

In the Matter of COMBUSTION ENGINEERING COMPANY, INC. and STEEL WORKERS ORGANIZING COMMITTEE, FOR AND IN BEHALF OF AMALGAMATED ASSOCIATION OF IRON, STEEL AND TIN WORKERS OF NORTH AMERICA

Case No. R-242.—Decided February 16, 1938

Boiler and Pipe Manufacturing Industry—Investigation of Representatives: controversy concerning representation of employees: rival organizations; substantial doubt as to majority status; controversy as to appropriate unit—*Strike—Units Appropriate for Collective Bargaining:* (1) foundry employees, no controversy as to; (2) remaining production and maintenance employees' controversy as to craft or plant-wide; desires of men—*Certification of Representatives:* in foundry unit upon proof of majority representation—*Election Ordered:* to determine appropriate unit or units and representatives thereof.

Mr. Walter G. Cooper, Jr., and Mr. Howard Lichtenstein, for the Board.

Mr. L. B. Sizér and Mr. John A. Chambliss, Jr., of Chattanooga, Tenn., for the Company.

Mr. Yelverton Cowherd and Mr. Noel R. Beddow, of Birmingham, Ala., and *Mr. O. S. Baxter,* of Chattanooga, Tenn., for the S. W. O. C.

Mr. William E. Walter, of Kansas City, Kans., and *Mr. Sam Godfrey,* of Chattanooga, Tenn., for the Brotherhood.

Mr. O. H. Dye and Mr. W. R. Barney, of Chattanooga, Tenn., for the I. A. M.

Mr. Henry F. Sternau, of Cincinnati, Ohio, and *Mr. John Heald,* for the Molders' Union.

DECISION

DIRECTION OF ELECTIONS

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On June 19, 1937, Steel Workers Organizing Committee, herein called the S. W. O. C., for and in behalf of Amalgamated Association of Iron, Steel and Tin Workers of North America, filed with the Regional Director for the Tenth Region (Atlanta, Georgia) a petition alleging that a question affecting commerce had arisen concerning the

representation of employees in the Hedges-Walsh-Weidner division at Chattanooga, Tennessee, of Combustion Engineering Company, Inc., New York City, herein called the Company, 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 July 15, 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 the Regional Director to conduct it and to provide for an appropriate hearing upon due notice. On July 30, 1937, the Regional Director issued a notice of hearing to be held at Chattanooga, Tennessee, on August 12, 1937, copies of which were duly served upon the Company and upon the S. W. O. C. Thereafter, International Association of Machinists, Lodge No. 56, International Brotherhood of Boilermakers, Iron Ship Builders and Helpers, Subordinate Lodge No. 656, and International Molders' Union of North America, Local Union No. 155, herein respectively called the I. A. M., the Brotherhood, and the Molders' Union, pursuant to motions filed with the Regional Director, were each granted leave to intervene in the proceedings and were duly served with copies of the notice of hearing.

Pursuant to the notice, a hearing was held at Chattanooga, Tennessee, on August 12, 13, and 14, 1937, before James C. Paradise, the Trial Examiner duly designated by the Board. The Board, the Company, and the S. W. O. C. were represented by counsel, and the I. A. M., the Brotherhood, and the Molders' Union, by officials of the respective unions. All such representatives 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 parties.

On October 18, 1937, the Board, having reviewed the record, issued an order reopening the hearing for the purpose of taking additional testimony with respect to the jurisdictional claims of the I. A. M. and the Brotherhood. Pursuant to the order and a notice of further hearing, copies of which were served upon all parties, a further hearing was held at Chattanooga, Tennessee, on October 25 and 26, 1937, before James C. Paradise, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel, and the S. W. O. C., the I. A. M., and the Brotherhood by officials of the respective unions. All such representatives 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 parties.

The Board has reviewed the rulings of the Trial Examiner at both hearings on motions and on objections to the admission of evi-

dence 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 BUSINESS OF THE COMPANY

Combustion Engineering Company, Inc., a wholly owned subsidiary of the Super Heater Company, is a corporation organized under the laws of the State of Delaware, having its principal executive offices in New York City, and maintaining branch offices in Massachusetts, North Carolina, Tennessee, Illinois, Ohio, Colorado, Michigan, Pennsylvania, Texas, Missouri, Minnesota, Oregon, Utah, California, Hawaii, Philippine Islands, Mexico, Puerto Rico, and China. In addition to the Hedges-Walsh-Weidner division, at Chattanooga, Tennessee, to which the issues in this case are confined, the Company also operates plants at St. Louis, Missouri, Monongahela, Pennsylvania, and Chicago, Illinois.

