

In the Matter of EMIL D. & EMIL W. PLATZER, CO-PARTNERS DOING BUSINESS AS PLATZER BOAT WORKS and INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIPBUILDERS & HELPERS OF AMERICA, AFL

Case No. 16-R-1044.—Decided November 16, 1944

Mr. W. M. Streetman, of Houston, Tex., for the Company.

Messrs. Covert White and Clarence C. Rehl, of Houston, Tex., for the Boilermakers.

Mr. Bliss Daffan, of Houston, Tex., for the Weldors.

Miss Melvern R. Krelow, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Boilermakers, Iron Shipbuilders & Helpers of America, AFL, herein called the Boilermakers, alleging that a question affecting commerce had arisen concerning the representation of employees of Emil D. & Emil W. Platzer, Co-Partners doing business as Platzer Boat Works, Houston, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John H. Garver, Trial Examiner. Said hearing was held at Houston, Texas, on October 6, 1944. The Company, the Boilermakers, and Local No. 5, United Brotherhood of Weldors, Cutters and Helpers of America, herein called the Weldors, 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 reserved ruling on motion by the Boilermakers that the motion to intervene of the Weldors be denied on the ground that its showing of representation is insubstantial. The Trial Examiner also reserved ruling on motion by the Weldors that the petition be dismissed on the grounds that the Boilermakers is a "craft" organization that has petitioned for a plant-wide unit; and that a number of employees whom the Boilermakers is seeking to represent are not eligible for membership in that organization.¹ The motions

¹ While it appears that the Boilermakers does not admit to membership certain of the employees whom it desires to represent for the reason that they are not engaged in work

are hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. 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

Emil D. Platzer and Emil W. Platzer are co-partners doing business as Platzer Boat Works and are engaged in Houston, Texas, in the manufacture of wood and steel boats. During the 6-month period preceding the hearing, the Company manufactured and delivered to the United States Army boats valued in excess of \$100,000. During the same period the Company received from points outside the State of Texas raw materials for its manufacturing processes valued in excess of \$60,000.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Boilermakers, Iron Shipbuilders & Helpers of America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

Local No. 5, United Brotherhood of Weldors, Cutters and Helpers of America, is an unaffiliated labor organization admitting to membership employees of the Company.²

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Boilermakers as the exclusive bargaining representative of its employees until the Boilermakers has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Boilermakers represents a substantial number of employees in the unit it alleges to be appropriate.³

which normally comes within its jurisdiction, this is not here material, since there is no showing that the Boilermakers will not accord adequate representation to all employees included within the unit herein found appropriate.

²The Boilermakers contends that the Weldors is not a labor organization within the meaning of the Act. From the record it appears that the Boilermakers' contention is without merit.

³The Field Examiner reported that the Boilermakers submitted 90 authorization cards; that the names of 73 persons appearing on the cards were listed on the Company's pay roll of September 2, 1944, which contained the names of 173 employees in the unit claimed appropriate by the Boilermakers; and that 4 were dated in July and 64 in August 1944; 5 were undated. The Weldors submitted 13 authorization petitions, 5 of which bore the names of employees listed on the Company's pay roll of September 2, 1944.

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 DETERMINATION OF REPRESENTATIVES

The Boilermakers contends that all production and maintenance employees, including leadermen, but excluding office and clerical employees and supervisory employees above the rank of leadermen constitute an appropriate bargaining unit. The Weldors contends that all welders, burners, and their apprentices and helpers, including the tank tester leaderman, and pipe welders, but excluding supervisory employees, clerical and technical employees constitute a separate appropriate bargaining unit. The Company takes no position with respect to the appropriateness of the unit:

The plant is under one superintendent, and the various departments are under the supervision of foremen and leadermen. The welding department is a separate department, and is in charge of a welder foreman. The welders engage in electrical welding, and perform their duties entirely in the welding department. Occasionally, however, some of the welders may spend time in the prefabrication department, and the pipe fitting department.⁴ Although on such occasions the welders may be under the immediate direction of the foremen of those departments, they still perform electrical welding, are still considered part of the welding department, and are under the general supervision of the welder foreman, who keeps their time. The burners, on the other hand, work in and are part of the prefabrication department and are under the general supervision of the foreman of that department.

