If, however, a majority of the employees in voting group (1) cast their ballots for the Union, they will be taken to have indicated their desire to constitute a part of the existing production and maintenance unit and will appropriately be included in the same unit with the employees in voting group (2) and their votes will be pooled with those of employees in voting group (2). If a majority of the employees in the pooled voting group vote for the Union, the Regional Director conducting the elections is instructed to issue a certification of representatives to the Union for a production and maintenance unit comprising such pooled group, which the Board, under such circumstances, finds to be a single unit appropriate for purposes of collective bargaining. However, if a majority of employees in the pooled group vote against the Union, the Regional Director will issue a certificate of results of elections to that effect.

[Text of Direction of Elections omitted from publication.]

MEMBER MURDOCK took no part in the consideration of the above Supplemental Decision and Direction of Elections Amending Decision and Direction of Election.

Bay City Division, The Dow Chemical Company *and* Arthur B. Stothard, Petitioner *and* International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, AFL–CIO and its Local 804

Bay City Division, The Dow Chemical Company *and* Pattern Makers League of North America, AFL–CIO, Pattern Makers Association of Saginaw and Vicinity, Petitioner. *Cases Nos. 7–RD–219 and 7–RC–3209. November 16, 1956*

DECISION, ORDER, AND DIRECTION OF ELECTION

Upon separate petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before Myron K. Scott, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.

2. The labor organizations involved claim to represent certain employees of the Employer.[1]

[1] The Petitioner in Case No. 7–RD–219, an employee of the Employer, asserts that International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, AFL–CIO, and its Local 804, hereinafter called the Intervenor, is no longer the bargaining representative, as defined in Section 9 (a) of the Act, of the Employer's employees involved herein. The Intervenor is a labor organization which has represented the employees involved since 1941.

3. The Intervenor contends that the petition filed in Case No. 7–RD–219 should be dismissed for the reason that the Petitioner, Arthur B. Stothard, is in fact acting as a "front" for the United Mine Workers of America, District 50, hereinafter referred to as the UMW, a labor organization not in compliance with the filing requirements of the Act. The Petitioner opposes the motion and denies the allegations which form the basis thereof. For the reasons hereinafter set forth, we find merit in this contention of the Intervenor.

Uncontroverted evidence presented at the hearing discloses that during April, May, and June, 1956, Stothard, and certain other employees in the unit, solicited and obtained signatures on UMW membership application and authorization cards from fellow employees in the unit. One employee, when approached by a fellow employee for this purpose, asked several questions relating to the type of local they would have and whether they would be represented by the UMW; he was told to attend a meeting on April 30, 1956, to obtain the answers. He attended this meeting held by District 50, UMW, chaired by Mr. Penney, an official of the Midland Local [2] of District 50, UMW, and conducted by Mr. Harry Reinfelder, Director, Region 63, District 50, UMW, as a representative of UMW. Of the 40 or 50 persons attending this meeting, 75 percent were recognized by the witness as employees in the unit at the Bay City plant of the Employer. Upon questioning from such employees, Mr. Reinfelder responded that it was not definite that the Bay City group would become a part of the Midland Local because this would depend upon whether Midland wanted them; if Midland did not want them they would probably be their own separate local; and that they would probably still bargain with the same people at Bay City. When asked how long it would take to get the National Labor Relations Board to set a date to decertify the Union and how long it would be after the UAW was decertified that the UMW would come in and represent the employees, Mr. Reinfelder responded that it would be a "short period" but would not indicate whether this would mean 6 days, 6 months, or 2 months.

At this meeting the group was urged by Mr. Penney to get in the authorization cards. Stothard was present at the meeting and he among others was observed handing over some material to Mr. Penney. Stothard admitted attending a number of UMW meetings and further testified that he held some meetings at his home which were attended by UMW officials who were there just to see what the meetings were about. He further admitted that he signed a UMW membership application card before he filed the decertification petition. Other testi-

[2] Midland is the home plant of Dow Chemical about 21 miles from its Bay City plant. The employees there are represented by the UMW.

mony discloses that Petitioner Stothard participated prominently in the UMW organizational drive.

By letter dated May 11, 1956, over the signature of Reinfelder, the UMW demanded recognition as bargaining representative of the employees involved herein. The Employer declined recognition by letter dated May 15, 1956, and thereafter envelopes bearing a UMW return address and postmarked May 16, 1956, were received by employees. These envelopes contained three items: (1) a printed envelope addressed to the UMW and bearing a prepaid postage seal; (2) a slip of paper with the following legend duplicated thereon:

> I, the undersigned employee of the Bay City Division of the Dow Chemical Company, Bay City, Michigan, and employed in the unit now bargained for by Local 804, United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the A. F. L.–C. I. O., hereby petition the National Labor Relations Board to conduct a decertification election in the unit now represented by the above named union.
>
> ---------- ----------, 1956.
> (Name) (Date)

hereinafter referred to as the "interest form"; and (3) another slip of paper duplicated in the same manner on which the following instruction was given:

> The enclosed petition should be signed and mailed without delay. This should serve to help bring about a settlement in the matter of union affiliation.