The Hedges-Walsh-Weidner division is engaged in the manufacture of power boilers, miscellaneous pressure vessels, soil pipe, cast iron fittings, plumbers supplies, range boilers, and structural steel. It consists of two units, approximately a mile apart, generally known as the Casey-Hedges plant and the Walsh-Weidner plant.¹ The Casey-Hedges plant, employing approximately 700 men, includes a foundry manufacturing soil pipe, cast iron fittings, and plumbers' supplies; a range boiler department manufacturing range boilers and light storage tanks; a sheet iron department fabricating structural steel and light plate for casings, gas ducts and smoke stacks; a power boiler shop undertaking preliminary operations in the construction of boiler drums and other pressure vessels; a powerhouse; and a machine shop. The Walsh-Weidner plant, employing approximately 460 men, includes a power boiler shop in which the construction of boiler drums and other pressure vessels, commenced in the power boiler shop of the Casey-Hedges plant, is completed, a machine shop, a header mill department, a powerhouse, and a yard. Both plants are under the supervision of one general superintendent, and one main office maintains the accounts and personnel records, and performs all other clerical duties in connection with the operation of the entire division.

Practically all of the raw materials used in the operation of the Hedges-Walsh-Weidner division are procured from points outside the State of Tennessee. Approximately 1,200 tons of pig iron, 6,000 tons

¹Each plant was originally owned by separate companies. In 1928 the companies merged to form a subsidiary of the Combustion Engineering Company, Inc. In 1936, the subsidiary was dissolved and placed directly under the control of the Company as a division thereof.

of sheet steel, 1,000 tons of structural steel plate, and 500 tons of steel bars used in the course of a year, are shipped by rail from Alabama. In addition, 6,000 tons of steel boiler plate are shipped from the States of Alabama, Pennsylvania, and Maryland, and a large quantity of spelter (zinc) from Missouri. All sales are made through the main office of the Company in New York, and it is estimated that over 90 per cent of the products manufactured in the Hedges-Walsh-Weidner division are shipped to destinations outside Tennessee.

For the half year ending June 1937, this division did a gross business of \$2,000,000. On August 11, 1937, the pay roll listed approximately 1,160 employees, exclusive of supervisory and clerical employees.

II. THE ORGANIZATIONS INVOLVED

Steel Workers Organizing Committee, a labor organization, is affiliated with the Committee for Industrial Organization. Amalgamated Association of Iron, Steel and Tin Workers of North America, represented by the S. W. O. C. in this case, is likewise a labor organization, and admits to membership all employees, except supervisory and clerical employees, engaged in the manufacture of products fabricated from iron, steel, or tin.

International Molders' Union of North America, Local Union No. 155, is a labor organization, affiliated with the American Federation of Labor, admitting to membership all employees in the foundry of the Casey-Hedges plant.

International Association of Machinists, Lodge No. 56, also a labor organization affiliated with the American Federation of Labor, admits to membership all machinists, machinists' helpers and apprentices, specialists, and various other workers engaged in the operation or maintenance of machines utilized in the various shops and departments of the Hedges-Walsh-Weidner division of the Company.

International Brotherhood of Boilermakers, Iron Ship Builders and Helpers, Subordinate Lodge No. 656, is affiliated with the Building Trades Department, the Metal Trades Department, and the Railway Employees Department of the American Federation of Labor. It is a labor organization admitting to membership all employees of the Hedges-Walsh-Weidner division engaged in the construction, assembly, and erection of boilers, drums, tanks, and parts thereof.

III. THE QUESTION CONCERNING REPRESENTATION

From 1935 to 1937, the management of the Hedges-Walsh-Weidner division had negotiated separately with the I. A. M., the Brotherhood, and shop committees of the foundry employees, although the management had never entered into written agreements with the unions

or the committees, and the concessions derived from such negotiations had inured to the benefit of all the employees of the division. In November 1936, the S. W. O. C. commenced its organization activities among the employees of the entire division, and on March 15, 1937, it requested a meeting with the management for the purpose of collective bargaining. At the same time, the management had already entered into negotiations with the I. A. M., the Brotherhood, and the Molders' Union, which had succeeded in organizing a majority of the foundry employees and had displaced the shop committees. A conference was called in which the four unions participated, and resulted in the granting of a general wage increase throughout all the departments of the Hedges-Walsh-Weidner division. The management of the division had thus continued its policy of recognizing each union as the representative of its members, but of distributing the benefits derived from the negotiations with the unions to all employees.

