

In the Matter of CHASE BRASS AND COPPER COMPANY, INC. and WATER-  
BURY BRASS WORKERS UNION

*Case No. R-308.—Decided November 8, 1937*

*Metal Products Manufacturing Industry—Investigation of Representatives.* controversy concerning representation of employees: refusal by employer to recognize and bargain with union until question of representation is determined by Board—*Unit Appropriate for Collective Bargaining:* production, maintenance, and shipping employees in one plant; centralization of management of two of employer's plants not conclusive as to question of appropriate unit; history of organization among employees; history of collective bargaining relations with employer—*Election Ordered—Petition Dismissed:* no representative chosen by employees

*Mr. Charles A. Graham, for the Board.*

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

*Mr. J. J. Driscoll, of Waterbury, Conn., for the Union.*

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

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

On September 15, 1937, Waterbury Brass Workers Union, herein called the Union, 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 Chase Brass and Copper Company, Inc., North Main Street, Waterbury, Connecticut, 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 September 24, 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 September 25, 1937, the Regional Director issued a notice of hearing to be held at Waterbury, Connecticut, on September 30, 1937, copies of which were duly served upon the Company and the

Union. Pursuant to the notice, a hearing was held at Waterbury, Connecticut, on September 30, 1937, before Harold R. Korey, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel, and the Union was represented by one of its officers. All participated in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing upon the issues was afforded to all parties. A motion was made by the Board to amend the petition so that the number and classification of employees on whose behalf the petition was filed would include "500 production, maintenance, and shipping employees in the North Main Street rolling mill of the Chase Brass and Copper Company, Inc." The motion was granted, and the ruling of the Trial Examiner thereon is hereby affirmed. No other motions or objections to the admission of any evidence were made at the hearing.

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 corporation, organized under the laws of Connecticut in 1909, having its principal offices located in Waterbury, Connecticut. It has plants in Waterbury, Connecticut, and Cleveland, Ohio. The Chase Metal Works Division of the Company, which is the division concerned in this case, consists of two plants located in Waterbury, one at North Main Street and one at Thomaston Avenue. The principal raw materials used in the Company's business are copper and zinc, all of which materials are purchased outside the State of Connecticut. The Company also uses certain other raw materials, including lead, tin, coal, lumber, oil, and acids, purchasing about 50 per cent of such other materials outside the State of Connecticut. Brass and copper alloys in sheet, rod, wire, and tubing are made in the Metal Works Division. About 65 per cent of such products are sold outside the State of Connecticut and shipped by rail, truck, and ship. The Company maintains warehouses in 15 States. It has 138 salesmen covering all States of the United States. It has numerous trade-marks and foreign patents and advertises in newspapers, magazines, trade publications, and by direct mail.

##### II. THE UNION

Waterbury Brass Workers Union, herein called the Union, is a labor organization admitting to membership production, maintenance and shipping employees of the Company. It is Local No. 251 of

the International Union of Mine, Mill, and Smelter Workers, an industrial union for the brass and copper industry, affiliated with the Committee for Industrial Organization.

### III. THE QUESTION CONCERNING REPRESENTATION

The Union has engaged in negotiations with the Company since about February or March, 1937. A series of conferences have been held, during which the Company has apparently recognized the Union as the representative of its own members in the North Main Street plant. No contract, however, has been signed. It was made clear at the hearing that the Company is unwilling to recognize the Union as the exclusive bargaining agency, unless the Board finds that the employees at the North Main Street plant constitute a separate unit appropriate for collective bargaining purposes, and the Union establishes that it has been chosen as the representative of the majority of such employees. The Union claims such a majority, but it desires an election and did not attempt at the hearing to establish such a majority for purposes of certification without an election.

We find that a question of representation has arisen concerning employees of the Company in its North Main Street plant.

### IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION ON COMMERCE

We find that the question concerning representation, which has arisen 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 Union contended that the production, maintenance, and shipping employees in the Company's North Main Street plant in Waterbury, Connecticut, constitute an appropriate unit for the purposes of collective bargaining. The Chase Metal Works Division of the Company has another plant, herein called the Thomaston Avenue plant, located about two miles from the North Main Street plant, and the Company contended that employees in both plants should be grouped together as a single bargaining unit. The Chase Metal Works Division of the Company, consisting of these two plants, produces sheets, rods, wires, and tubing from brass and copper alloys. The Thomaston Avenue plant casts bars from which sheets are rolled. Rolling

is done both there and at the North Main Street plant, the work of which is restricted to such rolling operations. The rods, wires, and tubing are all made at the Thomaston Avenue plant. A total of about 2,035 men are employed at the Thomaston Avenue plant, while about 470 are employed at the North Main Street plant.

The employees in the sheet department at the Thomaston Avenue plant and those in the North Main Street plant are engaged in almost identical work, except for certain rolling operations on hot metal which occupy only a few men and are done only at the North Main Street plant. Of course, the work outside the sheet department at the Thomaston Avenue plant, consisting of casting bars for rolling, and making various types of rods, wires, and tubing, has no counterpart at the North Main Street plant.

The Company's argument for considering both plants together as one unit rests in great measure on the fact that the management of the two plants is centralized, and the rates of pay the same for similar types of work. Production orders for both plants are handled at the Thomaston Avenue plant. Pay checks for both plants are made out there. Financial figures for the two plants are merged. And while separate assistants to the employment manager have authority to hire and fire employees at the respective plants, the usual practice is to consult with the employment manager, whose jurisdiction covers both plants. There is one works manager who has general supervision over the work at both plants, although there is a mill superintendent at each plant who has direct supervision.

It should be noted that the Company has a third plant in Waterbury, called the Noera plant, which works with steel rather than with brass, and the works manager has jurisdiction over all three plants. The Noera plant is not, however, part of the Chase Metal Works Division of the Company. The production records are kept separately for this plant, since it does a different type of work than the two plants heretofore mentioned. The Union has been recognized by the Company as the sole bargaining agency for the Noera plant.

The Company is said to have considered consolidating the sheet rolling operations and transferring all of such work to the Thomaston Avenue plant. This proposal, however, has admittedly not reached the status of a definitely scheduled move.

While it appears from the above facts that a bargaining unit including both the North Main Street plant and the Thomaston Avenue plant would be practicable as far as the set-up of the Company is concerned, the employees have organized on the basis of separate plants. The Union claims a majority of the employees at the North Main Street plant, and the Company met with Union representatives during the spring of 1937 to discuss problems, such as hours of work, concerning the employees at that plant. There was

no evidence or claim that the Union had any membership in the Thomaston Avenue plant, although employees at that plant are eligible for membership.

Furthermore, it appears that there is a "Chase Metal Workers Association", herein called the Association, which has negotiated with the Company in regard to problems of the Thomaston Avenue plant employees. This Association was apparently formed early in 1937, and admits to membership employees in both plants. There was uncontroverted testimony, however, that the Association does not have a single member in the North Main Street plant. While there is no evidence of any contractual relationships between the Company and either the Union or the Association, the fact that negotiations have been conducted on the basis of separate plants points to the feasibility of treating the North Main Street plant as a separate unit. There is no evidence that the Company has ever negotiated with the employees of the two plants as a unit.

The fact that the Company has centralized the management of the two plants to a great extent is not conclusive as to the question of the appropriate unit for collective bargaining. We believe that in the light of all the circumstances of this case, primary consideration should be given to the basis on which the employees have organized, which, in turn, is the basis on which past negotiations between the Company and the employees have been conducted.

Following our usual practice, we shall exclude supervisory employees from the unit of production, maintenance, and shipping employees, in the absence of any evidence pointing to a different conclusion.

In order to insure to the Company's employees the full benefit of their right to self-organization and collective bargaining, and otherwise to effectuate the policies of the Act, we find that the production, maintenance and shipping employees in its North Main Street plant in Waterbury, Connecticut, excepting supervisory employees, constitute a unit appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

#### VI. THE DETERMINATION OF REPRESENTATIVES

The question of representation which has arisen can only be resolved by means of an election by secret ballot. The Company submitted as an exhibit a pay roll of the employees in the North Main Street plant as of the week ending September 4, 1937.<sup>1</sup> However, the record contains no indication as to whether any of the parties desire this pay roll to be determinative of the employees eligible to

<sup>1</sup> Board's Exhibit No. 2.

vote in the election. In the absence of any such indication, we will direct that the production, maintenance, and shipping employees in the North Main Street plant on the pay roll of the Company for the period immediately preceding the date of the Direction of Election, except supervisory employees and those who quit or are discharged for cause between such date and the date of the election, shall be entitled to vote.

There was no suggestion at any time during the hearing that the Chase Metal Workers Association should be given a place on the ballot. There was uncontroverted testimony that the Association did not have any membership in the North Main Street plant. In view of the circumstances, we see no reason for placing the Association on the ballot.

#### CONCLUSIONS OF LAW

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 Chase Brass and Copper Company, Inc., North Main Street, Waterbury, Connecticut, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All production, maintenance, and shipping employees of the Company in its North Main Street plant in Waterbury, Connecticut, except supervisory employees, together constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

#### 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, 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 the Chase Brass and Copper Company, Inc., North Main Street, Waterbury, Connecticut, an election by secret ballot shall be conducted within a period of fifteen (15) days from the date of this Direction of Election, under the direction and supervision of the Regional Director for the Second Region, acting in this matter as the agent of the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, among those employees of the

Chase Brass and Copper Company, Inc., in its North Main Street plant, engaged in production, maintenance, and shipping, on the pay roll of the said Company for the last pay roll period immediately preceding the date of this Direction, except supervisory employees and those who quit or are discharged for cause between such date and the date of the election, to determine whether or not they desire to be represented by Waterbury Brass Workers Union for the purposes of collective bargaining.

[SAME TITLE]

## SUPPLEMENTAL DECISION

AND

## ORDER

*January 10, 1938*

On November 8, 1937, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled case. The Direction of Election directed that an election by secret ballot be held among those employees of Chase Brass and Copper Company, herein called the Company, in its North Main Street plant in Waterbury, Connecticut, engaged in production, maintenance, and shipping, except supervisory employees and those quitting or discharged for cause before the election, to determine whether they desired to be represented by Waterbury Brass Workers Union, herein called the Union, for purposes of collective bargaining.

Pursuant to the Direction, an election by secret ballot was conducted on December 1, 1937, at Waterbury, Connecticut, under the direction and supervision of the Regional Director for the Second Region (New York City). On December 3, 1937, the said Regional Director, acting pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued and duly served upon the parties an Intermediate Report on the ballot. No exceptions to the Intermediate Report have been filed by any of the parties.

As to the results of the secret balloting, the Regional Director reported as follows:

Total Number Eligible to Vote.....	439
Total Number of Ballots Cast.....	422
Total Number of Votes in favor of the Waterbury Brass Workers Union, Local No. 251, C. I. O.....	179
Total Number of Votes against the aforementioned union.....	240
Total Number of Blank Votes.....	0
Total Number of Void Ballots.....	3
Total Number of Challenged Votes.....	0

The results of the election show that no collective bargaining representative has been selected by a majority of the employees. The petition for investigation and certification of representatives of employees of the Company will therefore be dismissed.

#### ORDER

By virtue of Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, and pursuant to Article III, Sections (8) and (9), of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby ordered that the petition for investigation and certification of representatives of employees of Chase Brass and Copper Company, Inc., filed by Waterbury Brass Workers Union, be, and it hereby is, dismissed.

MR. DONALD WAKEFIELD SMITH took no part in the consideration of the above Supplemental Decision and Order.