

**In the Matter of BETHLEHEM STEEL COMPANY, SHIPBUILDING DIVISION
(BOSTON YARDS) and INDUSTRIAL UNION OF MARINE AND SHIPBUILD-
ING WORKERS OF AMERICA (C. I. O.)**

Case No. 1-R-1821.—Decided May 22, 1944

Mr. Gerald J. Reilly, of Bethlehem, Pa., for the Company.

Mr. Sidney S. Grant, (Grant & Angoff), of Boston, Mass., for the Union.

Mr. William Strong, of counsel to the Board.

**DECISION
AND
DIRECTION OF ELECTION**

STATEMENT OF THE CASE

Upon a petition duly filed by Industrial Union of Marine and Shipbuilding Workers of America (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Bethlehem Steel Company, Shipbuilding Division (Boston Yards), East Boston, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Leo J. Halloran, Trial Examiner. Said hearing was held at Boston, Massachusetts, on April 20, 1944. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The Company moved at the hearing for dismissal of the petition. The Trial Examiner reserved ruling for the Board. The motion is denied. All parties were afforded an opportunity to file briefs with the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company, a Pennsylvania corporation, operates two shipyards, the Atlantic Yard and the Simpson Yard, hereinafter called the Bos-

ton Yards, at East Boston, Massachusetts. These yards are engaged in the conversion and repair of vessels, mostly for the United States Government. During 1943 the aggregate value of materials used by the Company at the yards was in excess of \$4,532,616, of which over 75 percent was delivered to the yards from points outside the Commonwealth of Massachusetts. During the same year, the aggregate value of the work at the yards was in excess of \$25,853,737, of which more than 76 percent was for the conversion and repair of vessels for the United States Government, the balance being for work for private persons and companies on vessels destined for use in coastwise and foreign commerce.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Industrial Union of Marine and Shipbuilding Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of the Company's employees.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Union seeks a unit composed of all powerhouse engineers and station operators or engineers, in the Z Department at the Boston Yards, excluding plant engineers. The Company disputes the appropriateness of this unit.

On February 10, 1939, the Board found that an appropriate unit for the Boston Yards consisted of all production, maintenance and stock-room employees, and others, excluding office, clerical, supervisory and executive employees, draftsmen, watchmen, and janitors. Subsequently the Company and the Union executed a contract, which was renegotiated on December 15, 1943, which provided that the bargaining

¹ The Field Examiner reported that the Union submitted 8 membership application cards, 6 of which bore the names of persons appearing on the Company's pay roll of March 5, 1944, which contained the names of 17 employees in the appropriate unit

unit should consist of all production, maintenance and stockroom employees, and others, excluding, in part, all salaried technical employees. No representation or bargaining has ever taken place on behalf of the employees whom the Union now seeks to include in the unit.

The Company in effect urges that since the Z Department employees, being salaried technical employees, were excluded under the contract, the unit proposed here is inappropriate.

There are 4 power plant engineers at the Atlantic Yard and 10 engineers and 3 station operators or engineers at the Simpson Yard. They are concerned with the operation of the equipment used in the generation and distribution of power. All are salaried employees. We are of the opinion that the power plant engineers and the station operators or engineers may properly constitute a unit for purposes of collective bargaining. Nothing in the record militates against the establishment of such a unit.

At each yard the Company employs one chief engineer. The Union would include them in the unit, while the Company would exclude them. The chief engineers, in addition to performing functions assigned to the other engineers, also issue instructions and transmit orders to the engineers, prepare reports, and have the power to effectively recommend disciplinary action against the other engineers. We find that the chief engineers fall within our usual definition of supervisory employees.

We find that all powerhouse engineers and station operators or engineers in the Z Department at the Boston Yards, but excluding plant engineers, chief engineers, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

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 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Bethlehem Steel Company, Shipbuilding Division (Boston Yards), East Boston, Massachusetts, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) 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, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during the said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by Industrial Union of Marine and Shipbuilding Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.