On May 25, 1937, the Molders' Union, in order to secure recognition as the exclusive representative of all the employees of the foundry, called a strike which suspended the operations of the foundry until June 1937, when the foundry employees returned to work, having secured an agreement from the management to recognize the Molders' Union as such exclusive representative.

On June 21, the S. W. O. C. likewise called a strike for recognition as the exclusive representative of the employees of the entire division for the purposes of collective bargaining. On June 29, the striking employees returned to work pending the settlement of the question of representation by this Board.

We find that a question has arisen concerning representation of employees of the Hedges-Walsh-Weidner division of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

As we have noted above, the strike called by the Molders' Union on May 25, 1937, caused the cessation of productive operations in the foundry. The strike called by the S. W. O. C. on June 21, 1937, succeeded in stopping all shipments both to and from the Hedges-Walsh-Weidner division, and normal operations were not restored until June 29, 1937, when the striking employees returned to work.

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 and has led to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNITS

The Molders' Union maintains that all of the employees of the foundry constitute a unit appropriate for the purposes of collective bargaining. None of the other unions nor the Company controverted this claim. The record indicates that the foundry, unlike the other departments of the division, is a functional unit within itself, the operations and the products manufactured therein being in no way related to the operations of the other departments.

Of the 326 employees working in the foundry on May 23, 1937, the Molders' Union claims that 282 were active members, and in addition, 36 had filed applications for membership. During the hearing, the S. W. O. C., the I. A. M., and the Brotherhood withdrew their claims to representation of any employees in the foundry, and amended their petitions accordingly. As we have indicated above, the vast majority of the foundry employees answered the strike call of the Molders' Union on May 25 and succeeded in effecting a complete stoppage of foundry operations. From all the evidence we are satisfied that the Molders' Union represents a majority of the foundry employees.

We find that the foundry employees of the Hedges-Walsh-Weidner division of the Company constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to employees of this division of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

With the exception of the foundry, all other departments in the division are engaged in the production either of power boilers or range boilers. As previously indicated in the description of the operations of the various departments, the operations of each are highly coordinated with the operations of others. In addition, employees classified as machinists are employed in the power boiler shops, the range boiler shop, the sheet iron shop, and the powerhouses, as well as in the two machine shops. Similarly, employees classified as boilermakers are employed in the machine shops and the sheet iron shops as well as in the power boiler shops and the range boiler shop. The S. W. O. C. claims that all of the employees of the Hedges-Walsh-Weidner division, with the exception of supervisory employees, clerical employees, and foundry employees, constitute a unit appropriate for the purposes of collective bargaining.

On the other hand, the I. A. M. and the Brotherhood claim that, in addition to the foundry, there are three appropriate units consisting respectively of machinists, boilermakers, and all other employees. In substantiation of their claim that the crafts of machinists and boilermakers constitute separate appropriate units, the I. A. M. and

the Brotherhood refer to their collective bargaining with the management of the division during the past two years, and to the specialized operations carried on within the various departments which require the services of skilled boilermakers and skilled machinists, and which give rise to collective bargaining problems peculiar to each of these crafts.

At the hearing, the pay roll of the Hedges-Walsh-Weidner division was introduced into evidence, with the designations thereon of those employees over whom the Brotherhood and the I. A. M. claim jurisdiction respectively as boilermakers and machinists.² These designations are not disputed by any of the parties, and with two exceptions indicated below, are substantiated by the record.

