

In the Matter of J. C. PADDOCK AND M. B. PADDOCK, CO-PARTNERS,
DOING BUSINESS AS J. C. PADDOCK COMPANY and SHEET METAL
WORKERS INTERNATIONAL, LOCAL UNION No. 165

Case No. 10-R-1301.—Decided November 18, 1944

Messrs. L. W. Perrin, L. K. Leonard, and J. C. Paddock, of Spartanburg, S. C., for the Company.

Messrs. L. B. Chapman and B. C. Delay, of Columbia, S. C., for the Union.

Mr. Thomas A. Ricci, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Sheet Metal Workers International, Local Union No. 165, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of J. C. Paddock and M. B. Paddock, co-partners, doing business as J. C. Paddock Company,¹ Spartanburg, South Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Melton Boyd, Trial Examiner. Said hearing was held at Spartanburg, South Carolina, on October 5, 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. 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

J. C. Paddock Company, a South Carolina partnership, is engaged in the manufacture and repair of textile machinery, machine parts,

¹ Name as amended at the hearing.

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and textile equipment at Spartanburg, South Carolina. During the year 1943, almost 100 percent of the raw materials used by the Company was purchased and received from points outside the State of South Carolina. During the same year the Company's gross business amounted to approximately \$80,000, and it shipped approximately 40 percent of its finished products to points outside the State of South Carolina. During the current year the Company's business is substantially the same as in 1943 with respect to volume, source of raw materials, and destination of sales.

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

II. THE ORGANIZATION INVOLVED

Sheet Metal Workers International, Local Union No. 165, 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 its employees until the Union 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 Union represents a substantial number of employees in the unit hereinafter found appropriate.²

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 requests a unit comprised of all the Company's production employees engaged in metal work, excluding arc welders, the truck driver, and clerical and supervisory employees. The Company agrees to the exclusions as sought by the Union, but would also exclude all other employees except two, who are journeymen sheet metal workers and members of the Union.

The Company manufactures various types of hand trucks, cylinders, screens, cans, and other equipment used in textile mills. Metals of various qualities and forms in addition to fibre materials are used in fabricating the products. All the employees do a certain amount of metal work, some being more experienced with metal than others. The Union's constitution limits its membership to journeymen sheet

² The Field Examiner reported that the Union submitted 10 application for membership cards and evidence of 2 initiated members and that there are 17 employees in the alleged appropriate unit.

metal workers and registered apprentices. The Company contends that some of its employees are not qualified for membership in the Union and it therefore questions the appropriateness of including any employee ineligible for union membership.

On the basis of job descriptions given by a company official, a union representative stated at the hearing that some of the employees in the unit requested would not be eligible for membership in the Union. However, he was in sharp disagreement with the Company concerning the experience and ability of those employees whom the Union seeks to represent. He added that the Union has an examination board that will pass upon the qualifications of each of the Company's employees to determine eligibility for membership, either as a journeyman sheet metal worker or as a registered apprentice. Similar situations are to be found in many shops where employees, never previously organized, are going through progressive stages of union organization. Accordingly, we find no merit in the Company's contention.

We find that all the Company's production employees engaged in metal work, excluding arc welders, the truck driver, clerical 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, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.³

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.⁴

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, as amended, it is hereby

³ This unit apparently includes all the Company's production employees except the specified exclusions.

⁴ The Union requests that its name appear on the ballot as set forth in the Direction of Election.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with J. C. Paddock and M. B. Paddock, co-partners, doing business as J. C. Paddock Company, Spartanburg, South Carolina, 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 Tenth 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 Local No. 165, Sheet Metal Workers International, for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.