

In the Matter of H. E. FLETCHER Co., and GRANITE CUTTERS'  
INTERNATIONAL ASSOCIATION OF AMERICA

Cases Nos. C-331 and R-378.—Decided March 2, 1938

*Granite Quarrying Industry—Employee Representation Plan:* form and operation; domination of administration; financial and other support; recognition as representative of employees; disestablished as agency for collective bargaining—*Investigation of Representatives:* controversy concerning representation of employees: rival organizations; refusal of employer to negotiate with petitioning union—*Unit Appropriate for Collective Bargaining:* production employees; eligibility for membership in petitioning union; differentiation in duties; history of labor organization in industry and with employer—*Election Ordered*

*Mr. Norman F. Edmonds*, for the Board.

*Mr. Richard B. Walsh*, of Lowell, Mass., for the respondent.

*Mr. Martin Witte*, of Boston, Mass., for the Union.

*Mr. Edward Fisher*, of Lowell, Mass., for the Plan.

*Mr. Howard Lichtenstein*, of counsel to the Board.

DECISION

ORDER

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On August 16, 1937, Granite Cutters' International Association of America, herein called the Union, filed with the Regional Director for the First Region (Boston, Massachusetts) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of H. E. Fletcher Co., West Chelmsford, Massachusetts, the respondent herein, 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.

The Union having thereafter filed charges and amended charges, the National Labor Relations Board, herein called the Board, by the same Regional Director, issued its complaint dated September 24, 1937, copies of which were duly served upon the respondent, the Union, and "Employees of H. E. Fletcher Co., a voluntary association functioning under the Employees' Representation Plan for H. E. Fletcher Co.", herein called the Plan. The complaint, in sub-

stance, alleged that the respondent was dominating and interfering with the administration of the Plan, thereby engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1) and (2) and Section 2 (6) and (7) of the Act. The respondent subsequently filed an answer, denying the essential allegations of the complaint, and a motion to dismiss the complaint, alleging that its business operations do not affect commerce within the meaning of the Act.<sup>1</sup> On September 29, 1937, the Plan filed a motion to intervene in the proceeding, which was granted by the Regional Director on October 2, 1937.<sup>2</sup>

On September 24, 1937, the Board, acting pursuant to Article III, Sections 3 and 10 (c) (2), and Article II, Section 37 (b), of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered a consolidation of the proceedings and authorized the Regional Director to conduct an investigation of representatives and to provide for an appropriate hearing upon due notice.

Pursuant to notice duly served upon all parties, a hearing on both the petition and the complaint was held at Boston, Massachusetts, on October 18 and 19, 1937, before Mapes Davidson, the Trial Examiner duly designated by the Board. The Board, the respondent, the Union, and the Plan were represented by counsel and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the opening of the hearing, counsel for the respondent renewed its motion to dismiss the complaint and further moved that the hearing be postponed pending the disposition of its Bill in Equity on appeal before the Circuit Court of the United States for the First Circuit, in which it was praying for an order enjoining the proceedings before the Board.<sup>3</sup> The Trial Examiner denied both motions.

On November 16, 1937, the Trial Examiner filed his Intermediate Report, in which he found that the respondent had engaged in and was engaging in the unfair labor practices alleged in the complaint. He accordingly recommended that the respondent disestablish the Plan as a collective bargaining agency for its employees.

The respondent filed exceptions to the Intermediate Report and to various rulings of the Trial Examiner, and on January 26, 1938, the respondent and the Union presented oral argument before the Board. The Board has reviewed the rulings of the Trial Examiner on motions and on objections to the admission of evidence and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

<sup>1</sup> The respondent also filed a Bill in Equity in the District Court of the United States for the District of Massachusetts, praying that the Regional Director be enjoined from holding a hearing. This Bill was dismissed by the Court on October 15, 1937.

<sup>2</sup> The Plan also filed a Bill in Equity similar to the one filed by the respondent. The Court likewise dismissed this Bill.

<sup>3</sup> On November 16, 1937, the respondent withdrew its appeal from the Circuit Court.

