

In the Matter of WATERBURY MANUFACTURING COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS, LOCAL 1335

Case No. R-328.—Decided February 14, 1938

Metal Products Manufacturing Industry—Investigation of Representatives: controversy concerning representation of employees: rival organizations; controversy concerning appropriate unit; refusal by employer to bargain with petitioning union until question of appropriate unit is determined—*Unit Appropriate for Collective Bargaining:* craft; skilled; desires of men; occupational differences—*Representatives:* proof of choice: signed authorizations; comparison of pay roll with union list—*Certification of Representatives:* upon proof of majority representation.

Mr. Charles A. Graham, for the Board.

Mr. C. E. Hart, of Waterbury, Conn., for the Company.

Mr. J. H. DeCantillon, of Meriden, Conn., for the I. A. M.

Mr. J. J. Driscoll, of Waterbury, Conn., for the Brass Workers Union.

Mr. Lewis M. Gill, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On August 21, 1937, International Association of Machinists, Local 1335, herein called the I. A. M., filed with the Regional Director for the Second Region (New York City) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Waterbury Manufacturing Company, Waterbury, Connecticut, herein called the Company,¹ and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On September 20, 1937, the National Labor Relations Board, herein called 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, ordered an investigation and authorized

¹The evidence shows that Waterbury Manufacturing Company is not a separate corporate entity, but merely one division of Chase Brass and Copper Company, Inc. Counsel for the Company made no objection at the hearing to the designation of the Company as Waterbury Manufacturing Company. We will accordingly continue it in this decision.

the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On September 23 and 24, 1937, the Regional Director issued a notice of hearing and amended notice of hearing, copies of which were duly served upon the Company and upon the I. A. M. Pursuant to the notice, a hearing was held on September 30, 1937, at Waterbury, Connecticut, before H. R. Kor y, the Trial Examiner duly designated by the Board. The Trial Examiner granted a motion that the Waterbury Brass Workers Union, herein called the Brass Workers Union, a labor organization purporting to represent employees directly affected by the investigation, be allowed to intervene. The Board and the Company were represented by counsel, and the I. A. M. and the Brass Workers Union were represented by officers of their respective organizations. All participated in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

On November 2, 1937, the Regional Director issued a notice of a further hearing for the purpose of securing additional evidence upon the issues. Copies of the notice were duly served upon the Company, upon the I. A. M., and upon the Brass Workers Union. Pursuant to the notice, a further hearing was held on November 8, 1937, at Waterbury, Connecticut, before H. R. Korey, the Trial Examiner duly designated by the Board for the further hearing. All parties were represented as at the first hearing, all participated, and all were afforded full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company is a division of the Chase Brass and Copper Company, Inc., a corporation organized under the laws of Connecticut in 1909. Its plant and principal offices are located in Waterbury, Connecticut.

The Company is engaged in the manufacture and sale of plumbing goods, electric light fixtures, cosmetic containers, screw machine products, brass forgings and castings, copper water tube fittings, and miscellaneous other products. The principal raw materials used by the Company are copper and brass sheet, rod, wire, and tubing acquired from the Chase Metal Works Division of Chase Brass and Copper Company, Inc.² Of the other raw materials used by the

²The principal raw materials used by the Chase Brass and Copper Company, Inc., are copper and zinc, which materials are all obtained from outside the State of Connecticut. This fact appears in another case recently decided by the Board. *Matter of Chase Brass and Copper Company, Inc.*, and *Waterbury Brass Workers Union*, 4 N. L. R. B. 47.

Company, about 20 per cent are purchased outside the State of Connecticut. About 90 per cent of the finished products of the Company are sold outside the State of Connecticut. The Company's products are advertised in newspapers, magazines, trade publications, and by direct mail.

II. THE ORGANIZATIONS INVOLVED

International Association of Machinists, Local 1335, is a labor organization affiliated with the American Federation of Labor. It admits to membership employees of the Company engaged in machinist work or closely related branches of the machinist craft, including automatic screw-machine tool setters and operators.

