

In the Matter of GREAT LAKES ENGINEERING WORKS and DETROIT
METAL TRADES COUNCIL

Case No. R-231.—Decided October 15, 1937

Shipbuilding Industry—Investigation of Representatives: controversy concerning representation of employees: rival organizations; refusal by employer to recognize either of rival organizations as exclusive representative of unit desired by each; controversy between rival organizations as to appropriate unit—*Units Appropriate for Collective Bargaining:* crafts—machinists; plumbers, pipe-fitters, and steam-fitters; electricians—established labor organizations in plant; history of collective bargaining relations in plant; organization of business; community of interest; eligibility for membership in various craft unions; some crafts cannot be combined in a single unit to the exclusion of others without a showing of some special bond between those combined; unions chosen as representatives of separate crafts may choose a common agent to represent them—*Representatives:* proof of choice: membership in union—*Certification of Representatives:* in two craft units upon proof of majority representation—*Election Ordered*

Mr. George S. Bott and *Mr. Harold V. Cranefield* for the Board.
Hill, Hamblen, Essery, and Lewis, by *Mr. J. K. Worley*, of Detroit, Mich., for the Company.

Mr. William S. McDowell, of Detroit, Mich., for the Down River Shipbuilders' Association.

Mr. Paul S. Kuelthau, of counsel to the Board.

DECISION

CERTIFICATION OF REPRESENTATIVES

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On June 19, 1937, the Detroit Metal Trades Council, chartered by the Metal Trades Department of the American Federation of Labor, filed a petition with the Regional Director for the Seventh Region (Detroit, Michigan) alleging that a question affecting commerce had arisen concerning the representation of employees of Great Lakes Engineering Works,¹ River Rouge, Michigan, herein called the Company, and requesting the National Labor Relations

¹ Incorrectly called the Great Lakes Engineering Corporation in the petition and complaint.

Board, herein called the Board, to conduct an investigation pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On June 24, 1937, the Board, acting pursuant to Section 9 (c) of the Act, and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director to conduct an investigation and provide for an appropriate hearing.

Pursuant to notices of hearing, copies of which were duly served upon the Company, the Down River Shipbuilders' Association, herein called the Association, a labor organization named in the petition as claiming to represent the Company's employees, and the Detroit Metal Trades Council, herein called the Council, a hearing was held in Detroit, Michigan, on July 26 and 27, 1937, before Alvin J. Rockwell, the Trial Examiner duly designated by the Board. The Board, the Company, and the Association were represented by counsel. All participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all the parties. Objections to the introduction of evidence were made during the course of the hearing by counsel for the parties and for the Board. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

FINDINGS OF FACT

I. THE COMPANY AND ITS BUSINESS

Great Lakes Engineering Works is a corporation, organized in 1920 under the laws of Michigan, with its principal office and place of business at River Rouge, Michigan. Its establishment at River Rouge consists of an extensive shipbuilding plant and three drydock slips, occupying 106 acres with 1,680 feet of frontage on the Detroit River. The Company also maintains a shipbuilding plant and drydocks at Ashtabula, Ohio, and a machine shop in Detroit, Michigan. It is engaged in building and repairing vessels, largely of the type used in commerce on the Great Lakes. The River Rouge plant employs approximately 650 people.

The Company is the second largest shipbuilder and repairer on the Great Lakes. In 1936 its gross business amounted to \$1,750,000. At the time of the hearing the Company was building two freighters for the Pittsburgh Steamship Company at its River Rouge Plant. The gross carrying capacity of each of these freighters will be 12,000 gross tons; their contract price, \$1,500,000 each. These ships are to be used on the Great Lakes, plying between Conneaut, Ohio; Duluth,

Minnesota; and Chicago, Illinois. During 1936, 60 to 65 vessels were drydocked at the River Rouge plant for repairs. These ships were all actively engaged in Great Lakes trade. At the time of the hearing the Company was engaged in repairing a vessel which had been sold to a Chinese mining syndicate and was destined for service in Chinese waters.

In building new vessels the Company uses steel, cement, wood, copper, and brass. The steel comes from either Chicago or Pittsburgh² in the form of angles, channel, and flat plates. None of this material can be used in the form in which it is received, but must be prepared in the machine shop at River Rouge before it can be put in place on a ship.