The Board has also considered the exceptions to the Intermediate Report and finds them to be without merit.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE RESPONDENT

The respondent, a corporation organized in 1924, under the laws of the Commonwealth of Massachusetts, has its principal office and place of business in West Chelmsford, Massachusetts, where it is engaged in the quarrying, cutting, sale, and distribution of granite in the form of paving blocks, building work, curbing, rough granite, and crushed stone. The West Chelmsford plant consists of the quarry proper, a curb yard, stone sheds, service department, and a mill. Granite blocks are freed from the earth, removed from the quarry by cranes and derricks, and transported to the curb yard, mill, or stone sheds, where the stone is sawed, fabricated, and polished to meet the specifications of the respondent's orders. For the purpose of moving the stone within the plant, the respondent maintains approximately five miles of trackage over which it operates its own steam engine and eight or nine freight cars.

The respondent also owns a small quarry at Milford, Massachusetts, about 40 miles from West Chelmsford. Granite quarried at Milford is shipped to the West Chelmsford plant for further fabrication. The record indicates that the Milford quarry is considered by the respondent as a department of its business rather than as a separate plant.

With the exception of relatively small amounts of explosives and coal, which it procures within Massachusetts, the respondent requires no supplies other than the granite in its quarries.

Sales are made chiefly to building contractors, the Commonwealth of Massachusetts, and municipalities, orders being secured principally in the form of awards after competitive bidding. The respondent also employs two salesmen who maintain headquarters in Massachusetts but who occasionally travel outside the State to solicit orders.

From January 1936 to September 11, 1937, the respondent sold 187,891 tons of stone valued at \$1,416,995.57. Of this amount, 140,283 tons valued at \$780,825.47 were shipped to points within Massachusetts, and 47,608 tons valued at \$635,507.10 were shipped outside the State. Shipments outside Massachusetts accordingly amounted to 25.3 per cent of total shipments by tonnage, and 44.9 per cent by value.<sup>4</sup> The great majority of shipments outside the State are made,

<sup>4</sup> These figures and percentages are compilations of statistics introduced in the record by the respondent. There is an unexplained discrepancy of \$336 in total sales value and the sum of the values of sales made within and outside Massachusetts as submitted by the respondent.

F. O. B. quarry, to customers in New York, Connecticut, Rhode Island, New Jersey, and the District of Columbia.

At the time of the hearing approximately 300 production and maintenance workers were employed by the respondent.

## II. THE ORGANIZATIONS INVOLVED

Granite Cutters' International Association of America is a labor organization affiliated with the American Federation of Labor, admitting to membership granite cutters using hammers or points on machines on building, bridge, or edge stone, sawyers, sandblast men, tool sharpeners, bed setters, and granite polishers.

"Employees of H. E. Fletcher Co., a voluntary association functioning under the Employees' Representation Plan for H. E. Fletcher Co.," is a labor organization. Prior to May 1937, no employee organization existed distinct from the Employees' Representation Plan for H. E. Fletcher Co., and all employees except executives, foremen, and others having power to hire and discharge, participated in this Plan by virtue of their employment. The record discloses that the voluntary association sprang up in May 1937, apparently as an adjunct to the Plan. No testimony was introduced to indicate the objects of the association, its manner of functioning, or its place in the operation of the Plan. Nor does it appear that an employee is required to join the association in order to participate in the Plan.<sup>5</sup>

## III. THE UNFAIR LABOR PRACTICES

### *A. Formation of the Plan and its present operation*

In the early nineteen hundreds the Union had organized a considerable number of granite workers and for some years prior to 1922 had succeeded in negotiating collective agreements with the respondent's predecessor as well as with many other quarries in New England. In April 1922, the employers in the industry announced a general wage reduction and the adoption of the open shop or so-called "American Plan". This announcement resulted in numerous strikes and lock-outs which continued until 1923 when practically all of the quarries in New England renounced their campaign for the open shop and again entered into collective bargaining contracts with the Union. The respondent's predecessor and several quarry operators in Vermont, however, still refused to recognize any labor organizations of their employees. In 1933 the Union called a strike at the respondent's plant for recognition, but after three months it was compelled to with-

<sup>5</sup> The term "Plan", when used in the discussion of events occurring prior to May 1937 herein, denotes the Employees' Representation Plan. When used in the discussion of events occurring subsequent to that date, it denotes collectively the Employees' Representation Plan and the voluntary association functioning thereunder.

draw when the respondent imported strikebreakers from North Carolina.

