

IN the Matter of ALLEN B. DUMONT LABORATORIES, INC., EMPLOYER  
and AMALGAMATED LOCAL 669, UNITED AUTOMOBILE, AIRCRAFT AND  
AGRICULTURAL IMPLEMENT WORKERS, C. I. O., PETITIONER

*Case No. 2-R-7752.—Decided April 15, 1948*

*Conrad & Smith*, by *Mr. Jacob I. Smith*, of New York City, for the Employer.

*Rothbard, Harris & Oaxfeld*, by *Mr. Samuel L. Rothbard*, of New York City, for the Petitioner.

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Passaic, New Jersey, on January 5 and 6, 1948, before Robert Silagi, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>1</sup>

Upon the entire record in the case, the National Labor Relations Board<sup>2</sup> makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Allen B. Dumont Laboratories, Inc., a Delaware corporation with various plants at Passaic, Clifton, and Paterson, New Jersey, is engaged in the manufacture of television sets, electronic instruments, and associated products. During the past year, the Employer purchased, for use at its New Jersey plants, raw materials valued in excess of \$1,000,000, of which about 50 percent was received from points

<sup>1</sup> At the hearing, the Employer moved to dismiss the petition on the ground (1) that the Petitioner failed to show that it represents a substantial number of employees in the alleged appropriate unit because the authorization cards which it submitted are dated more than 8 months prior to the hearing and (2) that, in any event, some of these cards run to the International. We have frequently declared that the question of whether the Petitioner has made a *prima facie* showing of interest is an administrative matter and is therefore not subject to direct or collective attack by any of the parties to the proceeding. We find no merit in the motion to dismiss and, accordingly, it is hereby denied. See: *Matter of American National Bank and Trust Company of Chicago*, 71 N L R B. 503; *Matter of Duph-Color Products Co, Inc.*, 65 N. L R B 1435; *Matter of Baker & Company, Inc.*, 65 N L R B 646

<sup>2</sup> Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members [Chairman Herzog and Members Houston and Reynolds.]

outside the State of New Jersey. During the same period, the Employer produced at these plants finished products valued at more than \$1,000,000, approximately two-thirds of which was shipped to points outside the State of New Jersey.

The Employer admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED<sup>3</sup>

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

International Association of Machinists, herein called the IAM, is a labor organization claiming to represent employees of the Employer.

International Brotherhood of Electrical Workers, herein called the IBEW, is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

## III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

We find that a question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

## IV. THE APPROPRIATE UNIT

The parties agreed at the hearing that the appropriate unit should consist of all production and maintenance employees at the Employer's New Jersey plants,<sup>4</sup> excluding professionals, office, clerical, and confidential employees, guards, and supervisors as defined by the Act. The sole issue concerns the disposition to be made of the watchmen.

<sup>3</sup> International Association of Machinists, herein called the IAM, and International Brotherhood of Electrical Workers, A F of L, herein called the IBEW, were not served with notice and did not appear at the hearing. After the hearing, the IAM and the IBEW each moved to intervene in this proceeding for the purpose of having their names placed on the ballot in any election hereinafter ordered. In support of their motions, the IAM and the IBEW each submitted certain authorization cards purporting to bear the names of employees in the unit herein found appropriate. Inasmuch as some of the cards submitted by each intervening union were secured before the date of the hearing on the instant petition and the motions were not otherwise untimely, the motions of the IAM and the IBEW to intervene are hereby granted. See: *Matter of Robert Gair Company, Inc.*, 65 N L R B. 267; *Matter of The United Boat Service Corporation*, 55 N. L. R. B. 671.

<sup>4</sup> At the hearing the Petitioner moved, without objection from the Employer, to clarify the locations of the plants covered by the petition and amended its petition to read "all production and maintenance employees at all manufacturing plants of the Employer in the State of New Jersey including plants located at 1 Main Avenue, Passaic, 252 South Parkway, Clifton, 42 Harding Avenue, Clifton, 245 Crooks Avenue, Paterson, and 267 Rutherford Boulevard, Clifton"

The parties took no position regarding the inclusion or exclusion of the watchmen. The Employer has in its employ 20 watchmen working on 3 shifts. Watchmen on duty during the first or day shift are stationed at gates and doorways to receive and register visitors, to distribute badges to them for their use while in the plant, and to direct them to the parties whom they desire to see. In addition, watchmen guard against the unauthorized removal of the Employer's property by examining and checking all outgoing packages. Besides performing the normal duties of a day watchman, the watchmen on duty during the second and third shifts patrol the plant premises and punch time clocks located at different stations throughout the plant. Because the watchmen perform plant-protection duties, we shall exclude them from the unit.<sup>5</sup>

We find that all production and maintenance employees at the Employer's New Jersey plants, excluding professionals, office, clerical, and confidential employees, guards, watchmen, and supervisors, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

#### DIRECTION OF ELECTION <sup>6</sup>

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Allen B. Dumont Laboratories, Inc., Passaic, New Jersey, 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 Second Region, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, 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, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether they desire to be represented by Amalgamated Local 669, United Automobile, Aircraft and Agricultural Implement Workers, C. I. O., or by International Association of Machinists, or by International Brotherhood of Electrical Workers, A. F. of L., for the purpose of collective bargaining, or by none of these organizations.

<sup>5</sup> See *Matter of C. V. Hill & Company, Inc.*, 76 N. L. R. B. 158.

<sup>6</sup> Any participant in the election herein may, upon its prompt request to, and approval thereof by, the Regional Director, have its name removed from the ballot.