

In the Matter of COOPER-BESSEMER CORPORATION, GROVE CITY PLANT
and PATTERN MAKERS LEAGUE OF NORTH AMERICA, A. F. L.

In the Matter of COOPER-BESSEMER CORPORATION, GROVE CITY PLANT
and INTERNATIONAL BROTHERHOOD OF BLACKSMITHS, DROP FORGERS
AND HELPERS; INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORK-
ERS; INTERNATIONAL ASSOCIATION OF MACHINISTS; INTERNATIONAL
MOLDERS AND FOUNDRY WORKERS UNION OF NORTH AMERICA; UNITED
ASSOCIATION OF PLUMBERS AND STEAMFITTERS OF UNITED STATES AND
CANADA; SHEET METAL WORKERS INTERNATIONAL ASSOCIATION; AND
INTERNATIONAL BROTHERHOOD OF CARPENTERS AND JOINERS, ALL
AFFILIATED WITH THE A. F. L.

*Cases Nos. 6-R-1151 and 6-R-1152, respectively.—Decided
July 26, 1945*

Messrs. John N. Wherry and Carl H. Vaupael, of Grove City, Pa., for
the Company.

Mr. E. W. Patterson of Cleveland, Ohio, for International Brotherhood
of Blacksmiths, Drop Forgers and Helpers.

Mr. George H. Poulson, of Erie, Pa., for International Brotherhood of
Electrical Workers.

Mr. A. G. Skundor, of Pittsburgh, Pa., and *Mr. James J. Dennis*, of
New Castle, Pa. for International Association of Machinists

Messrs. William H. Schell and J. H. Langley, of Cleveland, Ohio, for
International Molders and Foundry Workers Union of North America.

Mr. J. T. Garvey, of Pittsburgh, Pa., for Sheet Metal Workers Inter-
national Association.

Mr. A. B. Keefer, of Grove City, Pa., for the International Brotherhood
of Carpenters and Joiners.

Mr. C. D. Madigan, of Cleveland, Ohio, and *Mr. Paul A. Gareis*, of
Pittsburgh, Pa., for the Pattern Makers.

Mr. James P. McWeeny, of Cleveland, Ohio, for the A. F. L.

Mr. John J. Brownlee, of Pittsburgh, Pa., and *Mr. Ben Phillips*, of
Grove City, Pa., for the C. I. O.

Mr. Harry Nathanson, of counsel to the Board¹

¹ No representative of the United Association of Plumbers and Steamfitters of United States and
Canada appeared at the hearing

DECISION

DIRECTION OF ELECTION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by Pattern Makers League of North America, A. F. L., herein called the Pattern Makers, and one duly filed by International Brotherhood of Blacksmiths, Drop Forgers and Helpers; International Brotherhood of Electrical Workers; International Association of Machinists; International Molders and Foundry Workers Union of North America; United Association of Plumbers and Steamfitters of United States and Canada; Sheet Metal Workers International Association; and International Brotherhood of Carpenters and Joiners, all affiliated with the A. F. L. and herein collectively called the A. F. L., each alleging that a question affecting commerce had arisen concerning the representation of employees of Cooper-Bessemer Corporation, Grove City Plant, Grove City, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before W. G. Stuart Sherman, Trial Examiner. Said hearing was held at Mercer, Pennsylvania, on June 6, 1945. The Company, the Pattern Makers, the A. F. L., and United Steelworkers of America, C. I. O., herein called the C. I. O., 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. At the hearing the C. I. O. moved to dismiss the Pattern Makers' petition and the Trial Examiner referred the motion to the Board for determination. For reasons set forth in Section IV, *infra*, the motion is granted. 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. Subsequent to the hearing the C. I. O. moved to reopen the record for the purpose of presenting additional evidence and argument concerning certain of the issues raised in these proceedings. Objection to the granting of the motion was made by the Pattern Makers and the A. F. L. The C. I. O.'s motion is denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Cooper-Bessemer Corporation, an Ohio corporation, operates plants at Grove City, Pennsylvania; and Mount Vernon, Ohio. We are here

concerned with the Grove City plant which is engaged in the production of diesel engines for the United States Navy and United States Army Transportation Corps. Annually the Company purchases for use at its Grove City plant approximately \$1,500,000 worth of raw materials, of which about 25 percent is bought outside the Commonwealth of Pennsylvania. The Grove City plant annually manufactures finished products valued in excess of \$25,000,000, all of which is shipped to points outside the Commonwealth of Pennsylvania.