The lumber used comes either raw or finished. Copper is bought fabricated, either as pipe, bar, or rod copper. No virgin copper is used by the Company. The Company makes reciprocating steam engines in its River Rouge plant, but any other type of engine is purchased from some other concern and installed on the vessel by the Company. Any electrical equipment needed is assembled by the Company from parts purchased by it from the manufacturers.

II. THE ORGANIZATIONS INVOLVED

A. *The Detroit Metal Trades Council*

The Detroit Metal Trades Council is a labor organization made up of unions affiliated with the American Federation of Labor in the metal trades in Detroit. It was chartered by the Metal Trades Department of the American Federation of Labor on June 19, 1933. The local unions which are members of the Detroit Metal Trades Council and which have members in the Company's River Rouge plant are:

(a) Local No. 636 of the United Association of Journeymen Plumbers and Steamfitters of the United States and Canada, a labor organization affiliated with the American Federation of Labor, which admits to membership workmen in the pipe fitting industry in Detroit and vicinity;

(b) Local No. 1292 of the International Association of Machinists, a labor organization affiliated with the American Federation of Labor, which admits to membership machinists, machinist helpers, machinist apprentices, and machine riggers in Detroit and vicinity;

(c) Local No. B-58 of the International Brotherhood of Electrical Workers, a labor organization affiliated with the American Federation of Labor, which admits to membership all inside electrical workers, including helpers, apprentices, and electric crane operators, in Detroit and vicinity.

² The source of the other raw materials is not disclosed in the record.

At a joint meeting of the above local unions on July 8, 1937, the Council was designated as the collective bargaining agent for all three. This is in accordance with the constitution and by-laws of the Metal Trades Department of the American Federation of Labor, by which the Council is governed.

B. The Down River Shipbuilders' Association

The Down River Shipbuilders' Association is a labor organization, incorporated as a non-profit corporation under the laws of Michigan, and admitting to membership all persons employed by the Company at its River Rouge plant on an hourly or piecework basis, except those employed in a supervisory capacity.

III. QUESTION CONCERNING REPRESENTATION

That a question concerning representation of certain crafts employed in the Company's River Rouge plant has arisen is clear.

The Council has advised the Company that it represents a majority of each of the three crafts involved here, and that it wishes to bargain as the exclusive representative of those crafts.

The Association represented to the Company that 434 of the approximately 650 employees of the Company at its River Rouge plant had, by membership in it, designated it as their bargaining agent. On the basis of this statement, the Association sought recognition as exclusive bargaining agent for all production employees of the Company at its River Rouge plant, exclusive of supervisory employees.

The Company refused to deal with either the Council or the Association as the exclusive representative of the unit desired by each, but did negotiate and come to agreements with each for its members, pending determination of the proper unit by the Board.

Because of the conflicting claims of the Association and the Council, we find that a question concerning the representation of the machinists, pipefitters, plumbers, steamfitters, electricians, electric crane operators, and their helpers and apprentices employed in the River Rouge plant of the Company has arisen.

IV. THE APPROPRIATE UNIT

The Association contends that all production employees at the Company's River Rouge plant, exclusive of supervisory employees, constitute a unit appropriate for the purposes of collective bargaining. This contention is supported by the fact that the cooperation of all crafts is necessary in building a ship. It is not a question of one craft finishing its work on a vessel and then another being called in, but rather it is necessary for all to work at the same time.

The Council, on the other hand, contends that the unit should consist of the machinists, machinists' helpers and apprentices, machine riggers, plumbers, plumbers' helpers and apprentices, pipefitters and steamfitters, their helpers and apprentices, electricians, their helpers and apprentices, and electric crane operators employed by the Company at its River Rouge plant. This unit comprises three crafts in which there have been organized separate craft unions which have designated the Council as joint bargaining agent. These unions made the joint designation in order to secure greater bargaining power in dealing with the Company on a semi-industrial basis. The three crafts, however, have no more in common with each other than with five or six other crafts in the Company's plant. The only bond between these three crafts which is not common to all of the more highly skilled crafts in the Company's plant is the membership of their unions in the Council. In the Company's River Rouge plant there are 18 or 20 different crafts, of which at least five or six are as highly skilled as those organized in unions affiliated with the Council and have the same basic minimum wage. Other crafts could be organized in craft unions eligible to membership in the Council. Its membership is not confined to the craft unions petitioning here.

