

In the Matter of E. I. DU PONT DE NEMOURS & COMPANY, MORGANTOWN
ORDNANCE WORKS and INTERNATIONAL BROTHERHOOD OF ELECTRICAL
WORKERS, LOCAL UNION #1168 (A. F. L.)

In the Matter of E. I. DU PONT DE NEMOURS & COMPANY, MORGANTOWN
ORDNANCE WORKS and INTERNATIONAL COUNCIL OF CHEMICAL &
ALLIED INDUSTRIES UNIONS, AMERICAN FEDERATION OF LABOR

*Cases Nos. 6-R-856 and 6-R-899, respectively.—Decided
March 23, 1944*

*Messrs. P. B. Collins and E. C. First, Jr., of Wilmington, Del., for
the Company.*

Mr. W. H. Wilson, of Akron, Ohio, for the I. B. E. W.

*Mr. H. J. Paar, of New Martinsville, W. Va., for the Chemical
Workers.*

*Messrs. Glenn E. Moller and Wallace E. Royster, of counsel to the
Board.*

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon separate petitions duly filed by International Brotherhood of Electrical Workers, Local Union #1168 (A. F. L.), herein called the I. B. E. W., and by International Council of Chemical & Allied Industries Unions, American Federation of Labor, herein called the Chemical Workers, alleging that questions affecting commerce had arisen concerning the representation of employees of E. I. du Pont de Nemours & Company, Morgantown Ordnance Works, Morgantown, West Virginia, herein called the Company, the National Labor Relations Board consolidated the proceedings herein and provided for an appropriate hearing upon due notice, before James A. Shaw, Trial Examiner. Said hearing was held at Morgantown, West Virginia, on January 14, 1944. The Company, the I. B. E. W., and the Chemical Workers 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

E. I. du Pont de Nemours & Company, is a Delaware corporation engaged at Morgantown Ordnance Works, Morgantown, West Virginia, in the manufacture of ammonia, hexamine, methanol, alcohol, tar, and light oil under contracts with the United States Government. During the 12-month period preceding the hearing, the Company purchased raw materials having a value in excess of \$1,000,000, of which 25 percent was shipped to the works from points outside West Virginia. During the same period total production at the works exceeded \$4,000,000 in value of which 95 percent was shipped to points outside West Virginia. The Company concedes, and we find, that it is engaged in interstate commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Electrical Workers, Local Union #1168, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Council of Chemical & Allied Industries Unions, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The I. B. E. W. wrote to the Company on October 18, 1943, alleging that it represented a majority of the workers in the unit which it proposes and requesting that the Company recognize it as exclusive bargaining representative for the employees in that unit. By letter of October 21, 1943, the Company replied that it did not consider the proposed unit to be appropriate and refused to extend the requested recognition to the I. B. E. W.

The Chemical Workers notified the Company on January 5, 1944, that it represented a majority of the workers in a production and maintenance unit, excluding the employees claimed by the I. B. E. W., and requested recognition as exclusive bargaining representative of such employees. The Company refused the request.

A statement of the Regional Director introduced into evidence at the hearing, indicates that the I. B. E. W. and the Chemical Workers

each represents a substantial number of employees in the unit it claims appropriate.¹

We find that questions affecting commerce have 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 UNITS

The I. B. E. W. desires to include in a single bargaining unit all maintenance electricians and helpers, switchboard operators, turbine operators, and instrument mechanics and helpers employed at the Morgantown plant. Electricians and helpers are under the superintendent of the electrical department and maintain electrical equipment throughout the plant. Their work requires the skill and training generally attributed to their craft. Obviously, in the absence of prior bargaining history, they may constitute an appropriate bargaining unit. The four switchboard operators and seven turbine operators, whom the I. B. E. W. would include with the electricians and helpers, work in the powerhouse. The turbine operators are concerned with the generation of electricity, and the switchboard operators with its distribution. Initially, the Company employed experienced men to perform the work in these latter classifications but subsequent vacancies have been filled by transfer of men from the mechanical force in the powerhouse. While it does not appear that the turbine operators and switchboard operators are electricians, their work is closely connected with that of the electricians. By experience they have acquired an understanding of electrical principles and a certain proficiency in electrical work. In view of these circumstances, we are of the opinion that they may be included in a unit with electricians and helpers.