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

II. THE ORGANIZATIONS INVOLVED

Pattern Makers League of North America; International Brotherhood of Blacksmiths, Drop Forgers and Helpers; International Brotherhood of Electrical Workers; International Association of Machinists; International Molders and Foundry Workers Union of North America; United Association of Plumbers and Steamfitters of United States and Canada; Sheet Metal Workers International Association; and International Brotherhood of Carpenters and Joiners, all affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

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

III. THE QUESTION CONCERNING REPRESENTATION

By letter dated March 20, 1945, the A. F. L. and the Pattern Makers requested the Company to recognize them as the exclusive bargaining representatives of certain of the Company's employees. In a reply dated March 29, 1945, the Company stated that it refused to recognize the A. F. L. and the Pattern Makers, "unless advised or directed" to do so by the Board.

The Company and the C. I. O. entered into a 1-year closed-shop collective bargaining agreement dated May 24, 1944, which provided, in part, as follows:

Section XIV—Termination Date

This Agreement is binding on the signatories hereto, and shall be in full force and effect until May 24, 1945, and thereafter shall continue in full force and effect unless terminated as follows:

(A) Thirty (30) days prior to the expiration date of this Agreement, or any time thereafter, either party may on thirty (30) days' written notice to the other party terminate this Agreement, whereupon the same shall be terminated after said thirty (30) days. . . .

By Supplemental Agreement dated May 23, 1945, the Company and the C. I. O. continued the Agreement of May 24, 1944, "until final disposition of matters in dispute between the parties."

Since it is clear that the contract, as supplemented, has been in existence for more than 1 year and is now of indefinite duration, there is no bar to a present determination of representatives.²

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the A. F. L. represents a substantial number of employees in the unit hereinafter found appropriate.³

Insofar as the A. F. L.'s petition is concerned 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.

However, since we later find the unit sought by the Pattern Makers to be inappropriate, insofar as its petition is concerned we find that no 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 A. F. L. seeks a unit of all the Company's employees at its Grove City, Pennsylvania, plant, excluding foremen, assistant foremen, supervisors in charge of any classes of labor, watchmen, plant guards, salesmen, engineers, inventory checkers, office clerical employees, salaried employees, inspectors, pattern makers, and pattern makers' apprentices. The Pattern Makers requests a unit of all wood and metal pattern makers and pattern makers' apprentices. On the other hand, the C. I. O. desires a single unit including both groups sought by the A. F. L. and Pattern Makers. The Company takes no affirmative position with respect to the appropriate unit.

From 1937 to 1941, the C. I. O. and the Company were bound by collective agreements in which the former was recognized as the bargaining agent of its members only. On September 24, 1941, the C. I. O. filed a petition with the Board⁴ seeking a plant-wide unit, with certain exceptions,⁵ and

² See *Matter of Ionia Desk Company*, 59 N. L. R. B. 1522, and *Matter of Ball Brothers Company*, 54 N. L. R. B. 1512.

³ The Regional Director reported that the A. F. L. submitted 371 application for membership authorization cards bearing apparently genuine signatures, and that there were 1,899 employees in its alleged appropriate unit. He further reported that the Pattern Makers submitted 14 application for membership cards bearing apparently genuine signatures and that there were 25 employees in its alleged appropriate unit. The C. I. O. relies upon its 1944 closed-shop contract as evidence of its interest in the instant proceedings.

In view of the closed-shop provision in the C. I. O.'s 1944 contract, the A. F. L.'s showing is considered by us to be substantial. See *Matter of National Container Corporation*, 62 N. L. R. B. 48.

⁴ Case No. 6-R-353.

