

IN THE MATTER OF AUTO-LITE BATTERY CORPORATION, OWEN-DYNETO
DIVISION *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT
AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, CIO

Case No. 3-R-1111.—Decided February 28, 1946

Mr. William D. Driscoll, of Toledo, Ohio, for the Company.
Messrs. Francis X. O'Mealia and Edward Gardino, of Syracuse,
N. Y., for the Union.
Mr. Benj. E. Cook, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Auto-Lite Battery Corporation, Owen-Dyneto Division, Syracuse, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Cyril W. O'Gorman, Trial Examiner. The hearing was held at Syracuse, New York, on December 11, 1945. 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 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

Auto-Lite Battery Corporation, Owen-Dyneto Division, a New York corporation, operates two plants at Syracuse, New York, where it manufactures automotive generators, windshield wipers, and small

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automotive electric equipment. During the past 12 months, its purchases of raw materials were valued in excess of \$1,000,000, 50 percent of which was obtained from points outside the State of New York. During the same period of time, the Company's finished products were valued in excess of \$1,500,000, of which 50 percent was shipped to points outside the State.

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

II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft and Agricultural Implement Workers 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

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

A statement of a Board agent, 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 all guards, including sergeants, employed at the Company's Syracuse plants. The Company alleges that a unit of guards is inappropriate, contending that they are identified with management and are not employees within the meaning of the Act. The Company further urges that if the foregoing unit is found appropriate, sergeants should be excluded because of their supervisory status.

The Company's guards are neither militarized nor deputized. Their duties, in the main, are confined to maintaining order and identifying those seeking entrance to company property. The ordi-

¹ The Field Examiner reported that the Union submitted 10 cards, bearing the names of employees listed on the Company's pay roll

There are approximately 10 employees in the appropriate unit.

nary guards are not concerned with the formulation of company policy; they do not represent management in the processing of grievances, and while they are authorized to give orders for the purpose of fulfilling their duties, they have no authority to discharge or discipline employees, or otherwise exercise supervisory or managerial functions as the Board customarily defines those terms. We find, contrary to the Company's contention, that the guards involved herein are employees within the meaning of the Act.²

Sergeants: The record reveals that the sergeants participate in conferences formulating company policy affecting guards; they can change the hours of a guard without consulting the plant manager, to whom the sergeants are directly responsible, and it is their duty and responsibility to make recommendations affecting the status of guards. In view of the foregoing, we are of the opinion that sergeants are supervisory employees within the Board's customary definition; we shall exclude them from the unit.

We find that all guards employed at the Company's Syracuse plants, but excluding sergeants and all 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.

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 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Auto-Lite Battery Corporation, Owen-Dyneto Division, Syracuse, New York, an

² See *Matter of Bethlehem Steel Company*, 64 N. L. R. B. 1292, and cases cited therein.

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 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 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 or not they desire to be represented by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.