In March 1934 the respondent introduced the Plan to its employees. The record discloses that Ralph A. Fletcher, the respondent's treasurer, and Jack Andrews, now assistant superintendent, called a meeting of the employees in the curb yard, described the Plan, and told them to appoint a committee to consult further with Fletcher. Following Fletcher's instructions, a committee consisting of two employees, William Johnson and Carter, called similar meetings in other departments and advised the employees in each to nominate a representative to a works council. Thereafter representatives were elected and the Plan began to operate.

Fletcher denied that he had initiated the Plan and testified that it had been formulated by the employees after a petition to organize had been circulated in one of the departments. He further testified that after the petition had been presented to him, he summoned a committee of employees to discuss the matter of collective bargaining, and he later submitted three representation plans to the committee which revised them into the Plan. John F. Vasselin, called by the respondent, testified that the employees had first feared to sign the petition because the unsuccessful strike of 1933 was still fresh in their minds. It was first necessary for Fletcher to advise the employees that the respondent would not object if they joined an organization.

Even if we accept the respondent's evidence as true, the record amply shows that the respondent participated both in the initiation and the formulation of the Plan. Indeed, on the respondent's showing, the respondent's influence was necessary even before the employees developed the temerity to organize an "inside labor organization."

The Plan as put into effect in 1934, with several amendments discussed below, still operates.<sup>6</sup> It provides for a Works Council consisting of six employee representatives, one elected from each department, and six representatives appointed by the management, to engage in collective bargaining and handle grievances. Candidates for election are required to be employees of the respondent, and elections, held once a year, are supervised by a committee of three, two selected by the employee representatives and one by the management.<sup>7</sup> The Works Council holds regular bimonthly meetings, two-thirds of the employee representatives and two-thirds of the appointed representatives together constituting a quorum. The respondent provides suitable places for meetings of the Council and its committees. "Representatives in attendance at any meeting of the Works Council or its committees, and employees required to attend any meetings at the request of the Works Council or any of its com-

<sup>6</sup> Petitioner's Exhibit No. 5.

<sup>7</sup> The respondent has never exercised its right to select a member of this committee.

mittees, shall receive their regular pay from the Company for such time as they are necessarily absent from work for these purposes.”<sup>8</sup>

The operation of the Works Council, as it appears in the Plan, is not clear. Presumably, however, the Works Council may decide any matter at issue, only by a two-thirds vote. When such vote is not forthcoming, the matter may be referred to the president of the respondent, and finally to arbitration.

On March 29, 1934, the respondent through its appointed representatives on the Works Council, one of whom was Ralph A. Fletcher, entered into an agreement with the elected representatives whereby the wage scale was increased by ten per cent. The agreement provided that it was to continue in effect subject to 90 days' notice in writing by either party of a desire for a change.

The Plan thus continued in operation without interruption, the record failing to disclose any issue that was not settled by the Works Council.<sup>9</sup> Elections of employee representatives were held yearly and the Works Council met bimonthly in the evening at Fletcher's office, the employee representatives being paid by the respondent for the time spent at such meetings. Fletcher was the first chairman of the Council, being elected by the representatives, and the respondent's bookkeeper acted as secretary. From time to time employee representatives held meetings of the employees of their respective departments during lunch hours either in the various departments or in the commissary hall located on the premises. General meetings of all employees were never called.

On April 25, 1937, Costanzo Pagnano, business agent of the Union, came to West Chelmsford to organize the respondent's employees who were eligible to membership in the Union. Pagnano testified that the men he approached were sympathetic and interested in the Union, but reluctant to join, fearful that they would thereby jeopardize their positions. Hugh F. Greene, one of the first men whom Pagnano approached, told Baribeault, an employee representative, that he intended to solicit members for the Union. The following day, at Baribeault's invitation, Greene attended a meeting of the Works Council in Fletcher's office where he was questioned regarding Union plans.

On April 29 a committee consisting of the president of the Union and representatives of the Boston Building Trades Council and a hoisting engineers' local called upon Fletcher, told him that the Union was organizing, and asked whether the respondent would

<sup>8</sup> Petitioner's Exhibit No 5, Article XI (5)

<sup>9</sup> Although various departments received wage increases from time to time, no general wage increase was negotiated from March 1934 until December 1936, when Fletcher announced that he was "waiving" the agreement and granting a five-per cent general raise.

negotiate with the Union. Fletcher responded that he was recognizing the Plan as the collective bargaining agency for the employees, whereupon the committee withdrew.