⁵ The C. I. O. sought to exclude "foremen, assistant foremen, or supervisors in charge of any classes of labor, watchmen, inspectors, sales, engineering, clerical, or any salaried employees."

on September 26, 1941, the Pattern Makers filed a petition⁶ requesting a unit of the Company's pattern makers and pattern makers' apprentices. Thereafter an "Agreement for Membership Application Cards vs. Company Pay Roll Check" dated January 27, 1942, was entered into between the C. I. O. and the Company to determine whether or not the C. I. O. represented a majority of the Company's employees in substantially the same unit it now seeks, except that the C. I. O. agreed to exclude pattern makers and pattern makers' apprentices only for the purpose of permitting the Board to act upon the Pattern Makers' petition and determine whether or not these employees comprised a separate unit or were to be included with the other employees sought by the C. I. O. in a single unit. On January 28, 1942, a "cross-check" was conducted under the auspices of the Board, based upon the C. I. O.'s petition, with the result that it was designated by the Acting Regional Director as the collective bargaining representative of the employees it sought, excluding pattern makers and apprentices. On March 10, 1942, based upon the Pattern Makers' petition, an "Agreement for Consent Election" was entered into wherein it was agreed, in part, that an election by secret ballot was to be conducted among the pattern makers and the pattern makers' apprentices to determine whether they desired to be represented by the Pattern Makers, by the C. I. O., or by neither. It was further agreed that in the event the Pattern Makers received a majority of the valid votes cast, the Company was to recognize the Pattern Makers as the exclusive bargaining representative "of all employees in a unit consisting of pattern makers and pattern makers' apprentices," and that if the C. I. O. received a majority of the valid votes cast, the Company was to recognize the C. I. O. as the exclusive collective bargaining agent "of all its employees . . . including the pattern makers and pattern makers' apprentices." In accordance with this agreement an election by secret ballot was conducted on March 19, 1942, under Board auspices, and the C. I. O. received a majority of the valid votes cast.⁷

Since May 24, 1942, pursuant to the terms of the consent election agreement, the C. I. O. and the Company have executed collective bargaining contracts embracing substantially the same employees the C. I. O. now contends form an appropriate unit in which the C. I. O. has been recognized as sole bargaining agent.

From the foregoing facts it is plain that the Company's pattern makers and pattern makers' apprentices were given an opportunity to express their desires as to the type of unit in which they were to be represented. By

⁶ Case No. 6-R-335

⁷ The results of the election were as follows

Total on eligibility list	29
Total valid votes counted	29
Votes cast for the C. I. O.	16
Votes cast for the Pattern Makers	12.
Votes for neither	1

selecting the C. I. O. in 1942 they chose to be bargained for as part of a more comprehensive grouping. Ever since, the C. I. O. has bargained for all the Company's employees in a plant-wide unit. This unit, we conclude in the circumstances, is appropriate, and the unit sought by the Pattern Makers inappropriate, for the purposes of collective bargaining.⁸

We find, accordingly, that all the Company's employees at its Grove City, Pennsylvania, plant, including pattern makers and pattern makers' apprentices, but excluding watchmen, plant guards, salesmen, engineers, inventory checkers, office clerical employees, salaried employees, inspectors, foremen, assistant foremen, supervisors in charge of any classes of labor, 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 pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁹

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 Cooper-Bessemer Corporation, Grove City Plant, Grove City, 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

⁸ See *Matter of General Metals Corporation*, 59 N. L. R. B. 1252, and *Matter of York Corporation*, 61 N. L. R. B. 462.

⁹ We hereby grant the A. F. L.'s request to appear on the ballot as "Metal Trades Union, affiliated with the American Federation of Labor."

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 and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Metal Trades Union, affiliated with the American Federation of Labor, or by United Steelworkers of America, C. I. O., for the purposes of collective bargaining, or by neither.

ORDER

IT IS HEREBY ORDERED that the petition for investigation and certification of representatives of employees of Cooper-Bessemer Corporation, Grove City Plant, Grove City, Pennsylvania, filed herein by Pattern Makers League of North America, A. F. L. (Case No. 6-R-1151), be, and it hereby is, dismissed.

CHAIRMAN HERZOG took no part in the consideration of the above Decision, Direction of Election, and Order.