

In the Matter of DUFF-NORTON MANUFACTURING COMPANY and  
UNITED STEELWORKERS OF AMERICA, C. I. O.

*Case No. 6-R-793.—Decided December 3, 1943*

*Mr. Donald W. Ebbert*, of Pittsburgh, Pa., for the Company.  
*Mr. Robbin B. Wolf*, of Pittsburgh, Pa., for the Independent.  
*Mr. Philip M. Curran*, of Pittsburgh, Pa., for the United.  
*Mr. Louis Cokin*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition and amended petition duly filed by United Steelworkers of America, C. I. O., herein called the United, alleging that a question affecting commerce had arisen concerning the representation of employees of Duff-Norton Manufacturing Company, Pittsburgh, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before S. Craig Carnes, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on November 12, 1943. At the commencement of the hearing the Trial Examiner granted a motion of Duff-Norton Independent Union, herein called the Independent, to intervene. The Company, the Independent, and the United 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

Duff-Norton Manufacturing Company is a Pennsylvania corporation with its principal place of business at Pittsburgh, Pennsylvania, where it is engaged in the manufacture of drop forgings, lifting jacks,  
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and special devices. During the 12-month period preceding the date of the hearing, the Company purchased raw materials valued in excess of \$1,500,000, about 20 percent of which was shipped to it from points outside the State of Pennsylvania. During the same period the Company manufactured products at its Pittsburgh plant valued in excess of \$3,000,000, about 75 percent of which was shipped to points outside the State of Pennsylvania. The Company admits and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

Duff-Norton Independent Union is an unaffiliated labor organization, admitting to membership employees of the Company.

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

On August 5, 1943, the United requested the Company to recognize it as exclusive collective bargaining representative of the Company's employees. The Company refused this request.

On October 5, 1942, the Company and the Independent entered into an exclusive collective bargaining contract. The contract provides that it shall remain in effect until October 5, 1943, and from year to year thereafter unless either party thereto notifies the other of a desire to terminate not less than 60 days prior to any annual expiration date. Inasmuch as the United made its claim upon the Company on August 5, 1943, the day before the contract might have renewed itself, we find that it does not constitute a bar to a determination of representatives at this time.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the United 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

We find, in agreement with a stipulation of the parties, that all production and maintenance employees at the Pittsburgh plant of the Company, excluding policemen, guards, die-room workers, all salaried

<sup>1</sup> The Regional Director reported that the United presented 179 authorization cards bearing apparently genuine signatures of employees whose names appear on the October 1, 1943, pay roll. The Independent did not present any evidence of membership, but relies upon its contract as evidence of its interest in the instant proceeding. There are about 340 employees in the appropriate unit.

employees, foremen, assistant foremen, supervisors in charge of any class of labor, 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.<sup>2</sup>

#### V. THE DETERMINATION OF REPRESENTATIVES

We find that the question concerning representation which has arisen can best be resolved by means of an election by secret ballot. The United urges that the pay roll of August 17, 1943, be used to determine eligibility to vote. Inasmuch as no persuasive reason appears as to why we should depart from our usual practice, we shall direct that those eligible to vote shall be 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, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Duff-Norton Manufacturing Company, Pittsburgh, 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 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 Duff-Norton Independent Union, or by United Steelworkers of America, C. I. O., for the purposes of collective bargaining, or by neither.

<sup>2</sup> This is substantially the same unit as provided for in the contract between the Company and the Independent.