The function of trade councils, such as the Council here, in collective bargaining has always been to act as the representatives of their member craft unions, and not as representatives of the individual members of those craft unions. They have never sought to take the place of the unions.

In the light of the above facts, it is clear that the unit requested by the Council is not the proper unit.

What history of collective bargaining there is in the Company's plant points toward the craft unit. The welders are organized in a craft union and have a working agreement with the Company.³ A majority of the machinists and of the plumbers have indicated their desire for the craft unit by joining their respective craft unions, as stated more fully below.

The individual crafts within the plant are well defined and separated. Each does a large proportion of its work in a physically separate department of the plant. The members of each craft have common interests and problems and are eligible for membership in the same craft union. Each craft works under a single foreman who has no other employees under him. The members of a craft are not shifted from one department to another.

³ On May 17, 1937, the Company signed an agreement with Local No. 31 of the Welders International Association, unaffiliated, representing the welders, burners, apprentices, and helpers at the River Rouge plant.

We consider the above fact more persuasive than the argument of the Association for an industrial unit, and we therefore find that the craft unit is appropriate here.

The machine riggers work in the same department as the machinists. They have common foremen and are eligible for membership in the same craft union. They should be included in the unit with the machinists.

The electric crane operators are electricians and work in the same department as the other electricians under the same foremen. They should be included in the same unit as the electricians.

No question concerning the representation of the employees outside of these three crafts in the Company's plant has been raised here. We do not now decide whether or not the remainder of the employees constitute a unit appropriate for the purposes of collective bargaining.

In order to insure to the employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of the Act, we find that the machinists, including machine riggers, helpers, and apprentices constitute an appropriate unit for the purposes of collective bargaining, that the plumbers, pipefitters, and steamfitters, their helpers and apprentices, constitute an appropriate unit for the purposes of collective bargaining, and that the electricians, including electric crane operators, helpers, and apprentices, constitute an appropriate unit for the purposes of collective bargaining.

Our finding in this respect is not to prevent these units from designating the same agent to bargain for all of them, nor is it to prevent the possibility of later expansion of the unit if a majority in that unit should wish to join with other employees in an industrial or semi-industrial unit.

V. THE EXCLUSIVE BARGAINING AGENCY

The July 17, 1937, pay roll of the Company showed 44 machinists, including machine riggers, helpers, and apprentices, employed by the Company, of whom 34 were identified at the hearing as members in good standing of Local No. 1292 of the International Association of Machinists by William H. Berridge, an officer of that local testifying with its records before him. By their membership, those men designated Local No. 1292 as their representative for the purposes of collective bargaining, and we will so certify.

A majority of the plumbers, pipefitters, and steamfitters, including helpers and apprentices, have also indicated their preference. Of the 20 persons employed in their department at the River Rouge plant of the Company, exclusive of foremen and assistant foremen,

as shown by the July 17, 1937, pay roll, 15 were identified at the hearing as members in good standing of Local No. 636 of the United Association of Journeymen Plumbers and Steamfitters of the United States and Canada by Robert Mullen, secretary and treasurer of Local No. 636, testifying with its records before him. By their membership, those men designated Local No. 636 as their representative for the purposes of collective bargaining and we will so certify.

The choice of the electricians, including electric crane operators, helpers, and apprentices, is not apparent from the record. It was agreed by the parties at the hearing that Local No. B-58 of the International Brotherhood of Electrical Workers had 28 members among the 68 in the unit on the July 17, 1937, pay roll of the Company, that the Association had 40 members, and that nine persons were members of both organizations. An election will, therefore, be necessary.

If the Association wins the election, we will certify it as the representative of all of the employees in the unit, but this certification is not to preclude the expansion of this unit to include other crafts in which the Association may have majority membership, since it is set up as an industrial union.

The certifications to be made herein will not prevent the Council from being designated by the individual craft unions as their joint representative to deal with the Company for the purposes of collective bargaining.

VI. THE EFFECT OF THE QUESTION OF REPRESENTATION ON COMMERCE

The only drydocks for the repair of ships in the immediate vicinity of Detroit are those maintained by the Company at its River Rouge plant.

