

IN the Matter of CHARLES J. GISLER AND RUTH M. GISLER d/b/a C. AND G. FOUNDRY AND PATTERN WORKS *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (U. A. W.-C. I. O.)

Case No. 9-R-1610.—Decided December 9, 1944

Barnes, Hickam, Pantzer and Boyd, by *Mr. George Rose*, Indianapolis, Ind., for the Company.

Messrs. Leon E. Bates and Russell J. Merrill, of Indianapolis, Ind., for the U. A. W.-C. I. O.

Mr. Stephen A. Miller, of Indianapolis, Ind., and *Mr. Lester Campbell*, of Kalamazoo, Mich., for the Molders.

Mr. Erwin A. Peterson, 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, affiliated with the C. I. O., herein called the U. A. W.-C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Charles J. Gisler and Ruth M. Gisler d/b/a C. and G. Foundry and Pattern Works, Indianapolis, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William R. Cameron, Trial Examiner. Said hearing was held at Indianapolis, Indiana, on November 8, 1944. The Company, the U. A. W.-C. I. O., and International Molders and Foundry Workers Union, Local 56, A. F. of L., herein called Molders, 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.¹ The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were af-

¹ The Pattern Makers' League of North America, affiliated with the A. F. of L., was also served with notice but did not enter appearance at the hearing.

forded an opportunity to file briefs with the Board. At the hearing, the Company moved to dismiss the petition herein. This motion was referred to the Board. For reasons hereinafter appearing, the motion is denied.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Charles J. Gisler and Ruth M. Gisler are copartners doing business as the C. and G. Foundry and Pattern Works. Their principal office and place of business is in Indianapolis, Indiana, where they are engaged in the manufacture, sale, and distribution of wood and metal patterns, and of brass, bronze, aluminum, light and heavy gray iron castings. During 1943, the Company purchased raw materials consisting principally of pig iron, scrap iron, copper, aluminum, and mahogany, amounting in value to more than \$100,000, of which 50 percent was purchased from sources outside the State of Indiana. The Company manufactures annually finished products valued in excess of \$1,000,000, of which approximately 2 percent is sold to purchasers outside the State of Indiana and 50 percent is sold within the State to firms which are engaged in interstate commerce. The Company is engaged almost exclusively in production for war purposes.

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

II. THE ORGANIZATIONS INVOLVED

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

International Molders and Foundry Workers Union of North America, Local 56, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 8, 1944, the U. A. W.-C. I. O. notified the Company, by letter, that it had been designated by the majority of the Company's employees as their exclusive bargaining representative and requested a collective bargaining conference. The Company replied, by letter, that it had no knowledge of the fact of majority representation by the U. A. W.-C. I. O. and refused the request for a conference.

A statement of a Field Examiner, introduced into evidence at the hearing, indicates that the U. A. W.-C. I. O. and the Molders each represents a substantial number of employees in the unit hereinafter found appropriate.²

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 U. A. W.-C. I. O. and the Company contend that all production and maintenance employees of the Company at Indianapolis, Indiana, including watchmen but excluding all executives, superintendents, foremen, office and clerical employees, the merchant policemen,³ 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.

The Molders agrees generally to the unit above described but requests that pattern makers be excluded therefrom.

The Company's plant is composed of three main divisions, these being: an iron foundry, a brass and aluminum foundry, and a pattern shop. The iron foundry, which is located in a separate building, is the largest division, comprising more than 50 percent of the Company's plant. The pattern shop is located in the same building as the brass and aluminum foundry but is separated from the foundry by a partition. The Company also has a cleaning room which is a separate building. The pattern shop constitutes an integral part of the Company's operations and is under the same general supervision as the brass and aluminum foundry. The pattern makers involved perform the usual duties of their craft. The Molders, which seeks to exclude the pattern makers, has advanced no reason for their exclusion other than that they are within the jurisdiction of another craft union affiliated with the A. F. of L., but, as indicated above, the Pattern Mak-

² The Field Examiner reported that the U. A. W.-C. I. O. submitted 54 authorization cards, all of which bore apparently genuine original signatures, that the names of 43 persons appearing on the cards were listed on the Company's pay roll of October 16, 1944, which contained the names of 103 employees in the appropriate unit; and that of these bearing names appearing on the pay roll, 1 was dated in July, 41 in August, and 1 in September 1944. The Molders submitted 43 authorization cards, all of which bore apparently genuine original signatures, of which 38 bore names appearing on the above-mentioned pay roll. Of those bearing names appearing on the pay roll, 37 were dated in September 1944, and 1 was undated.

³ The Company pays \$1 per week to this individual who is also employed by a number of other companies as a traveling night watchman. The patrolling that he does is entirely on the outside of the Company's plant and is not closely supervised by anyone for the Company. None of the parties desires to include him in the appropriate unit. Inasmuch as he does not do a sufficient amount of work for the Company to possess interests in common with the Company's other employees, we shall therefore exclude him.

ers League of North America, though served with notice of this proceeding, asserts no interest in representing the employees in question. We shall therefore include the pattern makers in the unit hereinafter found appropriate.

We find that all production and maintenance employees, including watchmen, of Charles J. Gisler and Ruth M. Gisler, copartners doing business as C. and G. Foundry and Pattern Works, Indianapolis, Indiana, excluding all office and clerical employees, executives, the merchant policemen, superintendents, foremen, 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 the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁴

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 Charles J. Gisler and Ruth M. Gisler, d/b/a C. and G. Foundry and Pattern Works, Indianapolis, 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 Eleventh 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 payroll period immediately preceding the date of this Direction, including employees who did not work during said

⁴ The U. A. W.-C. I. O. requested that it be designated on the ballot as U. A. W.-C. I. O., and the Molders requested that it be designated on the ballot as I. M. U.-A. F. L. The requests are hereby granted.

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 they desire to be represented by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., or by International Molders and Foundry Workers Union of North America, Local 56, A. F. of L., for the purposes of collective bargaining, or by neither.