Meanwhile the respondent was taking steps to insure the continuance of the Plan without interruption from the Union. On April 30 the agreement of March 29, 1934, was extended to July 1, 1938, with the further provision that unless either party should signify its desire for a change in the existing wage scale at least 90 days before then, the agreement would extend to July 1, 1939. As consideration for the extension, the respondent agreed to adjust the existing wage scale from time to time in accordance with changes in the cost of living as reported by the Massachusetts Department of Labor and Industries.<sup>10</sup>

At a meeting of the Works Council held during the same week, Fletcher telephoned the New York office of the League for Industrial Rights to ask whether the Plan was legal within the meaning of the Act. He was advised by Williams, the League's secretary, to discontinue payments to the employee representatives and thereafter to charge rent for the use of the commissary hall for department meetings. Shirley J. Clark, an employee representative and chairman of the Works Council, testified that the employee representatives on the Works Council now meet alone one evening a month in the drafting room, and bimonthly with the respondent during working hours. No rent is charged for the use of the drafting room, and the employee representatives are reimbursed for time lost from work. The respondent now charges 35 cents per hour for use of the commissary hall for department meetings.

Immediately after Fletcher's telephone conversation with Williams, Clark called a meeting of the employee representatives to discuss the subject of dues necessary to defray their expenses under the Plan. There is some evidence that department meetings were held and that dues of two dollars a year, payable quarterly, were agreed upon. The employee representatives thereafter appointed a secretary-treasurer to collect dues, and application cards for membership in "the employees' organization under a plan of representation entered into with the employer" were distributed and signed at the plant, in many instances, during working hours.

#### *B. Conclusions with respect to the Plan*

Since the National Labor Relations Act became effective only on July 5, 1935, none of the actions of the respondent which took place prior to that date could constitute unfair labor practices within the

<sup>10</sup> Board's Exhibit No. 6.

meaning of the statute. They are important, however, in considering the significance of the respondent's actions and the operation of the Plan subsequent to that date.

The Plan as an instrument for collective bargaining is nothing more than a device foisted by the respondent upon its employees to give them the semblance, rather than the substance, of collective activity. The employees were never afforded an opportunity to vote on the Plan, nor were they ever afforded an opportunity to decide whether they desired the form of collective bargaining which the Plan purported to offer. By virtue of their employment they participated and still participate in the Plan whether or not they desire to be bound by its prescriptions. Membership in the association apparently carries with it no rights or obligations other than the rights and obligations arising out of their employee status.

Since the inception of the Plan, the respondent's employees have never met as a group to consider their problems collectively. Limited in the choice of representatives under the Plan to their fellow employees, they are denied the right to utilize the services of expert outside representatives. They are summoned to meetings by departments on the respondent's property and invariably accept the decisions of their representatives previously made with the respondent's approval. Evidence of accomplishment for the workers under the functioning of this or any other labor organization, which is still subject to the ultimate direction and influence of the employer, in no wise determines its independence. Their gratuitous consent to pay two dollars a year each, in order to participate in a Plan of which they would remain members even should they choose not to pay is significant of the hollowness of the relationship between these representatives and their constituents. The "voluntary association" is simply an instrument used solely for the collection of dues to support the Plan.

The respondent urges that it has eliminated those features of the Plan which the Act prescribes; that by charging rent for the use of the commissary hall and by ceasing to reimburse employee representatives for attendance at evening meetings, it has legitimized the fruit of its unlawful conduct. It does not deny, though, that employee representatives are still paid for their attendance at meetings during working hours. Even were the respondent to withdraw all financial support, its power to curtail the activities of the Works Council, together with the influence it exercises over its employees through the Council, sufficiently characterizes the Plan as the instrument of the respondent rather than as the representative of the employees.

The Works Council is plainly the creature of the respondent, subject to its desires and checked by the procedural restraints embodied

in the Plan. Composed of equal numbers of representatives of both employer and employees, the Works Council is limited in its activity to the requirement of a two-thirds vote of its membership. Nor can the employees, through their elected representatives amend, alter, or repeal the Plan since such action would require a three-fourths vote of the Council. Any action of the Works Council is therefore always predicated upon the approval of the respondent's representatives who can frustrate the employees' desires whenever they are so instructed by the respondent.