The Company's operations are performed upon the instrumentalities of interstate and foreign commerce. The question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, commerce, and transportation among the several states and with foreign countries, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

VII. CONDUCT OF ELECTION

On July 17, 1937, there were 70 electricians on the Company's pay roll. This figure included two leaders or assistant foremen. It has been the policy of the Board⁴ not to include such employees in

⁴ *Matter of Lane Cotton Mills Co.*, Case No. R-222, decided August 24, 1937 (*supra*, p. 369); *Matter of United Press Associations*, Case No. R-206, decided August 20, 1937, (*supra*, p. 344).

the same unit with subordinate employees because their positions are supervisory. They will therefore not be permitted to vote in the election.

Immediately after July 17, 1937, 36 electricians were temporarily laid off because there was no work for them. The testimony of the Company's Director of Personnel was that these men would be reinstated as soon as more work became available. Their temporary lay-off is not to be regarded as terminating their employee status. Therefore we find that all electricians, including electric crane operators, helpers, and apprentices, but excluding foremen and assistant foremen, on the July 17, 1937, pay roll of the Company should be permitted to vote in the election.

The evidence also showed that one electrician was injured prior to July 17 and therefore was not on that pay roll. He was drawing compensation and will be reemployed by the Company upon his recovery. He should be permitted to register his preference in regard to the collective bargaining agent by casting his ballot in the election.

The ballot used in this election should be drawn so as to allow an employee who does not wish to be represented by either of the contending organizations to so vote.

CONCLUSIONS OF LAW

Upon the basis of the above findings of fact, the Board makes the following conclusions of law:

1. A question affecting commerce has arisen concerning the representation of employees of Great Lake Engineering Works in its River Rouge, Michigan, plant, within the meaning of Section 9 (c), and Section 2, subdivisions (6) and (7) of the Act.

2. The machinists, including machine riggers, helpers, and apprentices, but excluding foremen and assistant foremen, employed by the Company at its River Rouge, Michigan, plant, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

3. The plumbers, pipefitters, and steamfitters, including helpers and apprentices, but excluding foremen and assistant foremen, employed by the Company at its River Rouge, Michigan, plant, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

4. The electricians, including electric crane operators, helpers, and apprentices, but excluding foremen and assistant foremen, employed by the Company at its River Rouge, Michigan, plant, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

5. Local No. 1292 of the International Association of Machinists, having been selected for the purposes of collective bargaining by a majority of the machinists, including machine riggers, helpers, and apprentices, but excluding foremen and assistant foremen, is, by virtue of Section 9 (a) of the Act, the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

6. Local No. 636 of the United Association of Journeymen Plumbers and Steamfitters of the United States and Canada, having been selected for the purposes of collective bargaining by a majority of the plumbers, pipefitters, and steamfitters, including helpers and apprentices, but excluding foremen and assistant foremen, is, by virtue of Section 9 (a) of the Act, the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

CERTIFICATION OF REPRESENTATIVES

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, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that Local No. 1292 of the International Association of Machinists has been designated and selected by a majority of the machinists, including machine riggers, apprentices, and helpers, but excluding foremen and assistant foremen, employed by Great Lakes Engineering Works at its River Rouge, Michigan, plant, as the exclusive representative of all such employees for the purposes of collective bargaining in respect to wages, rates of pay, hours of work, and other conditions of employment;

IT IS HEREBY CERTIFIED that Local No. 636 of the United Association of Journeymen Plumbers and Steamfitters of the United States and Canada has been designated and selected by a majority of the pipefitters, plumbers, and steamfitters, including their apprentices and helpers, but excluding foremen and assistant foremen, employed by Great Lakes Engineering Works at its River Rouge, Michigan, plant, as the exclusive representative of all such employees for the purposes of collective bargaining in respect to wages, rates of pay, hours of work, and other conditions of employment.

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 Rela-

tions Act, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Great Lakes Engineering Works, an election by secret ballot shall be conducted within ten (10) days from the date of this Direction, under the direction and supervision of the Regional Director for the Seventh Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9 of said Rules and Regulations—Series 1, as amended, among the electricians, including electric crane operators and apprentices and helpers, but excluding foremen and assistant foremen, employed by Great Lakes Engineering Works in its River Rouge, Michigan, plant, at any time during the period covered by its July 17, 1937, pay roll and including one employee who was injured and drawing compensation at that time, but excluding those who have since quit or been discharged for cause, to determine whether they desire to be represented by Local No. B-58 of the International Brotherhood of Electrical Workers affiliated with the American Federation of Labor or by the Down River Shipbuilders Association, for the purposes of collective bargaining, or by neither.