

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

Case No. 6-R-1037.—Decided January 23, 1945

Mr. Donald W. Ebbert, of Pittsburgh, Pa., for the Company.

Messrs. John C. Danko and William Morton, of Pittsburgh, Pa.,
for the C. I. O.

Messrs. J. G. Meiner and Walter Lynch, of Cleveland, Ohio, for the
International Die Sinkers' Conference.

Miss Virginia A. Miller, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by the United Steelworkers of America, affiliated with the Congress of Industrial Organizations, herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of The Duff-Norton Manufacturing Company, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Jerome L. Black, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on November 28, 1944. At the commencement of the hearing the Trial Examiner granted a motion of Pittsburgh Die Sinkers Lodge 50, of the International Die Sinkers' Conference, herein called the Die Sinkers, to intervene. The Company, the C. I. O., and the Die Sinkers 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. During the course of the hearing counsel for the Die Sinkers moved to dismiss the petition. The Trial Examiner reserved ruling. The 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 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

The 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, and special devices. During the year preceding the date of the hearing, the Company purchased materials valued in excess of \$1,000,000, about 65 percent of which was shipped to it from points outside the Commonwealth of Pennsylvania. During the same period, the Company manufactured products at its Pittsburgh plant valued in excess of \$1,000,000, about 85 percent of which was shipped to points outside the Commonwealth of Pennsylvania.

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

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization, admitting to membership employees of the Company.

Pittsburgh Die Sinkers Lodge 50, of the International Die Sinkers' Conference, is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated September 20, 1943, the C. I. O. requested the Company to recognize it as the exclusive bargaining representative of certain of the Company's employees. The Company has refused this request until a representative has been certified by the Board in an appropriate unit.¹

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. represents a substantial number of employees in the unit hereinafter found appropriate.²

¹ On November 20, 1943, the Company and the Die Sinkers entered into an exclusive bargaining contract. The contract provides that it shall remain in effect until November 20, 1944, and from year to year thereafter unless either party thereto notifies the other of a desire to terminate not less than 30 days prior to any annual expiration date. Neither the Company nor the Die Sinkers urges this contract as a bar to the instant proceeding.

² The Field Examiner report that the C. I. O. submitted 9 membership-application cards; that the names of all persons appearing on the cards were listed on the Company's pay roll of October 1, 1944, which contained the names of 11 employees in the appropriate unit, that 8 of the cards were dated in August 1944 and 1 card was not dated. The Die Sinkers relies upon its contract as evidence of its interest in the instant proceeding. There are now 12 employees, an additional 1 having been employed since October 1, 1944, in the alleged appropriate unit.

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 C. I. O. seeks a unit comprised of all employees working on dies or parts of dies used in the manufacture and completion of forgings, but excluding supervisory employees within the meaning of the Board's customary definition. The C. I. O. which presently represents the production and maintenance employees of the Company,³ further requests that, in the event it is selected as the representative of the alleged appropriate unit, the unit be incorporated into the production and maintenance unit. The Die Sinkers agrees as to the appropriateness of the unit requested but opposes the proposed consolidation of units. The Company takes no position with reference to the unit.

On April 12, 1943, the Board directed an election among company employees working on dies or parts of dies.⁴ The Die Sinkers was the petitioner, and the Board found that the unit was equally appropriate either as a separate unit or as a part of the industrial unit then in existence. The Die Sinkers won the election and was certified as the bargaining agent of these employees in a separate unit. Subsequently, the Die Sinkers and the Company have conducted collective bargaining relations under a contract expiring November 20, 1944, covering these employees as a single unit.

In view of our prior unit finding, which to a large extent was determined by the desires of the employees themselves, and the history of collective bargaining which was predicated upon it, we are of the opinion that the unit requested should retain its separate identity.⁵

We find all employees of the Company working on dies or parts of dies, but excluding any 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-

³ *Matter of Duff Norton Manufacturing Co*, 53 N. L. R. B. 1064.

⁴ *Matter of Duff-Norton Manufacturing Co*, 48 N. L. R. B. 1148.

⁵ *Matter of Dain Manufacturing Company*, 52 N. L. R. B. 1034. *Matter of Allis-Chalmers Mfg. Co.*, 47 N. L. R. B. 85.

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 The 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 the 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,⁶ but excluding those employees 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 United Steelworkers of America, affiliated with the Congress of Industrial Organizations, or by Pittsburgh Die Sinkers Lodge 50, of the International Die Sinkers Conference, for the purposes of collective bargaining, or by neither.

⁶ The Die Sinkers requested that a former employee of the Company now serving with the armed forces be mailed a ballot. The request is hereby denied in accordance with the customary policy of the Board, that as indicated above, employees in the armed forces are eligible only if they present themselves in person at the polls.