

In the Matter of E. I. DUPONT DE NEMOURS & COMPANY, INDIANA
ORDNANCE WORKS and INTERNATIONAL BROTHERHOOD OF FIREMEN &
OILERS, LOCAL #320, A. F. of L.

Case No. 9-R-1575.—Decided December 14, 1944

Mr. E. C. First, Jr., of Wilmington, Del., for the Company.

Mr. William E. Fredenberger, of Louisville, Ky., for the Union.

Miss Ruth Rusch, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Firemen & Oilers, Local #320, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of E. I. DuPont de Nemours & Company, Indiana Ordnance Works, Charlestown, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before R. N. Denham, Trial Examiner. Said hearing was held at Louisville, Kentucky, on November 2, 1944. The Company and the Union 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 an 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. DuPont de Nemours & Company operates the Indiana Ordnance Works at Charlestown, Indiana. The Company is under contract with the United States Government whereby the material used is owned by the Government and all the finished products are shipped

to it. The Company uses materials which are sent from sources outside of the State of Indiana and which amount to more than \$500,000 in value monthly. All of the finished products are shipped to points outside the State of Indiana and amount to more than \$500,000 in value monthly.

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

II. THE ORGANIZATION INVOLVED

International Brotherhood of Firemen & Oilers, Local #320, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of its powerhouse employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.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 Union seeks to represent certain of the Company's employees in its Power Department, namely boiler operators, switch board operators, condenser operators, inside and outside water operators, hydraulic and refrigeration operators, compressor operators, well operator, turbine operator, instrument man, boiler cleaners, power area oilers, and sewage disposal operator.² The Power Department is one of the five major production and maintenance divisions of the Company's plant. The employees whom the Union would represent comprise the bulk of the employees in the Power Department. They are stationed in or near two power plants and elsewhere in the plant and, as their titles indicate, they are engaged in operating equipment which generates and distributes power.

The Company contends that such a unit is inappropriate and alleges that only a plant-wide unit composed of all the Company's production

¹ The Field Examiner reported that the Union submitted authorization cards, 58 of which bore the names of persons listed on the Company's pay roll, which contained the names of 92 employees in the alleged appropriate unit. There were 27 cards dated in August 1944, 1 in September 1944, and 30 undated.

² In its brief, the Union included helpers in the unit which it desires to represent.

and maintenance employees, except for the electricians who are already represented by the International Brotherhood of Electrical Workers, is appropriate for bargaining purposes. We find no merit in the Company's argument inasmuch as no attempt has been made to organize the employees throughout the Company's entire plant.³ As an alternative, the Company suggests a unit comprised of all the employees in the Power Department. The departmental unit suggested by the Company would include certain categories of employees whom the Union would exclude on the ground that they are not within its trade jurisdiction, namely tractor operators, mechanics, coal handlers and chief coal handling operators, and laborers.

Tractor Operators. The three tractor operators use their equipment to haul coal from the freight cars to the powerhouse yard, and to push the coal on the conveyor system which feeds the furnaces. When there are no such duties to be performed, the tractor operators do maintenance work. Most of these employees are mechanics. It is the Union's contention that they are under the jurisdiction of the International Union of Operating Engineers since they operate tractors.

Mechanics. There are approximately 20 maintenance mechanics who qualify as plumbers, steamfitters, and other craftsmen.⁴ They are engaged in repairing the powerhouse equipment. The Union believes they would be more properly represented by other labor organizations affiliated with the American Federation of Labor having jurisdiction over the several crafts involved.

Coal Handlers and Chief Coal Handling Operators. The 17 coal handlers unload coal cars, transport the coal to silos, check the conveyor belts and coal crushers, and clean the silos. The 4 chief coal handling operators perform the same work as the coal handlers, and in addition act as leaders. The Union seeks to exclude the chief coal handling operators on the ground that they are supervisory employees, and the coal handlers on the basis of their lack of skill. However, the record indicates that the responsibility of the chief coal handling operators is not of a supervisory nature. They work among the coal handlers and have no authority to hire, discharge, or make recommendations affecting the status of other employees. We find that these employees are not supervisory within the meaning of the Board's customary definition. The Union believes the coal handlers would be more appropriately represented by International Hod Carriers and General Laborers Union or some other American Federation of Labor affiliate which customarily bargains for unskilled laborers.

³ See *Matter of E I DuPont de Nemours and Company*, 45 N. L. R. B. 917; *Matter of E. I. DuPont de Nemours and Company*, 52 N. L. R. B. 1335; and *Matter of E. I. DuPont de Nemours and Company*, 54 N. L. R. B. 1543

⁴ The instrument man is not classified within this category of mechanics and is included in the appropriate unit

Laborers. The two laborers perform janitorial duties in the powerhouse. The Union argues that they properly belong in a unit for unskilled laborers.

No other labor organization has sought to represent the employees in any of these fringe groups. All of them are engaged under common supervision with the operators in the unit proposed by the Union in work incidental to the operation and maintenance of the Power Department. Inasmuch as the Union's parent body apparently possesses jurisdiction to represent and frequently does represent unskilled employees working in and about the powerhouses in industrial plants,⁵ and since the Union is willing to include in the unit other unskilled employees whom it designates as helpers, we find no reason to exclude the coal handlers and laborers. The tractor operators and maintenance mechanics stand on a different footing since they are apparently skilled mechanics engaged in specialized work which is not necessarily identified with powerhouse operation, and which is characteristic of other craft occupations. We shall exclude the tractor operators and mechanics, but include the laborers and coal handlers.

We find that all the Company's powerhouse employees at its Charlestown, Indiana, plant, including the sewage disposal operator, and the chief coal handling operators, but excluding the tractor operators, maintenance mechanics, 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.

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 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,

⁵ United States Department of Labor · *Handbook of American Trade Unions* (1936), p. 183. See *Matter of Allis-Chalmers Manufacturing Company*, 43 N. L. R. B. 600; *Matter of B. F. Sturtevant Company*, 44 N. L. R. B. 722; *Matter of Aluminum Forgings, Inc.*, 53 N. L. R. B. 1054; *Matter of Dodge Chicago Plant, Division of Chrysler Corp.*, 55 N. L. R. B. 634; *Matter of Lever Brothers Company*, 57 N. L. R. B. 139; and *Matter of American Tobacco Company, Inc.*, Case No. 9-R-4576, issued December 12, 1944.

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 E. I. DuPont de Nemours & Company, Indiana Ordnance Works, Charlestown, Indiana, 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 Ninth 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 International Brotherhood of Firemen & Oilers, Local #320, A. F. of L., for the purposes of collective bargaining.