

In the Matter of AMERICAN STEEL FOUNDRIES and UNITED STEEL-
WORKERS OF AMERICA, CIO

Case No. 6-R-1177.—Decided November 30, 1945

Mr. Samuel C. Dilibert, of Chicago, Ill., and *Mr. R. H. Guerrant*, of Verona, Pa., for the Company.

Mr. John J. Brownlee, of Pittsburgh, Pa., and *Mr. Stanley J. Brown-
ing*, of Verona, 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 American Steel Foundries, Verona, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph Lepie, Trial Examiner. The hearing was held at Pittsburgh, Pennsylvania, on July 20, 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. 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

American Steel Foundries is a New Jersey corporation engaged in the manufacture of steel castings at its various plants throughout the United States, including its Verona, Pennsylvania, plant, the sole operation of the Company involved in this proceeding. During the year 1944, the Company purchased raw materials valued in excess of

\$100,000, of which approximately 50 percent was shipped to the Verona plant from points outside the Commonwealth of Pennsylvania. During that year the Verona plant produced finished products valued in excess of \$100,000, of which approximately 45 percent was shipped to points outside the Commonwealth of Pennsylvania.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act, and we so find.

II. THE ORGANIZATION INVOLVED

United Steelworkers of America 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 has refused to grant recognition to the CIO as the exclusive bargaining representative of the Company's plant-protection employees until the CIO has been certified by the Board in an appropriate unit.

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 sought.¹

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 CIO seeks a unit of all the Company's plant-protection employees, including the assistant chiefs of the guard, but excluding the chief. The parties agree that the chief is a supervisory employee within our usual definition. The Company contends that no collective bargaining unit is appropriate for the employees involved because all but one of them are deputized.² We have considered this contention in a number of recent cases and have found it to be without merit.³ The CIO presently represents a production and maintenance unit and a clerical unit of the Company's employees. A CIO representative testified that the CIO intends either to establish a separate local or to establish a separate branch within the existing local for the purpose of

¹ The Field Examiner reported that the CIO submitted eight authorization cards, seven of which were dated April 1945, and one of which was undated, and that there were approximately nine employees in the unit sought.

² A company representative stated that the one guard who is not deputized is a new employee whose deputization the Company intends to secure.

³ *Matter of Bethlehem Supply Company*, 63 N. L. R. B. 937; *Matter of Aluminum Company of America*, 63 N. L. R. B. 828; *Matter of Standard Steel Spring Company*, 62 N. L. R. B. 660.

representing the plant-protection employees. This action, we think, will be sufficient to satisfy our requirement that these employees have separate representation both in their relations with the Company and in their day-to-day activities.⁴

The Company's plant-protection force consists of one chief, three assistant chiefs, and six guards. The Company contends that the three assistant chiefs should be excluded from the unit as supervisory employees. The assistant chiefs who work days are each in charge of a shift of two guards. The assistant chief who works nights is in charge of the single guard on his shift. The assistant chiefs assign the guards to their posts. They possess authority to send home any guard who is intoxicated or who fails to perform his duties properly, and to grant time off to the guards on their respective shifts. They make daily reports to the chief on any unusual occurrences taking place during their tour of duty. They may recommend changes in the pay or status of their guards, but such recommendation is subject to a complete investigation by the personnel supervisor before the latter makes his final decision. Otherwise the duties of the assistant chiefs are the same as those of the guards. The assistant chiefs and the guards patrol the plant property, carrying the watch clocks; they check the identification of employees entering and leaving the plant; they check vehicles on the plant property; they guard against fire and fire hazards; they watch for infractions of company rules; they inspect the parking lot outside the plant area; they protect the plant property from sabotage. Assistant chiefs receive the same pay as the guards, but unlike the guards, their uniforms are furnished by the Company. They do not attend meetings of the Company's supervisory personnel. On his day off each week, each absent assistant chief is replaced by one of the guards from his shift. We are of the opinion that the assistant chiefs are not supervisors in their relationship to the guards, and we shall include them in the unit hereinafter found appropriate.

We find that all the Company's plant-protection employees, including the assistant chiefs, but excluding the chief 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 em-

⁴ *Matter of Standard Steel Spring Company, supra.*

ployees 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 American Steel Foundries, Verona, Pennsylvania, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) 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 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.