Waterbury Brass Workers Union is a labor organization which is a local of the International Union of Mine, Mill, and Smelter Workers, an affiliate of the Committee for Industrial Organization. It admits to membership all production employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

Neither the I. A. M. nor the Brass Workers Union desires at this time a determination of the bargaining agency for the entire plant. However, the I. A. M. seeks certification as the exclusive representative of a certain group of skilled workers, and the Brass Workers Union contests the appropriateness of the unit proposed by the I. A. M. The Company desires a determination of the appropriate unit before it grants the recognition sought by the I. A. M.

We find that a question has arisen concerning representation of employees of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that 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, and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNIT

The I. A. M. contends for a bargaining unit including machinists, tool and die makers, tool grinders, metal-pattern makers, model makers, automatic screw-machine tool setters and operators, and helpers on these various classifications of work. It also seeks to include in the unit a few unskilled workers located in the depart-

ments where the above groups of skilled employees are concentrated.

Organization in the Company's plant began in the latter part of 1933, when the I. A. M. succeeded in organizing a substantial number of the skilled workers. Opposition to union activity soon appeared among certain minor officials of the Company, however, and membership dwindled. It took an upward surge in the spring of 1937, however, and the I. A. M. again established a substantial membership among the highly skilled groups in the plant. The actual membership has recently been supplemented by a number of signed authorizations designating the I. A. M. as the bargaining agency for the signatories, many of whom have not as yet become members.

The I. A. M. has engaged in some collective bargaining on behalf of these employees, particularly in regard to a group in the automatic screw machine department, where, it was testified, written agreements have been obtained from time to time. However, several recent attempts to bargain for the tool and die makers, tool grinders, and metal-pattern makers met with less success due to the Company's uncertainty as to the appropriate unit. Authorizations from the model makers and machinists have been obtained only in the fall of 1937.

The Brass Workers Union instituted an organizing drive in Waterbury in July 1936. It met with some success in the Company's plant, and in various departments obtained a large membership. It has bargained with the Company on a departmental basis whenever it has secured a majority in a particular department. It makes no claim, however, to have a majority in the entire plant, and it has not made any appreciable inroad among the skilled groups claimed by the I. A. M. It has done no bargaining for such groups, and, at best, claims only "some membership" therein. At the hearing it made no serious attempt to disprove the I. A. M.'s claimed majority in those classifications.

In accordance with the doctrine set forth in *Matter of the Globe Machine and Stamping Co. et al.*,³ and subsequent cases, if the employees in the machinist craft wish to be included in a separate bargaining unit, we will find that unit appropriate. There remains the problem of determining the proper bounds of the unit.

There appears to be little difficulty in regard to the inclusion of the maintenance machinists, tool and die makers, tool grinders, model makers, and metal-pattern makers. All these men are highly skilled, according to testimony adduced at the hearing, and plainly belong within the machinist class. Maintenance machinists and tool and die makers are well recognized craftsmen. The tool grinders work in the same department with some of the tool makers; they are en-

³ 3 N L R. B. 294.

gaged in the process of perfecting the tools, and, according to the testimony, are regarded by the Company as highly skilled workers. The model makers construct models of proposed products by hand. This work naturally requires unusual skill. The metal pattern makers, who construct patterns to be used in making molds for castings, are regarded by the Company as skilled mechanics. They are located in the tool-gauge department along with part of the tool makers.

It may also be noted that all seven of the tool grinders, all six of the model makers, and all four of the metal-pattern makers have, by signed authorizations, designated the I. A. M. as their bargaining agency.