The administration of a labor organization is the employees' and not the employer's concern. The respondent unquestionably has made the Plan its own representative. It controls it today as effectively as it controlled it in 1934. We find that the respondent dominated and interfered with the formation of the Plan in March 1934, and that at all times thereafter it has dominated and interfered with its administration and contributed financial and other support to it. We shall therefore order the respondent to withdraw recognition from the Plan as a collective bargaining representative for any of its employees, to disestablish it as such representative, and to disavow its agreement with the Plan.

#### IV. THE APPROPRIATE UNIT

As we have noted above, the Union admits to membership all granite cutters using hammers or points on machines, on building, bridge or edge stone, sawyers, sandblast men, tool sharpeners, bed setters, and granite polishers. It contends that all of the respondent's employees who fall within the category of these occupations constitute a unit appropriate for the purposes of collective bargaining. From the testimony adduced at the hearing in connection with the examination of the pay roll, the appropriate unit urged by the Union should include employees classified by the respondent as building cutters, curb cutters, bridge cutters, tool sharpeners,<sup>11</sup> carborundum, rotary, and gang saw operators, set-up men, and sand blasters, exclusive of their apprentices.<sup>12</sup>

In support of its contention, the Union emphasizes the natural division in skill and duties of these employees as distinguished from the skill and duties of other employees. In general, the employees in the unit described by the Union work directly upon the granite in its fabrication after the stone has been removed from the quarry proper.<sup>13</sup> They are thus distinguishable from quarry men and drillers who

<sup>11</sup> Including Leyner sharpeners if they work on cutters' tools as distinguished from quarry tools

<sup>12</sup> Apprentices are given union cards after a six months' probationary period, but are not accorded voting privileges in the Union until they are accepted as journeymen

<sup>13</sup> Since none of the employees at the Milford quarry are included within this category, it is not now necessary to consider whether any of them would or would not be included in the unit by reason of the isolation of this department from the plant.

loosen the stone from the quarry, and laborers, repairmen, derrickmen, hoist engineers, machinists, riggers, tractor drivers, tool boys, salvage men, chip pickers, and other workers whose principal duties are confined to the distribution of the quarried stone to the various departments for fabrication, and to the operation and maintenance of machines used for such distribution.

The history of organization activity both in the respondent's plant and throughout the industry testifies to the reasonableness of the Union's argument. As previously stated, for a number of years prior to 1922 the Union had agreements with the respondent's predecessor covering the employees in the unit it delineates. Pagnano, the business agent of the Union, who displayed a thorough knowledge of union activities at the hearing, testified that approximately 98 per cent of these employees in New England are covered by collective bargaining agreements between the Union and their employers. This testimony was not refuted, nor did the respondent offer any convincing evidence that such employees do not constitute an appropriate unit.

We therefore find that all of the respondent's building cutters, curb cutters, bridge cutters, tool sharpeners, including Leyner sharpeners who work on cutters' tools, carborundum, rotary, and gang saw operators, set-up men and sand blasters, exclusive of their apprentices, constitute a unit appropriate for the purposes of collective bargaining, and that said unit will insure to employees of the respondent the full benefit of their rights to self-organization and collective bargaining and otherwise effectuate the policies of the Act.

#### V. THE QUESTION CONCERNING REPRESENTATION

Following the abortive attempt to negotiate with the respondent in April 1937, the Union continued to solicit members. By July it claimed 70 members of the 120 eligible employees. On August 9 the Union notified the respondent that it had a majority of its employees in an appropriate unit and requested a conference for the purpose of negotiating an agreement. After an exchange of correspondence indicating that the respondent would not proceed without a divulgence of complete details with respect to Union members among its employees, the Union filed a petition with the Regional Director for an investigation and certification of representatives.