A summary of the pay roll so designated shows that the I. A. M. claims jurisdiction over the following employees: Machinists, machinists' helpers and apprentices, header mill specialists, drill press operators and helpers, milling machine operators, drill machine operators, bolt machine operators, handymen, engineers, crane operators employed in the machine shops, planer operators, repairmen, maintenance men, and tool room helpers.³ The Brotherhood, in turn, claims jurisdiction over the following employees: Boilermakers and helpers, welders and welding machine operators, welders' helpers and apprentices, galvanizers, form press operators, form machine operators, fit-up men,⁴ layers out and helpers, chippers, grinders, burners, furnace operators, riveters and rivet machine operators, rivet heaters, reamers, rod room men, testers, test pit helpers, boilermakers' mechanics, tube men, inspectors and helpers, punch shear operators, X-ray helpers, subforemen, flange workers, and tapping machine operators and helpers.⁵

From the entire record, it appears that the production and maintenance employees of the Company at the Hedges-Walsh-Weidner division, with the exception of the foundry employees, can be considered either as a single unit appropriate for the purposes of collective bargaining, as claimed by the S. W. O. C., or as three such units, as claimed by the I. A. M. and the Brotherhood. As we said in *Matter of The Globe Machine and Stamping Co.*, and *Metal Polishers Union, Local No. 3, International Association of Ma-*

² Board's Exhibit Nos. 2 I, J, K, L, 8, and 10

³ Although the I. A. M. claims jurisdiction over pipe fitters employed by the division, the record shows that these employees are eligible to membership in the Plumbers and Steamfitters local in Chattanooga, thus defeating the I. A. M. claim which is based upon the supposition that such local is not active in that city. ●

⁴ Except those working on cast iron boiler castings.

⁵ The evidence discloses that tapping machine operators and helpers are eligible for membership in either the I. A. M. or the Brotherhood. Since there is no dispute between the two unions with respect to these employees, and since these operators and helpers are employed in the range boiler shop, we shall recognize the jurisdiction of the Brotherhood herein.

*chinists, District No. 54, Federal Labor Union 18788, and United Automobile Workers of America,*⁶ "where the considerations are so evenly balanced, the determining factor is the desire of the men themselves." Accordingly, the desires of the employees designated above as coming within the jurisdiction of the I. A. M. and the desires of the employees so designated as coming within the jurisdiction of the Brotherhood shall prevail. Likewise, the desires of all other production and maintenance employees, excluding supervisory employees, clerical employees, and foundry employees, shall prevail.

Upon the evidence of such desires, to be ascertained by elections which we shall direct as stated below, will depend the determination of the unit or units appropriate for the purposes of collective bargaining. The groups not choosing the S. W. O. C. will constitute separate and distinct appropriate units; the groups choosing the S. W. O. C. will together constitute a single appropriate unit.

VI. THE DETERMINATION OF REPRESENTATIVES

At the hearing, the S. W. O. C., the I. A. M., and the Brotherhood submitted some evidence with regard to membership of the division's employees in their respective organizations. In no case, however, was the evidence substantiated by the introduction of verified membership cards or other reliable books or documents.

All parties agree that the question can best be resolved by an election among the employees of the division excluding those employed in the foundry. They are also agreed that eligibility should be based upon the pay roll of August 11, 1937, the day prior to the first hearing in this case.

We shall, therefore, order elections to be held separately among the employees designated above, under Section V, as coming within the jurisdiction of the I. A. M., and among the employees so designated as coming within the jurisdiction of the Brotherhood. We shall also order an election among all other production and maintenance employees, excluding supervisory employees, clerical employees, and foundry employees.

On the results of these elections will depend, not only the determination of representatives, but also the determination of the unit or units appropriate for the purposes of collective bargaining, as discussed under Section V above.

We find that the Molders' Union has been designated and selected by a majority of the foundry employees as their representative for the purposes of collective bargaining. It is, therefore, the exclu-

⁶ 3 N. L. R. B. 294, decided August 11, 1937.

sive 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 the Hedges-Walsh-Weidner division, Chattanooga, Tennessee, of Combustion Engineering Company, Inc., within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All foundry employees of the Hedges-Walsh-Weidner division of Combustion Engineering Company, Inc., 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 Molders' Union of North America, Local Union No. 155, 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.