The 26 instrument mechanics and helpers are under supervision separate from both the groups discussed above. Their function is to take readings from the recording devices which measure the flow of gases and liquids used in the Company's processes and to keep those devices in repair. The record is lacking in evidence to indicate that instrument mechanics, on the basis of skill or function, belong in a craft unit of electricians.²

¹ The Regional Director reported that the I B E W. submitted 42 application for membership cards bearing the apparently genuine original signatures of persons listed on the Company's pay roll of November 6, 1943, which contains the names of 75 employees in the unit proposed by the I B E W

The Chemical Workers submitted 312 application for membership cards bearing the apparently genuine original signatures of persons listed on the said pay roll, which contained the names of 854 employees in the unit proposed by the Chemical Workers

² See *Matter of Westinghouse Electric & Manufacturing Company (Louisville Ordnance Division)*, 49 N L R B 445

The Chemical Workers requests the establishment of a bargaining unit including all production and maintenance workers other than those in the categories claimed by the I. B. E. W. and excluding foremen, office-clerical employees, chemists, guards, and supervisory employees. 'Since the employees in the categories claimed by the I. B. E. W. constitute a small percentage of those on the pay roll, the unit desired by the Chemical Workers closely approaches an industrial unit such as we recently approved at another plant of the Company.³

The Company contends that all the employees at Morgantown should comprise a single bargaining unit. However, the petitioning unions' request for mutually exclusive groupings is based on jurisdictional grounds,⁴ and no other labor organization is seeking to represent the employees in question in a single unit. Under these circumstances we do not determine whether the unit preferred by the Company is appropriate, or more appropriate than those proposed by the petitioners.

On the basis of the entire record and in view of the foregoing considerations, we are of the opinion that the purposes of the Act will best be effectuated in this case by the establishment of three separate bargaining units among the Company's employees. For the reasons we have indicated, we do not agree to the propriety of including instrument mechanics and their helpers in an essentially craft unit with electricians, electrician helpers, turbine operators, and switchboard operators. However, since the instrument mechanics and their helpers constitute a well defined homogeneous group in a separate department, and since the only labor organization seeking to represent them would segregate them for bargaining purposes from the general body of production and maintenance employees, we believe that they may function effectively in a separate bargaining unit.

1. We find, accordingly, that all maintenance electricians, electrician helpers, turbine operators, and switchboard operators employed by the Company at Morgantown Ordnance Works, excluding instrument mechanics, their helpers, all other employees of the Company, 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.

2. We further find that all production and maintenance employees of the Company at Morgantown Ordnance Works, excluding maintenance electricians, electrician helpers, turbine operators, switchboard operators, instrument mechanics and their helpers, foremen,

³ See *Matter of du Pont de Nemours and Company*, 49 N. L. R. B. 1125

⁴ See *Matter of General Tire and Rubber Company*, 55 N. L. R. B. 250.

office-clerical employees, chemists, guards, and 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. We further find that all instrument mechanics and helpers employed by the Company at Morgantown Ordnance Works, excluding 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 questions concerning representation which have arisen be resolved by means of elections by secret ballot among the employees in the appropriate units, who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 E. I. du Pont de Nemours & Company, Morgantown Ordnance Works, Morgantown, West Virginia, separate elections 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 units found appropriate in Section IV, subsections 1, 2, and 3, 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 elections, to determine whether or not they desire to be represented in Unit 1, by International Brotherhood of Electrical Workers, Local Union #1168 (A. F. L.); in Unit 2, by International Council of Chemical & Allied Industries Unions, American Federation of Labor; and in Unit 3, by International Brotherhood of Electrical Workers, Local Union #1168 (A. F. L.), for the purposes of collective bargaining.

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