would be represented by one local organization, but that it is the CIO's intention that negotiations concerning the plant-protection personnel be carried on separately and result in a separate contract with the Company. We contemplate that the separation of the bargaining units in their negotiations with the Company and their day to day activities will be one of fact, not merely form, and shall be reflected in all bargaining between the Company and any duly designated bargaining representative as well as in negotiations for a separate contract for the plant-protection employees. It is in the public interest to foster and protect collective bargaining by guards, thereby promoting a practice necessary to the amicable settlement of labor disputes and the elimination of obstructions to commerce and war production. Considering all of the above factors, we have denied the Company's motion to dismiss the petition.

The Company and the CIO agree, and we find, that the supervisor of plant protection and the lieutenant are supervisory employees within our usual definition and we shall exclude them from the unit hereinafter found appropriate. The CIO seeks the inclusion of the four sergeants whom the Company would exclude. The record reveals that three of the sergeants are classified by the Company as "turn" or "shift" foremen. Each of these employees supervises the guards on his shift, instructing them and seeing that they perform their duties properly. They have the authority to recommend hire and discharge of guards and, while it has not yet been necessary for them to exercise that authority, it is clear that the Company would give such recommendations substantial weight. In the absence of higher officials, the sergeants have authority to take disciplinary action concerning the guards. The sergeants attend the meetings of plant supervisors, and are considered by the Company to be exempt from the operations of the Fair Labor Standards Act. We are of the opinion, and find, that these three guards are supervisory employees and we shall exclude them from the unit hereinafter found appropriate. The fourth sergeant in question spends the majority of his time as a special investigator, investigating employees who do not appear for work or who do not appear on time. He

<sup>4</sup> *Matter of National Lead Company, Titanium Division*, 62 N. L. R. B. 107; *Matter of International Harvester Company, Milwaukee Works*, 61 N. L. R. B. 912; *Matter of Bethlehem Steel Corporation, supra*, *Matter of Dravo Corporation*, 52 N. L. R. B. 322.

does this work in plain clothes. We are of the opinion that this sergeant is a confidential employee and as such we shall exclude him from the unit hereinafter found appropriate.<sup>5</sup>

We find that all of the Company's plant-protection employees at its New Castle, Pennsylvania, plant, but excluding the supervisor of plant protection, the lieutenant, and the sergeants, 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 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 addition 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 Standard Steel Spring Company, New Castle, Pennsylvania, 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 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 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 United Steelworkers of America, CIO, for the purposes of collective bargaining.

<sup>5</sup> See *Matter of Bethlehem-Fairfield Shipyard, Inc.*, 61 N. L. R. B. 901.