DIRECTION OF ELECTIONS

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

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Combustion Engineering Company, Inc., at its Hedges-Walsh-Weidner division, Chattanooga, Tennessee, elections by secret ballot shall be conducted within twenty (20) days from the date of this Direction, under the direction and supervision of the Regional Director for the Tenth 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, among those employees of the Hedges-Walsh-Weidner division of Combustion Engineering Company, Inc., who fall within the groups described below who were on the pay roll of Combustion Engineering Company, Inc., on August 11, 1937:

a. All machinists, machinists' helpers and apprentices, header mill specialists, drill press operators and helpers, milling machine operators, drill machine operators, bolt machine operators, handymen, engineers, crane operators employed in the machine shops, planer operators, repairmen, maintenance men, and tool room helpers. ex-

clusive of those employed in the foundry, to determine whether they desire to be represented by International Association of Machinists, Lodge No. 56, or Steel Workers Organizing Committee, for the purposes of collective bargaining, or by neither;

b. All boilermakers and helpers, welders and welding machine operators, welders' helpers and apprentices, galvanizers, form press operators, form machine operators, fit-up men except those working on cast iron boiler castings, layers-out and helpers, chippers, grinders, burners, furnace operators, riveters and rivet machine operators, rivet heaters, reamers, rod room men, testers, test pit helpers, boilermakers' mechanics, tube men, inspectors and helpers, punch shear operators, X-ray helpers, subforemen, flange workers, and tapping machine operators and helpers, exclusive of those employed in the foundry, to determine whether they desire to be represented by International Brotherhood of Boilermakers, Iron Ship Builders and Helpers, Subordinate Lodge No. 656, or Steel Workers Organizing Committee for the purposes of collective bargaining, or by neither;

c. All other production and maintenance employees, except supervisory employees, clerical employees, and foundry employees, to determine whether they desire to be represented by Steel Workers Organizing Committee, for the purposes of collective bargaining.

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 Molders' Union of North America, Local Union No. 155, has been designated and selected by a majority of the foundry employees of the Hedges-Walsh-Weidner division, Chattanooga, Tennessee, of Combustion Engineering Company, Inc., as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, International Molders' Union of North America, Local Union No. 155, 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.

DONALD WAKEFIELD SMITH, concurring:

In a proceeding upon a petition for an investigation and certification of representatives, the Board is authorized to determine the unit appropriate for the purposes of collective bargaining. The divers forms of organization among employees preclude the applica-

tion of any rigid rule to determine the appropriate unit and the Board can apply only a general standard to the facts in a particular case. The determination is wholly predicated upon and reflects the facts. It is therefore incumbent upon any party contending that a particular craft or industrial unit is the appropriate unit, to adduce evidence in support of its contention, and, if necessary, to refute by substantial evidence, the claim of any contesting party which it considers an encroachment upon the unit which it claims to be appropriate. Where the evidence in support of opposing contentions is evenly balanced, the Board has been guided by the desires of the employees themselves. In this case the petitioning union failed to refute the claims of the contesting unions.

I feel that the limits of the craft units urged respectively by the Brotherhood and the I. A. M. are unsatisfactorily defined in the record. It is difficult at many points to determine upon what basis certain occupations are deemed to fall within the Boilermakers' unit and others of a somewhat similar character within the Machinists' unit. Nevertheless, there is no positive showing that either the Brotherhood or the I. A. M. has overstepped the historical lines of its craft jurisdiction, nor did the S. W. O. C. dispute in any particular the jurisdictional grouping of either of the other unions. I therefore do not feel that the Board is justified in challenging the limits of the units urged by the Brotherhood and the I. A. M., especially in the absence of specific challenge by the S. W. O. C. I do not mean to infer, however, that in a case where a craft union urges a unit flagrantly expanded beyond its traditional, as distinguished from its constitutional limitations, I should consider the failure of an opposing union to contest the unit a bar to its consideration on the merits.

It is stated in the dissenting opinion that the I. A. M., during the first hearing in this case, introduced authorization cards solicited from employees clearly not eligible for membership in this union. Ordinarily, when a craft union no longer adheres to traditional craft lines but organizes on an industrial or semi-industrial basis in direct competition with an industrial union, it should be considered as having abandoned the craft form of organization and should not be permitted to urge a craft unit. I do not believe, however, that the abortive solicitation of these employees in this case is sufficient to warrant a conclusion that the I. A. M. has organized on an industrial or semi-industrial basis. The history of union activity in this plant indicates that prior to the appearance of the S. W. O. C. collective bargaining proceeded upon a craft basis, by means of representation through the Brotherhood and the I. A. M. negotiating sepa-

rately with the management, on behalf of their respective members. Nor is it proof to the contrary that employees who were not members of these unions participated in the fruits of such bargaining. Though benefits accruing to members of a union may also inure to all employees on a plant-wide basis, it cannot be argued therefrom that the bargaining has proceeded on an industrial basis.