The automatic screw machine tool setters and operators are located together in one department. They produce, from rods or tubing, brass articles which are either sold separately or used in conjunction with other parts in making up finished products of the Company. Twenty-three men in this department set and adjust the tools in their own machines and then operate the machines. Nine men operate machines without setting their own tools; this is done for them by two of the most highly skilled men, whose duties consist principally of toolsetting. It was testified that the automatic screw machines are very intricate, that the men in this department have skill comparable to that of machinists and tool makers and receive comparable pay, and that an apprenticeship of several years is required for this work. These men have, as indicated above, bargained with the Company through the I. A. M. for some time. While the Company appeared to be somewhat troubled at the proposed inclusion of these men in the bargaining unit, due to the fact that they are production and not maintenance workers, the Company's factory manager did testify that the automatic screw machine men are much more highly skilled than the other production workers in the plant. In view of all the circumstances, we conclude that the tool setters and operators in the automatic screw machine department should be included in the unit with the other highly skilled workers.

Scattered throughout the plant, in various departments, are about fifty men engaged in setting and adjusting tools on various types of machines. They are, for the most part, former operators of such machines who, because of their experience with the machines, have been assigned to the toolsetting work. When not so engaged, they customarily assist in operating the machines. According to the testimony at the hearing, they are not as skilled as those we have heretofore designated as properly belonging in the unit. The I. A. M. does not claim them. The Company's factory manager

testified that it would be impracticable to include them in the proposed bargaining unit. We will exclude them.

The sole remaining question concerns the proposed inclusion in the unit of various unskilled workers, such as cleaners and truckers, who are located in the various departments where the highly skilled men are concentrated. We find no merit in the I. A. M.'s claim that they should be included in the unit of skilled workers, and we will exclude them.

We find that the maintenance machinists, tool and die makers, tool grinders, model makers, metal-pattern makers, automatic screw machine tool setters and operators, and apprentices in the foregoing classifications of work, employed by the Company, constitute a unit appropriate for the purposes of collective bargaining and that such unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining, and will otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

The Company submitted a pay-roll list of its employees, other than salaried workers, as of October 30, 1937. There were about 1700 so listed, and the Company wrote in beside each name the type of work in which the employee is engaged. This cooperation has facilitated greatly the Board's determination of the issues in the case. It appears from this pay-roll list that there were on that date 184 employees in the unit which we have determined to be appropriate. The I. A. M. submitted signed authorizations designating the I. A. M. as the collective bargaining representative for the signatories. No evidence was introduced tending to discredit the signatures. We have checked the names signed against the pay-roll list and find that 148 of the 184 employees have so designated the I. A. M. While the Brass Workers Union claimed a few members in the affected classifications, it did not seriously dispute the existence of the I. A. M. majority therein. Under the circumstances, no election by secret ballot is necessary.

We find that the I. A. M. has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Waterbury Manufacturing Company,

Waterbury, Connecticut, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The maintenance machinists, tool and die makers, tool grinders, model makers, metal-pattern makers, automatic screw machine tool setters and operators, and apprentices in the foregoing classifications of work, employed by the Company, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. International Association of Machinists, Local 1335, is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

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

IT IS HEREBY CERTIFIED that International Association of Machinists, Local 1335, has been designated and selected by a majority of the maintenance machinists, tool and die makers, tool grinders, model makers, metal-pattern makers, automatic screw machine tool setters and operators, and apprentices in the foregoing classifications of work employed by Waterbury Manufacturing Company, Waterbury, Connecticut, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, International Association of Machinists, Local 1335, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

MR. EDWIN S. SMITH, CONCURRING:

The Board is not here faced with a claim for representation by a craft group which is opposed by an industrial organization asserting that the majority of the employees in the unit it desires to represent are ready to approve it as a bargaining agency. To say that a group of skilled workers in this plant should be denied an opportunity to bargain collectively because the industrial union may be in a situation later where it can claim for purposes of representation a unit inclusive of the group now claimed by the I. A. M., would merely have the result of delaying collective bargaining to an important group of plant employees. In here concurring with the majority that the craft group represented by the I. A. M. is an appropriate bargaining unit, I do so in full recognition of the fact that no industrial union now lays claim to the right to bargain on a plant-wide basis.