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

#### VI. THE EFFECT OF THE UNFAIR LABOR PRACTICES AND OF THE QUESTION CONCERNING REPRESENTATION ON COMMERCE

We find that the activities of the respondent set forth in Section III above, and the question concerning representation which has

arisen occurring in connection with the operations of the respondent described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### VII. THE DETERMINATION OF REPRESENTATIVES

An analysis of the respondent's pay roll which was introduced into the record shows that approximately 119 employees constitute the unit we have found appropriate for the purposes of collective bargaining. The Union introduced into evidence membership cards of 63 of these employees, and full opportunity was afforded the respondent and the Plan to compare them with the pay roll. Under normal circumstances this evidence would justify our certification of the Union. Here, however, the record does not indicate the exact number of employees who constitute the unit, and since the 63 cards show but a small majority of an approximation of the size of the unit, they cannot be controlling. Moreover, it appears from the evidence that 52 of the employees who signed cards for the Union during the months of April, May, and June, also signed cards for the Plan during the month of July. The evidence in its entirety, raises some doubt that the Union represents a majority of the employees in this unit.

It accordingly appears that the question of representation which has arisen can best be settled by an election among the employees in the above-described unit. Since we shall order the respondent to cease recognizing the Plan as the collective bargaining representative for any of its employees and to disestablish it as such representative, we shall make no provision for the designation of the Plan on the ballots.

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

#### CONCLUSIONS OF LAW

1. Granite Cutters' International Association of America is a labor organization, within the meaning of Section 2 (5) of the Act.

2. Employees' Representation Plan for H. E. Fletcher Co. together with its adjunct, Employees of H. E. Fletcher Co., is a labor organization, within the meaning of Section 2 (5) of the Act.

3. By its domination and interference with the administration of Employees' Representation Plan for H. E. Fletcher Co. and its adjunct, Employees of H. E. Fletcher Co., and by contributing financial and other support thereto, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (2) of the Act.

4. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed by Section 7 of the Act, the respondent has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

5. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

6. A question affecting commerce has arisen concerning the representation of the respondent's employees, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

7. All of the respondent's employees classified as building cutters, curb cutters, bridge cutters, tool sharpeners, including Leyner sharpeners who work on cutters' tools, carborundum, rotary, and gang saw operators, set-up men, and sand blasters, exclusive of their apprentices, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

### ORDER

Upon the basis of the findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, H. E. Fletcher Co., West Chelmsford, Massachusetts, and its officers, agents, successors, and assigns shall:

1. Cease and desist:

(a) From in any manner dominating and interfering with the administration of Employees' Representation Plan for H. E. Fletcher Co., and its adjunct, Employees of H. E. Fletcher Co., or any other labor organization of its employees, and from contributing financial and other support to Employees' Representation Plan for H. E. Fletcher Co., and its adjunct, Employees of H. E. Fletcher Co., or to any other labor organization of its employees;

(b) From in any manner giving effect to its agreement with its employees under Employees' Representation Plan for H. E. Fletcher Co.;

(c) From in any other manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from Employees' Representation Plan for H. E. Fletcher Co., and its adjunct, Employees of H. E. Fletcher Co., as the representative of any of its employees for the

purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment, completely disestablish Employees' Representation Plan for H. E. Fletcher Co., and its adjunct, Employees of H. E. Fletcher Co., as such representative, and disavow its contract therewith;

(b) Immediately post notices in conspicuous places throughout its plant and maintain such notices for a period of thirty (30) consecutive days, stating (1) that the respondent will cease and desist as aforesaid, and (2) that the respondent will withdraw all recognition from Employees' Representation Plan for H. E. Fletcher Co., and its adjunct, Employees of H. E. Fletcher Co., as the representative of any of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment, that Employees' Representation Plan for H. E. Fletcher Co., and its adjunct, Employees of H. E. Fletcher Co., are disestablished as such representative, and that the respondent's agreement therewith is void and of no effect;

(c) Notify the Regional Director for the First Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

#### 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 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 H. E. Fletcher Co., West Chelmsford, Massachusetts, an election by secret ballot shall be conducted within fifteen (15) days from the date of this Direction, under the direction and supervision of the Regional Director for the First 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 the building cutters, curb cutters, bridge cutters, tool sharpeners, including Leyner sharpeners who work on cutters' tools, carborundum, rotary, and gang saw operators, set-up men and sand blasters, exclusive of their apprentices, who were employed by H. E. Fletcher Co. on August 6, 1937, and who have not since quit or been discharged for cause, to determine whether or not they desire to be represented by Granite Cutters' International Association of America for the purposes of collective bargaining.