For the foregoing reasons, I do not believe that the classifications set up in the prevailing opinion should be disturbed.

EDWIN S. SMITH, dissenting:

By this decision the majority of the Board has pushed the doctrine of ascertaining an appropriate bargaining unit through self-determination by craft groups to a grave extreme. The self-organization which has already taken place in this plant of more than a thousand employees, although occurring within craft unions, has actually been on an industrial basis. Unlike the Molders' Union, which has confined its organizing efforts to the foundry employees, the I. A. M. and the Brotherhood have roamed far and wide in the plant seeking members. As a result, the units claimed by each represent a miscellany of employees which fits into no coherent picture of collective interest or collective strength.

As a matter of fact, the bargaining which has already taken place on behalf of these so vaguely delineated groups of employees has virtually been on a plant-wide basis. The earlier bargaining by the I. A. M. resulted in advantages which were extended by the management to all groups. The latest bargaining effort, just preceding the entrance of the S. W. O. C. into the situation, was made by the three "craft" groups acting jointly in the interests of all employees.

Craft organizations, after building up memberships in a particular plant, based on exclusions and inclusions which do not correspond to any recognizable homogeneous craft grouping, cannot then be heard to claim that they have established an appropriate craft bargaining unit.

The Brotherhood and the I. A. M. plainly went into this plant to organize between them the bulk of the production and maintenance workers, exclusive of those in the foundry. Indeed, during the first hearing in this case, the I. A. M. introduced authorization cards solicited from such diverse employees as electricians, a shipping clerk, a millwright, and three pipe fitters. The result of the joint efforts of the two organizations, as reflected in their membership and claims, is quite as clearly an argument for an industrial unit as the frankly industrial organization efforts of the S. W. O. C. The classification of employees included in the separate elections ordered by the Board is eloquent testimony to this fact.

By allowing these unions to carve out fortuitously the employees whom they now claim, and to submit the appropriateness of such a unit to a vote, as does the majority decision, leaves but 137 unclaimed persons to vote in all that is left of the industrial unit. This immeasurably imperils the bargaining status of those employees who subscribe to the industrial union idea and who have heretofore been protected by the bargaining done on an industrial basis by the unions now petitioning for "craft" status. Not only is this residual "industrial" group numerically a small minority, but in its dismembered condition contains such incongruous elements as crane operators, fit-up man, clean-up men, electrical repairman, laborers, erection lift operator, electricians and helpers, blacksmiths and helpers, steam hammer operator, structural yard man, students, clerks, firemen and helpers, truck drivers and helpers, foreman, janitors, painters, carpenter, and yardmen.

The course before the Board in this instance seems to me perfectly obvious. It should declare the appropriate bargaining unit to be all of the production and maintenance employees, with the exception of the Molders, whose separate claims to representation have been granted by all the other parties. Within this unit it should permit a vote between the S. W. O. C. on the one hand and the I. A. M. and the Brotherhood as a joint bargaining agency on the other.

[SAME TITLE]

AMENDMENT TO DIRECTION OF ELECTIONS

March 7, 1938

On February 16, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Elections in the above-entitled proceeding, the elections to be held within twenty (20) days from the date of the Direction, under the direction and supervision of the Regional Director for the Tenth Region (Atlanta, Georgia), among designated employees who were on the pay roll of the Company on August 11, 1937.

The Board, having been advised that many of the employees who were on the pay roll of August 11, 1937, are no longer employed by the Company, and having been advised by the Regional Director for the Tenth Region that a longer period within which to hold the elections is necessary, hereby amends the Direction of Elections issued on February 16, 1938, as follows:

(1) By adding to the phrase "among those employees of the Hedges-Walsh-Weidner Division of Combustion Engineering Com-

pany, Inc., who fall within the groups described below who were on the pay roll of Combustion Engineering Company, Inc., on August 11, 1937" the following words "except those who have since quit or been discharged for cause";

(2) By striking therefrom the words "within twenty (20) days from the date of this Direction" and substituting therefor the words "within forty (40) days from the date of this Direction."

MR. DONALD WAKEFIELD SMITH took no part in the consideration of the above Amendment to Direction of Elections.