

In the Matter of AUBURN BUTTON WORKS, INCORPORATED and FEDERAL  
LABOR UNION LOCAL #20538, A. F. OF L.

*Case No. 3-R-664.—Decided October 7, 1943*

*Fraser Brothers*, by *Mr. Henry S. Fraser*, of Syracuse, N. Y., for  
the Company.

*Mr. John J. Walsh*, of Utica, N. Y., for the Union.

*Mr. Joseph E. Gubbins*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Federal Labor Union, Local #20538, affiliated with the A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Auburn Button Works, Incorporated, Auburn, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Auburn, New York, on September 16, 1943. The Company and Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues. The Company moved for dismissal of the proceeding on the ground that the Union failed to establish that a question concerning representation had arisen. The motion is hereby denied for reasons appearing hereinafter. 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

Auburn Button Works, Incorporated, a New York corporation, is engaged at Auburn, New York, in the manufacture of Pyroxylin  
52 N. L. R. B., No. 208.

sheets and rods. During the year 1942, the Company used at its Auburn, New York, plant raw materials valued at approximately \$300,000, approximately 67 percent of which was shipped from points outside the State of New York. During the same period, the Company manufactured at its Auburn, New York, plant finished products valued at approximately \$1,200,000, of which approximately 34 percent was shipped to points outside the State of New York. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

Federal Labor Union, Local #20538, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

Since 1937, the parties have entered into a series of 1-year contracts, the last of which terminated on July 15, 1943. On August 16, 1943, after some preliminary negotiations between the parties for the purpose of formulating a new agreement, the Company notified the Union that it doubted whether or not the Union represented a majority of its employees and that the Union would have to be certified by the Board before it would afford it further recognition.

The record indicates, and the Company admits, that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.

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 parties agree that all employees of the Company, excluding toolroom employees, office and clerical employees, timekeepers, draftsmen, engineering department employees, nurses, and all supervisory employees, should be included in the unit. There is a dispute, however, over guards, whom the Company would exclude and the Union would include. Since the record reveals that the guards are under the supervision of the military authorities and are engaged exclusively in plant-protection work, we shall, in accordance with our usual policy, exclude them from the unit.

We find that all employees of the Company, excluding guards, tool-room employees, office and clerical employees, timekeepers, draftsmen, engineering department employees, nurses, 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.<sup>1</sup>

#### 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, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Auburn Button Works, Incorporated, Auburn, New York, 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 Third 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, to determine whether or not they desire to be represented by Federal Labor Union, Local #20538, affiliated with the A. F. of L., for the purposes of collective bargaining.

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<sup>1</sup>This is substantially the same unit as was covered by the previous contracts.