The above facts indicate the propriety of establishing the welding department, excluding the burners, as a separate bargaining unit. On the other hand, the integrated character of the Company's operations, and the fact that the boilermakers has organized employees, including those in the welding department, upon a plant-wide basis, point to the feasibility of a unit composed of all production and maintenance employees including employees in the welding department. Accordingly we shall determine the desires of the employees themselves by directing separate elections among the employees in the welding department, and among the remaining production and maintenance employees. Upon the results of the elections will depend, in part, our determination of the appropriate unit or units.

The Weldors desires to include the tank tester leaderman, who is a welder and an employee of the welding department, in the unit

⁴ Occasionally welders may be hired directly by the pipe fitting department. Such employees are not considered to be employees of the welding department and consequently are not deemed to be included in the welding group in which an election is hereinafter directed.

it alleges to be appropriate. His work consists of checking bad welds and repairing them; he works with two other employees, a chipper and welder. The record indicates that this employee has no supervisory authority, and we deem him eligible to vote in the election, and we shall include him in the voting group comprising employees in the welding department.

The Boilermakers desires the inclusion of leadermen. These employees engage in no manual work and have the authority to make effective recommendations concerning the status of employees in their respective groups. We find that they are supervisory employees, and we shall exclude them generally from participation in the election among the employees in the residual production and maintenance group. We shall include therein, however, the painter leaderman and the machinist leaderman, both of whom engage in the same work as that of the employees in their respective groups and who have no substantial supervisory authority within our definition thereof.

We shall accordingly direct that two separate elections be held among the Company's employees in each of the voting groups set forth below, who were employed during the pay-roll period immediately preceding the date of the Direction of Elections, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, subject to the limitations and additions set forth in the Direction:

(1) All employees in the welding department, including the tank tester leaderman, but excluding burners, clerical and technical employees;

(2) All production and maintenance employees, including the painter leaderman, the machinist leaderman, and burners, but excluding employees in the welding department including the tank tester, office and clerical employees, and leadermen.

As indicated above, on the results of the elections in the aforementioned groups will depend, in part our determination of the appropriate unit or units.⁵

⁵ In his statement with respect to representation showings, the Field Examiner further reported that United Brotherhood of Carpenters & Joiners of America and Marine Pipe Fitters Local 682 filed petitions which they then withdrew and orally agreed with the Boilermakers to include the job classifications for which they originally filed such petitions in the over-all unit requested by the Boilermakers; and that the authorization cards submitted by the Boilermakers included cards of the Carpenters and the Pipefitters. We assume, however, that the Boilermakers does not contemplate that the Company be required to bargain on the basis of any unit other than that which the Board finds appropriate, or with any labor organization other than the one which may be certified as a result of this proceeding. If the Boilermakers wins the elections hereinafter directed and is certified as the exclusive bargaining representative of a single unit of production and maintenance employees, either including or excluding employees in the welding department, the Company will have the right to insist on dealing directly with the Boilermakers on the basis of that single unit.

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

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Emil D. & Emil W. Platzer, co-partners doing business as Platzer Boat Works, Houston, Texas, separate elections 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 Sixteenth 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 all employees of the Company who fall within the groups described below who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during 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 elections:

(1) All employees in the welding department, including the tank tester leaderman, but excluding burners, clerical and technical employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether they desire to be represented by International Brotherhood of Boilermakers, Iron Shipbuilders & Helpers of America, A. F. L., or by Local No. 5, United Brotherhood of Weldors, Cutters and Helpers of America, for the purposes of collective bargaining, or by neither;

(2) All production and maintenance employees, including the painter leaderman, the machinist leaderman, and burners, but excluding employees in the welding department including the tank tester, office and clerical employees, leadermen, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether or not they desire to be represented by International Brotherhood of Boilermakers, Iron Shipbuilders & Helpers of America, A. F. L., for the purposes of collective bargaining.