challenges to the ballots of Peter Palmieri and Jean Jaroszewski be sustained, we shall adopt these recommendations.

[The Board directed that the Regional Director for the Twenty-second Region shall with ten (10) days from the date of the Direction, open and count the ballots of the employees whose names appear on Appendix A attached hereto, and serve upon the parties a revised tally of ballots. If the Petitioner receives a majority of the valid votes the Regional Director shall issue a certification of representatives; if the Union does not receive a majority of the valid votes, the Regional Director shall issue a certification of results of election.]

[The Board ordered the above-entitled matter referred to the Regional Director for the Twenty-second Region for disposition.]

APPENDIX A

C. Amato
Y. Angotti
A. Asconi
D. Battaglino
P. Bizelewicz
A. Buja
L. DeAngelo
C. Danza
T. Darragh
B. Doornbus
S. Skiados
L. Rivera
E. Teitsma
P. Esposito
A. Fondacaro
L. Greco
E. Hackel
M. Harris
E. Hundley
N. Iosca
T. Kennedy
E. Knecht
E. Stecz
D. Villagomez
M. LaPorte
E. Tercheck
A. Laviola
G. Lucci
A. Lusky
J. Mascarin
M. Misciagna
I. Prisco
L. Rosso
E. Sigro
C. Ulrich
D. Corey
V. Battaglino
M. Lusky
A. Magee
M. Tosoloski
M. Van Blarcom
H. Wynne
D. Miller
M. Gleason
A. Merola
J. Zeshonski

Alexander Manufacturing Company *and* Employees Committee of Alexander Manufacturing Company, Petitioner. *Case No. 15–RD–84. May 21, 1958*

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before John H. Immel, Jr., hearing officer. At the hearing, the Union moved to dismiss the petition on several grounds. For reasons stated *infra*, the motions are hereby denied. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The Petitioner asserts that the International Brotherhood of Boilermakers, Iron Shipbuilders, Blacksmiths, Forgers & Helpers, AFL–CIO, hereinafter referred to as the Union, is no longer the bargaining representative, as defined in Section 9 (a) of the Act, of the employees designated in the petition.

3. At the hearing, the Union moved to dismiss the petition contending that it could not be filed properly by an attorney. We find no merit in this contention. Section 9 (c) (1) (A) of the amended Act provides for the filing of decertification petitions by "an employee or group of employees or any individual or labor organization acting in their behalf."[1] The hearing officer denied the Union's motion for production of the evidence relied upon to determine the adequacy of the Petitioner's showing of interest. In its brief, the Union contends that its motion should be sustained by the Board inasmuch as the evidence was sought for the purpose of ascertaining the eligibility of those employees authorizing the petition. It is well established by the Board that the Petitioner's showing of interest in decertification as well as representative petitions, is an administrative determination not litigable by the parties.[2]

On December 14, 1954,[3] the Board ordered the Employer to bargain with the Union and found that the appropriate unit was all production and maintenance employees. Administratively, we have been advised that 17 bargaining sessions were held between July 11 and December 3, 1956, which resulted in no final agreement. The Union filed a second 8 (a) (5) charge on October 10, 1956, which was dismissed by the Regional Director and whose determination was upheld by the General Counsel on July 6, 1957. There is no evidence in the record that an agreement has since been reached by the parties. However, the Union contends that it is the majority representative of the employees.

In view of the foregoing, we find that a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.[4]

4. The Employer is engaged in the fabricating of farm equipment at its principal office and place of business at Picayune, Mississippi. The Petitioner and the Employer agree that the production and

[1] *The Hertner Electric Company*, 115 NLRB 820; *Clackamas Logging Company*, 113 NLRB 229.

[2] *Le Roi Division, Westinghouse Airbrake Co*, 114 NLRB 893, 895; *Burry Biscuit Corporation*, 76 NLRB 640; *Colonial Hardware Flooring Company, Inc.*, 76 NLRB 1039.

[3] 110 NLRB 1457, 1466.

[4] *Ruffalo's Trucking Service, Inc*, 114 NLRB 1549.

maintenance unit is appropriate. The Union took no position either at the hearing or in its brief.

The Employer's operations are confined to two adjacent buildings, one in which cutting, forming, and welding operations are performed, the other where assembling, painting, and shipping operations are performed. The Employer operates 1 shift of approximately 30 employees. Responsible for the operations is the superintendent who directs the work in both buildings and is the only person with authority to hire and discharge or to grant time off to the employees. Under him as foreman of approximately 20 employees who work in the building where the welding operation is performed, is a person who assists the superintendent, is authorized to move employees from one occupation to another, tell them what to do, and "watch out for the men," "help get things ready and show them what to cut out." Both the superintendent and the foreman are salaried. We find that they responsibly direct the employees and are supervisors.

In the other building, there is a person whom the superintendent tells what is to be done, and he assigns the work and sees that it is done properly. Unlike the foreman, he is hourly paid. Although both the Employer and the Petitioner agree that he is not a supervisor, we find the record inadequate to make a determination. Therefore, we shall permit him to vote subject to challenge.

The Employer would include and the Petitioner exclude a shipping clerk who is salaried and works in a corner of the building where the painting is done. At times he helps to load trucks. We find that he is a plant clerical and properly belongs in the unit.

The Employer takes no position on the eligibility of an engineer whose office is in the rear of the welding building, but the Petitioner desires to exclude him from the unit. His work consists principally of drafting blueprints. Usually, but not always, the part is built and then drawn by him. No evidence was submitted as to his educational background, but the superintendent stated that he used mathematical calculations to figure stress of metals. He is hourly paid at approximately the same rate as the maintenance mechanic. The evidence is insufficient to determine that he is a professional employee; however, we find that he is a technical employee and exclude him from the unit.

Accordingly, we find that the following employees of the Employer employed at Picayune, Mississippi, constitute an appropriate unit for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

All production and maintenance employees, excluding the office clerical employees, the engineer, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]