

In the Matter of THE CHAMPION MACHINE & FORGING COMPANY and
INTERNATIONAL BROTHERHOOD OF BLACKSMITHS, DROP FORGERS &
HELPERS, A. F. OF L.

Case No. 8-R-1294.—Decided November 29, 1943

Messrs. John L. McChord and Herbert W. Foster, Jr., of Cleveland, Ohio, for the Company.

Mr. John Medevic, of Cleveland, Ohio, for the A. F. of L.

Messrs. Maurice Sugar and N. L. Smokler, of Detroit, Mich., for the U. A. W.-C. I. O.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Brotherhood of Blacksmiths, Drop Forgers & Helpers, A. F. of L., herein called the A. F. of L., alleging that a question affecting commerce had arisen concerning the representation of employees of The Champion Machine & Forging Company, Cleveland, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Cleveland, Ohio, on November 9, 1943. At the commencement of the hearing, the Trial Examiner granted a motion of International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 217, C. I. O., herein called the U. A. W.-C. I. O., to intervene. The Company, the A. F. of L., and the U. A. W.-C. I. O. appeared at and participated in the hearing.¹ 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 course of the hearing the U. A. W.-C. I. O., moved to dismiss the petition. The Trial Examiner reserved ruling. The

¹ Although International Die Sinkers Conference was served with Notice of Hearing, it did not appear.

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 Champion Machine & Forging Company is an Ohio corporation engaged in the manufacture of drop forgings at Cleveland, Ohio. During 1942 the Company purchased raw materials valued at about \$1,000,000, approximately 20 percent of which was shipped to it from points outside the State of Ohio. During 1942 the Company manufactured products valued at about \$200,000, approximately 90 percent of which was shipped to points outside the State of Ohio. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Blacksmiths, Drop Forgers & Helpers is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 217, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 16, 1943, the A. F. of L. requested recognition of the Company as exclusive collective bargaining representative of the Company's employees. The Company refused this request on the ground that it was operating under a contract with the U. A. W.-C. I. O.

On June 9, 1942, the Company and the U. A. W.-C. I. O. entered into an exclusive collective bargaining contract containing a maintenance of membership clause. The contract provides that it shall remain in effect until June 9, 1943. The contract further provides that it shall continue in effect thereafter until 30 days' notice of a desire to terminate is given by either party thereto. On June 9, 1943, the Company advised the U. A. W.-C. I. O. that it desired that changes be made in the agreement. Inasmuch as the contract is terminable upon 30 days' notice by either party thereto, we find that it does not constitute a bar to a determination of representatives at this time.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, shows that the A. F. of L. presented 125 authorization cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll of October 10, 1943. There are approximately 611 employees in the appropriate unit. We find that the A. F. of L. has made a substantial showing of representation to warrant a determination of representatives in this case, in view of the fact that the U. A. W.-C. I. O. and the Company are parties to a contract containing a maintenance of membership clause.²

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

We find, in agreement with a stipulation of the parties, that all hourly and piece-work paid production and maintenance employees at the Cleveland plant of the Company, excluding office, clerical, and laboratory employees, die sinkers, trimmer die makers, drawn impression men, lockmen, die polishers, planermen, apprentices on dies, beginners on war work who work on dies, confidential salaried employees, armed guards, foremen, assistant foremen, 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.³

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,

² The U. A. W.-C. I. O. did not present any evidence of membership, but relies upon its contract as evidence of its interest in the instant proceeding.

³ This is substantially the same unit that is provided for in the contract between the U. A. W.-C. I. O. and the Company.

and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Champion Machine & Forging Company, Cleveland, Ohio, 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 Eighth 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 they desire to be represented by International Brotherhood of Blacksmiths, Drop Forgers & Helpers, affiliated with the American Federation of Labor, or by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 217, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither.