

In the Matter of THE GLOBE MACHINE AND STAMPING Co. and METAL POLISHERS UNION, LOCAL No. 3; INTERNATIONAL ASSOCIATION OF MACHINISTS, DISTRICT No. 54; FEDERAL LABOR UNION 18788, and UNITED AUTOMOBILE WORKERS OF AMERICA

*Cases Nos. R-178, R-179, R-180.—Decided August 11, 1937*

*Auto Parts Manufacturing Industry—Investigation of Representatives:* controversy concerning representation of employees: rival organizations; substantial doubt as to majority status—*Unit Appropriate for Collective Bargaining:* where other considerations determinative of appropriate unit are evenly balanced, decisive factor is the desire of employees involved; determination of dependent upon results of elections—*Elections Ordered—Certification of Representatives.*

*Mr. Harry L. Lodish and Mr. Peter DiLeone* for the Board.

*Mr. L. C. Spieth*, of Cleveland, Ohio, for the Company.

*Mr. Edwin F. Woodle and Mr. Bernard C. Wachtel*, of Cleveland, Ohio, for the Polishers Union and the I. A. M.

*Mr. Ralph Gordon*, of Cleveland, Ohio, for the I. A. M.

*Mr. R. G. Reisinger and Mr. Bert Cochran*, of Cleveland, Ohio, for the U. A. W. A.

*Mr. Joseph B. Robison*, of counsel to the Board.

## DECISION

### STATEMENT OF THE CASE

On May 13, 1937, Metal Polishers Union, Local No. 3, herein called the Polishers Union, International Association of Machinists, District No. 54, herein called the I. A. M., and Federal Labor Union 18788, herein called the Federal Local, filed separate petitions with the Regional Director for the Eighth Region (Cleveland, Ohio), alleging that questions affecting commerce had arisen concerning the representation of employees of The Globe Machine and Stamping Co., Cleveland, Ohio, herein called the Company, and requesting the National Labor Relations Board, herein called the Board, to conduct an investigation pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 19, 1937, the Board, acting pursuant to Section 9 (c) of the Act, and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director to conduct an investigation and to provide for an appropriate hearing; and the Board further ordered, pursuant to Article III, Section 10

(c) (2) of the Rules and Regulations—Series 1, as amended, that the three cases be consolidated for the purposes of the hearing. On June 17, 1937, the Regional Director issued a notice of hearing to be held at Cleveland, Ohio, on June 24, 1937, copies of which were duly served upon the Company, upon the three petitioning unions, and upon the United Automobile Workers of America, herein called the U. A. W. A., a labor organization named in the petitions as claiming to represent the Company's employees.

Pursuant to the notice, a hearing was held at Cleveland, Ohio, on June 24 and 25, 1937, before Charles E. Persons, the Trial Examiner duly designated by the Board. The Board, the Company, the Polishers Union, and the I. A. M. were represented by counsel, and the U. A. W. A. was represented by two of its officers. All participated in the hearing. The Federal Local did not appear and took no part in the proceedings. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties appearing. Objections to the introduction of evidence were made during the course of the hearing by counsel for the parties. The Board has reviewed the rulings of the Trial Examiner, and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE COMPANY

The Company is a corporation, organized in 1902 under the laws of Ohio, with its principal office and place of business located in Cleveland, Ohio. Its plant is also located in Cleveland. It is engaged principally in the manufacture of radiator grilles for automobiles. It has a registered trade-mark for use in interstate commerce.<sup>1</sup>

In 1936, the volume of the Company's business was \$2,500,000, of which \$2,495,300, or about 98 per cent, was done without the State of Ohio. Delivery is made by the Company at the purchaser's plant, shipment being made by railroad and independent trucking companies. Most of the product is sent to Michigan. The total amount of purchases made by the Company in 1936 amounted to \$1,103,000, of which amount \$714,000, or 65 per cent, was made without the State of Ohio. The principal raw material is steel, which comes chiefly from Pennsylvania.

The number of the Company's employees fluctuate greatly, having been as high as 750 and as low as 500 during the first six months of

<sup>1</sup> Board's Exhibit No. 3

1937. This fluctuation is apparently due to the fact that the Company, being an auto parts plant, is subject, in accentuated form, to the seasonal variations of the automobile industry.

## II. THE ORGANIZATIONS INVOLVED

### A. *The petitioning unions*

The three unions who filed petitions in this proceeding are all labor organizations affiliated with the American Federation of Labor. Local No. 3 of the Polishers Union includes members who are working in various plants in Cleveland. It claims jurisdiction over the polishers and buffers at the Company's plant. The I. A. M. limits its jurisdiction to the punch press operators. Its members at the Company's plant are in five or six different locals, all within District No. 54. The Federal Local claims the balance of the production and maintenance workers. Its membership is apparently restricted to men working at the Company's plant.

### B. *The United Automobile Workers of America*

The U. A. W. A. is a labor organization affiliated with the Committee for Industrial Organization. It admits to membership all of the employees of the Company who are included within the three groups claimed by the petitioning unions. It appears to have a separate Local, No. 243, for employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

### A. *The background of organization at the company's plant*

In 1933, there were at the Company's plant, a chapter of the Mechanics Educational Society of America, herein called the M. E. S. A., which included tool and dye workers only; a specialists local of the I. A. M., which included the men working in the punch press room; and the Federal Local, which included all other employees engaged in production and maintenance. There is some evidence in the record that for a time, the I. A. M. local included welders and other workers at the plant, and that after some conflict, the membership in that local was restricted to punch press men.

During the period from 1933 to late in 1936, practically all of the employees engaged in production and maintenance were in one of the three unions. While it does not appear that the plant was a closed shop, it is clear that most men who worked there joined one of the unions shortly after they started working, if they were not already members. Although no signed agreements were reached at any time with the Company, there were continuous and friendly negotiations which resulted in oral agreements covering hours, wages,

and grievances. It would appear, however, that these agreements were in no sense formal, since the members of the unions were only informed of their terms orally by the members of the negotiating committee, and the terms were never embodied in an agreement or otherwise made the subject of formal memoranda. Negotiations were conducted by a joint committee at least for the A. F. of L. unions and the product of these negotiations was termed a "federated agreement."

In December 1936, the polishers at the plant were transferred from the Federal Local into the petitioning local of the Polishers Union. There were 60 polishers at this time employed at the plant and most of them joined in a body on December 16, 1936. Thereafter, negotiations for the polishers, which theretofore had been conducted by the Federal Local, were conducted by the Polishers Union.

Shortly before the transfer of the polishers, the tool and dye men in the M. E. S. A. voted to go over to the Committee for Industrial Organization. Just how formal that action was does not appear, and it would seem that the U. A. W. A. did not begin its organizational drive at the plant until some months thereafter. Nevertheless, there is evidence that at this time, and during the following months, there was considerable sentiment among the men to change their form of organization and to affiliate with the C. I. O. The U. A. W. A. began its drive at the plant in February, and on March 6, 1937, it called a meeting of all the men, the attendance at which was between 550 and 650. No formal check-up was made of those attending the meeting. There was a door guard who had worked for the Company for about 16 years and who knew all of the men at the plant. He admitted only those who he knew were employed by the Company. In addition a witness who testified for the U. A. W. A., who had worked at the plant for 14 years, testified that a majority from every department of the plant, including the polishing and punch press departments, were present, and a representative of each department stood up at the meeting and attested the fact that a majority was present from his department. This meeting unanimously decided to join the U. A. W. A. The U. A. W. A. witness stated that 85 per cent of the men then working were present, and that the remaining 15 per cent endorsed the action during the following days.

During the succeeding months the U. A. W. A. attempted to negotiate with the Company, and finally on May 17, 1937, called a strike which was effective in causing a complete shut-down of the plant. It does not appear in the record how many men and what departments participated in this strike. The strike was settled three days later, on May 20, 1937, by a signed agreement between the Company and the U. A. W. A., which provided, among other things,

for a flat eight cents an hour raise for all employees, with somewhat higher raises for lower paid employees. The agreement was to remain in force until May 19, 1938, "unless terminated prior thereto by any decision of the National Labor Relations Board."

### *B. The present situation*

The Polishers Union, the I. A. M., and the U. A. W. A. placed membership lists in evidence. No list was submitted by or for the Federal Local. The Polishers Union list includes members in good standing who were working for the Company, as of the beginning of 1937. It has 59 names. The I. A. M. list contains 95 names of members who were working at the plant on May 13, the date of the petitions. The U. A. W. A. list includes all paid-up members of the local at the Company's plant. It lists 35 polishers, and 119 in the press room. The total for all departments is 687. It should be noted that the Polishers Union list was made up as of a time when there was a production peak. At the time the petitions in this case were filed, there were only about 35 polishers working at the plant.

Since the Company employed not more than 750 men at any time during the first six months of 1937, it is obvious that there are many duplications in these lists. The exact number is difficult to ascertain due to inaccuracy in the copying of names. However, the names of most of the men in both the polishing and punch press departments appear on two lists. Thus it can be seen that the men who were in the petitioning unions at the beginning of the year signed up almost unanimously in the U. A. W. A. during its organizational drive in February and March. However, there is evidence of a subsequent swing back to the Polishers Union and the I. A. M. Several of the witnesses for these two unions testified that they were among those who had joined the U. A. W. A. while still holding membership in one of the petitioning unions, and stated further that they now preferred the latter. At the present time it is impossible to find which of the contending groups is favored by a majority of the polishers and of the punch press operators.

### *C. The present controversy*

The petitioning unions claim that there are three separate units for collective bargaining in this plant. The U. A. W. A. contends that the plant cannot be subdivided as claimed and that it should be treated as one unit. All parties are agreed that there should be an election. They are also all agreed that eligibility should be based on the pay roll for the week including May 13, 1937, the date of the petitions, and such a pay roll has been supplied by the Company.

## IV. THE APPROPRIATE UNIT

The Company's plant has numerous departments, major and minor, through which its products flow in the course of production. A representative of the Company testified that all products go through at least three departments and that a tie up of one department would tie up the whole plant. A classification list which was placed in evidence<sup>2</sup> shows that many different types of work are done at the plant.

Both polishing<sup>3</sup> and punch press work are done at the plant of the Company in separate, clearly-defined areas; the former in two rooms on separate floors, and the latter all in one room. There is evidence that men are shifted about from department to department and that they may be taken from assembly and put onto polishing or punch press work. There is little evidence, however, that men ever return from polishing or press room work to other departments.

There is a great deal of testimony as to the degree of skill required for polishing and press room work. With regard to polishing it appears that some degree of skill is required for the work done at the Company's plant, although the operations are relatively simple and can be learned rather quickly. A man may become sufficiently adept at the tasks required in the plant without becoming an all-round polisher. However polishers are paid higher wages than are men on the assembly line, and in general, when taking on new men, experienced polishers are sought. Much the same applies to the punch press men. They are termed specialists by the I. A. M. They are not all-round machinists, but rather operators of a particular kind of machine. There was testimony to the effect that a new man would have to work very slowly and the product of his early labor would not be worth very much. There was also evidence, however, that a specialist at one machine within the press room would not necessarily be able to operate any other punch press machine.

In view of the facts described above, it appears that the Company's production workers can be considered either as a single unit appropriate for the purposes of collective bargaining, as claimed by the U. A. W. A., or as three such units, as claimed by the petitioning unions. The history of successful separate negotiations at the Company's plant, and also the essential separateness of polishing and punch press work at that plant, and the existence of a requirement of a certain amount of skill for that work are proof of the feasibility of the latter approach. The successful negotiation of a plant-wide agreement on May 20, 1937, as well as the interrelation

<sup>2</sup> Board's Exhibit No 6

<sup>3</sup> The Polishers Union claims jurisdiction over polishers and buffers. The record is not clear, but it seems that the same men do both polishing and buffing at the plant. Throughout this opinion, polishing may be taken to include buffing.

and interdependence of the various departments at the Company's plant, are proof of the feasibility of the former.

In such a case where the considerations are so evenly balanced, the determining factor is the desire of the men themselves.<sup>4</sup> On this point, the record affords no help. There has been a swing toward the U. A. W. A. and then away from it. The only documentary proof is completely contradictory. We will therefore order elections to be held separately for the men engaged in polishing and those engaged in punch press work. We will also order an election for the employees of the Company engaged in production and maintenance, exclusive of the polishers and punch press workers and of clerical and supervisory employees.

On the results of these elections will depend the determination of the appropriate unit for the purposes of collective bargaining. Such of the groups as do not choose the U. A. W. A. will constitute separate and distinct appropriate units, and such as do choose the U. A. W. A. will together constitute a single appropriate unit.

#### V. THE EFFECT OF THE QUESTIONS OF REPRESENTATION ON COMMERCE

On May 17, 1937, there was a strike at the Company's plant which caused a complete stoppage and shut-down during its three-day duration. A representative of the Company testified that the strike had repercussions outside of the state in which the Company is located.

We find that the questions concerning representation which have arisen, occurring in connection with the operations of the Company described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and have led and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### CONCLUSION OF LAW

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

Questions affecting commerce have arisen concerning the representation of the employees of The Globe Machine and Stamping Co., within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

#### DIRECTION OF ELECTIONS

By virtue and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations

<sup>4</sup>This factor was held to be of significance in *Matter of Atlantic Refining Co.*, 1 N. L. R. B. 359; *Matter of Chrysler Corporation*, 1 N. L. R. B. 164; *Matter of International Mercantile Marine Co. et al.*, 1 N. L. R. B. 384, and in *Matter of New England Transportation Co.*, 1 N. L. R. B. 130.

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

DIRECTED that, as part of the investigations authorized by the Board to ascertain representatives for collective bargaining with The Globe Machine and Stamping Co., elections 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 Eighth Region, acting in this manner 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 Globe Machine and Stamping Co. who fall within the groups described below who were on the pay roll of the Company for the week which included May 13, 1937:

a. Those engaged in polishing and buffing to determine whether they desire to be represented by the Metal Polishers Union, Local No. 3, affiliated with the American Federation of Labor, or the United Automobile Workers of America, affiliated with the Committee for Industrial Organization, for the purposes of collective bargaining.

b. Those engaged in the press room in the operation of punch press machines to determine whether they desire to be represented by International Association of Machinists, District No. 54, affiliated with the American Federation of Labor, or the United Automobile Workers of America, affiliated with the Committee for Industrial Organization, for the purposes of collective bargaining.

c. All other employees engaged in production and maintenance, except supervisory and clerical employees, to determine whether they desire to be represented by Federal Labor Union 18788, affiliated with the American Federation of Labor, or the United Automobile Workers of America, affiliated with the Committee for Industrial Organization, for the purposes of collective bargaining.

[SAME TITLES]

## AMENDMENT TO DIRECTION OF ELECTIONS

*August 24, 1937*

On August 11, 1937, the National Labor Relations Board, herein called the Board, issued a Direction of Elections in the above-entitled case, the elections to be held within fifteen (15) days from the date of the Direction. Thereafter the U. A. W. A. advised the Board that the Company was operating with a substantially reduced force and requested postponement of the elections directed. It appears that although 642 men were employed on May 13, 1937, the date on which eligibility for the purpose of voting was to have been based, 427 men were at work on August 16, 1937, and only 330



on August 23, 1937. A representative of the Company has advised the Board that it will not be operating at normal capacity until after the middle of September.

Because of the difficulty of notifying those men who are eligible to vote but who are not now working we hereby direct that the elections which, on August 11, 1937, were directed by us to be held among the employees of The Globe Machine and Stamping Co. be postponed until further notice. The Direction of Elections is hereby amended by striking therefrom the words, "within fifteen (15) days from the date of this Direction" and substituting therefor the words, "at such time as the Board will in the future direct."

MR. EDWIN S. SMITH took no part in the consideration of the above Amendment to Direction of Elections.

[SAME TITLES]

## SECOND AMENDMENT TO DIRECTION OF ELECTIONS

*October 5, 1937*

On August 11, 1937, the National Labor Relations Board, herein called the Board, issued a Direction of Elections in the above-entitled case, the elections to be held within fifteen (15) days from the date of the Direction, under the direction and supervision of the Regional Director for the Eighth Region. Thereafter United Automobile Workers of America advised the Board that The Globe Machine and Stamping Co. was operating with a substantially reduced force and requested postponement of the elections directed. After investigation the Board, on August 24, 1937, amended the Direction of Elections, by postponing the holding of the elections to "such time as the Board will in the future direct."

The Board is now advised by the Acting Regional Director that the Company is now operating with a force of 400 men, and that it does not anticipate increasing its operations any further during the current year. Although the Board found in its original decision that the Company normally employs between 500 and 750 men, no purpose would be served by delaying the elections in this matter any longer. Therefore the Direction of Elections as amended is hereby further amended by striking therefrom the words, "at such time as the Board will in the future direct", and substituting therefor the words, "on October 12, 1937."

CHAIRMAN MADDEN took no part in the consideration of the above Second Amendment to Direction of Elections.

[SAME TITLES]

SUPPLEMENTAL DECISION  
AND  
CERTIFICATION OF REPRESENTATIVES

*October 22, 1937*

STATEMENT OF THE CASE

On May 13, 1937, Metal Polishers Union, Local No. 3, herein called the Polishers Union, International Association of Machinists, District No. 54, herein called the I. A. M., and Federal Labor Union 18788, herein called the Federal Local, filed separate petitions with the Regional Director for the Eighth Region (Cleveland, Ohio), alleging that questions affecting commerce had arisen concerning the representation of employees of The Globe Machine and Stamping Co., Cleveland, Ohio, herein called the Company, and requesting the National Labor Relations Board, herein called the Board, to conduct an investigation pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On May 19, 1937, the Board, acting pursuant to Section 9 (c) of the Act, and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director to conduct an investigation and to provide for an appropriate hearing; and the Board further ordered, pursuant to Article III, Section 10 (c) (2) of the Rules and Regulations—Series 1, as amended, that the three cases be consolidated for the purposes of the hearing.

Pursuant to a notice of hearing duly served upon the Company, upon the three petitioning unions, and upon the United Automobile Workers of America, herein called the U. A. W. A., a labor organization named in the petitions as claiming to represent the Company's employees, a hearing was held at Cleveland, Ohio, on June 24 and 25, 1937, before Charles E. Persons, the Trial Examiner duly designated by the Board. On August 11, 1937, the Board issued a Decision and Direction of Elections which provided that three elections be held.

In its Decision, the Board made no final determination as to the appropriate unit for the purposes of collective bargaining with the Company. The U. A. W. A. had contended that all of the production employees of the Company constituted a single appropriate unit. The Polishers Union and the I. A. M. contended, however, that the Company's polishers and punch press men each constituted separate appropriate units. The Board stated that since either contention could be sustained, it would direct that separate elections be held for the polishers and punch press men, and would decide the issue on the

basis of the preferences indicated by the employees in the elections. It therefore directed that one election by secret ballot be held among the Company's polishers to determine whether they desired to be represented by the Polishers Union or the U. A. W. A.; and that another be held among the punch press men to determine whether they desired to be represented by the I. A. M. or the U. A. W. A., for the purposes of collective bargaining. The Board also ordered that an election by secret ballot be held among all the other employees engaged in production and maintenance to determine whether they desired to be represented by the Federal Local or the U. A. W. A. The Board stated,<sup>1</sup> "On the results of these elections will depend the determination of the appropriate unit for the purposes of collective bargaining. Such of the groups as do not choose the U. A. W. A. will constitute separate and distinct appropriate units, and such as do choose the U. A. W. A. will together constitute a single appropriate unit."

Pursuant to two amendments of the Direction of Elections, made on August 24 and October 5, 1937, postponing the date thereof, secret ballots were conducted on October 12, 1937. Full opportunity was accorded to all parties to this investigation to participate in the conduct of this secret ballot and to make challenges. On October 14, 1937, the Regional Director caused to be served on the parties to the proceeding his Intermediate Report on the conduct of the ballots. No objection with respect to the conduct of the elections was filed to the Intermediate Report, and it was forwarded by the Regional Director to the Board in Washington, D. C.

As to the results of the secret ballot, the Regional Director reported the following:

<i>Polishers</i>	
Total number eligible.....	31
Total number of ballots cast.....	30
Total number of blank ballots.....	0
Total number of void ballots.....	0
Total number of challenged ballots.....	2
Total number of ballots cast for the Polishers Union.....	12
Total number of ballots cast for the U. A. W. A.....	16
<i>Punch press men</i>	
Total number eligible.....	129
Total number of ballots cast.....	108
Total number of blank ballots.....	0
Total number of void ballots.....	1
Total number of challenged ballots.....	2
Total number of ballots cast for the I. A. M.....	38
Total number of ballots cast for the U. A. W. A.....	67

<sup>1</sup> See Section IV of the Findings of Fact in the original Decision

*Production workers, exclusive of polishers and punch press men*

Total number eligible.....	456
Total number of ballots cast.....	298
Total number of blank ballots.....	0
Total number of void ballots.....	0
Total number of challenged ballots.....	0
Total number of ballots cast for the Federal Local.....	16
Total number of ballots cast for the U. A. W. A.....	282

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

## SUPPLEMENTAL FINDING OF FACT

In order to insure to the employees of the Company the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of the Act, we find that all the employees of the Company engaged in production and maintenance, except supervisory and clerical employees, constitute a unit appropriate for the purposes of collective bargaining.

## SUPPLEMENTAL CONCLUSION OF LAW

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

All of the employees of The Globe Machine and Stamping Co. engaged in production and maintenance, except supervisory and clerical employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) 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, 49 Stat. 449, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that United Automobile Workers of America has been designated and selected by a majority of the employees of The Globe Machine and Stamping Co. engaged in production and maintenance, except supervisory and clerical employees, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, United Automobile Workers of America is the exclusive representative of all such employees for the purposes of collective bargaining in respect to wages, rates of pay, hours of work, and other conditions of employment.