Thereafter, Petitioner Stothard, while continuing to solicit membership in the UMW, admittedly obtained a supply of duplicated "interest forms" and personally distributed them among fellow employees. Stothard denied that he obtained the "interest forms" from the UMW; that he received any advice from the UMW relative to filing the RD petition; or, that he received any assistance from the UMW in the filing of the decertification petition. He testified that the "interest forms" which he distributed as well as the decertification petition complete with all typing and a penciled "X" in the place of his signature was handed to him in the plant by a "friend." Stothard testified that the "friend" was neither Penney nor Reinfelder, but did not otherwise identify him. However, the record shows that Stothard had received and was aware that the identical forms used by him together with the other material referred to above had been mailed to other employees by the UMW.

A comparison of the showing-of-interest documents supporting the decertification petition and the "interest forms" distributed by the UMW discloses that they are identical not only in content but also as

to the paragraphing and spacing, thus indicating that they originated from a single master stencil. Moreover, these documents, as well as the decertification petition itself and the UMW's letter demanding recognition, contain a common typographical peculiarity. Thus, the letter "a" is slightly raised above the type line of adjoining letters and the letter "b" appears bent slightly to the right of its normal position in relation to other letters so that the "b" is very close to any letter immediately following it, and is removed more than the usual spacing from any letter immediately preceding it.

Under all the above circumstances, we are convinced that Petitioner, Stothard, was, in fact, acting on behalf of the representatives of District 50, United Mine Workers of America, a noncomplying labor organization, when he filed the decertification petition herein. Therefore, we shall grant the Intervenor's motion to dismiss the decertification petition filed in Case No. 7–RD–219.[3]

The Petitioner in Case No. 7–RC–3209, Pattern Makers League of North America, AFL–CIO, Pattern Makers Association of Saginaw and Vicinity, seeks to sever from the existing contract unit of production and maintenance employees at the Bay City Division of the Employer a craft unit consisting of all wood and metal patternmakers and apprentices. The Employer and the Intervenor contend that craft severance should not be permitted and the petition should be dismissed because of (1) a 15-year history of bargaining in the broader unit and (2) the integrated character of the magnesium industry, which is the type of operation at this plant of the Employer. It is asserted the magnesium industry possesses the same degree of integration as that characteristic of the aluminum industry in the progressive development starting with basic raw materials through the final product of magnesium alloy castings. While recognizing that these contentions are governed by the Board's decision in *American Potash & Chemical Corporation*,[4] not to extend further the practice of denying craft severance on an industry basis, the Employer and Intervenor argue that that ruling violates Section 9 (c) (2) of the Act in that it denies "equal protection before the law" and is "unreasonable, arbitrary, and discriminatory."

The Board has considered and finds no merit in these contentions. As the magnesium industry, in which the Employer is engaged at the plant involved herein, is clearly not one of the industries in which the practice of denying craft severance exists, we hereby deny the motion to dismiss the petition on this basis.[5]

[3] See *World Publishing Company*, 109 NLRB 355; *Bernson Silk Mills*, 106 NLRB 826; *Hammermill Paper Company, Inc.*, 105 NLRB 194; *Knife River Coal Mining Company*, 91 NLRB 176. Cf. *National Aniline Division, Allied Chemical Dye Corporation*, 115 NLRB 1134; *Seaporcel Metals, Inc.*, 115 NLRB 960; *The Anaconda Company*, 114 NLRB 530.

[4] 107 NLRB 1418.

[5] See *United States Smelting, Refining and Mining Company*, 116 NLRB 661.

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

4. The wood and metal patternmakers and apprentices are located in a separate building which contains, in addition to the pattern shop, a pattern storage area and a tool crib. The Petitioner does not seek to include the tool crib and pattern storage attendants. All of the patternmakers' work is performed in the pattern shop except for a small percentage of pattern maintenance work which is done in the foundry. There are 6 wood and 7 metal journeymen patternmakers and 2 apprentices. The Employer not only has a program of apprentice training in the pattern shop but also sponsors a training course—through the International Correspondence School—and classes on company time and property.

In view of the foregoing, and the record as a whole, we find that the wood and metal patternmakers are craftsmen and that the Petitioner is a union which traditionally and historically represents such craftsmen. Accordingly, we find that the following employees at the Employer's Bay City Division, Bay City, Michigan, may constitute a separate craft unit which is appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act:[6] All wood and metal patternmakers and their apprentices, excluding pattern storage and tool crib attendants, all other employees, guards, and all supervisors as defined in the Act. However, in determining the appropriate unit for the patternmakers, we shall be guided in part by the desires of these employees as expressed in the election hereinafter directed. If a majority vote for the Petitioner, they will be taken to have indicated their desire to constitute a separate appropriate unit, and the Regional Director conducting the election directed herein is instructed to issue a certification of representatives to the Petitioner for the unit described immediately above, which the Board, under such circumstances, finds to be appropriate for purposes of collective bargaining. In the event a majority vote for the Intervenor, the Board finds them appropriately a part of the Intervenor's unit and the Regional Director will issue a certificate of results of election.

[The Board dismissed the petition in Case No. 7–RD–219.]

[Text of Direction of Election omitted from publication.]

[6] *Southern States Equipment Corporation*, 113 NLRB 537; *General Motors Corporation, Fisher Body Division*, 113 NLRB 876; *Traylor Engineering & Manufacturing Company*, 110 NLRB 334.