

In the Matter of BECHTEL-McCONE-PARSONS CORPORATION and VULCAN  
AIRCRAFT LODGE #1723, INTERNATIONAL ASSOCIATION OF MA-  
CHINISTS

*Case No. 10-R-941.—Decided September 24, 1943*

*Messrs. Jelks H. Cabaniss, John A. Clark, William H. Ivey and John J. Smith, all of Birmingham, Ala., for the Company.*

*Mr. J. C. McGlon, of Birmingham, Ala., for the IAM.*

*Mr. James A. Lipscomb, of Bessemer, Ala., and Messrs. Willard Dobbs and Michael Volk, both of Birmingham, Ala., for the CIO.*

*Mr. Glenn L. Moller, of council to the Board.*

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Vulcan Aircraft Lodge #1723, International Association of Machinists, herein called the IAM, alleging that a question affecting commerce had arisen concerning the representation of employees of Bechtel-McCone-Parsons Corporation, Birmingham, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Paul S. Kuelthau, Trial Examiner. Said hearing was held at Birmingham, Alabama, on September 2, 1943. The Company, the IAM, and International Union, United Automobile Aircraft & Agricultural Implement Workers of America, CIO, herein called the CIO, appeared, participated, and 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 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

Bechtel-McCone-Parsons Corporation, a Nevada corporation, operates a plant at Birmingham, Alabama, which plant is owned by the 52 N. L. R. B., No. 144.

Defense Plant Corporation and leased to the Company. The Company's sole activity at the Birmingham plant consists of modifying airplanes pursuant to a contract with the War Department. The planes are flown in from the manufacturer and flown out after modifications are completed. A substantial amount of the parts and fittings for the planes is shipped to the plant from points outside the State of Alabama. The entire output of the plant is delivered to the Army Air Force and is sent outside the State of Alabama.

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

## II. THE ORGANIZATIONS INVOLVED

Vulcan Aircraft Lodge #1723, International Association of Machinists, is an unaffiliated labor organization admitting to membership employees of the Company.

International Union, United Automobile, Aircraft and Agricultural Implement 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

On or about July 15, 1943, the IAM requested that the Company recognize it as the exclusive bargaining representative of certain of the Company's employees. The Company refused to grant such recognition until the IAM has been certified by the Board in an appropriate unit.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the IAM and the CIO represent substantial numbers of employees in the unit hereinafter found appropriate.<sup>1</sup>

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 parties stipulated that there should be included in the appropriate unit all hourly paid production, maintenance, and service employees, all dispatchers who do stock handler's work, and trainees and advanced trainees who have had more than 5 weeks of training,

<sup>1</sup>The Field Examiner reported that the IAM submitted authorization cards bearing apparently genuine signatures of persons whose names were listed on the Company's pay roll of July 18, 1943, and which equaled 30 percent of the total pay roll.

The CIO submitted cards indicating that it represents approximately 5 percent of the employees in the appropriate unit.

and that there should be excluded from the unit all dispatchers who do not do stock handler's work, guards, duplicating machine operators, corporals of the guard, escorts, trainees who have had less than 5 weeks training, advanced trainees who have had less than 5 weeks training, guard trainees, sergeants of the guard, and all supervisors above the rank of leadman.

The parties are in dispute as to only two categories of employees, firemen and firemen trainees, whom the CIO seeks to include and the Company and the IAM seek to exclude from the unit. The firemen are a branch of the plant-protection department, the other branch being composed of guards. Although these branches have functioned separately in the past, orders have been issued by the United States Army official in charge of plant protection, that the functions and duties of guards and firemen are to be combined. When this change occurs, the firemen will be sworn in as auxiliary military police, as is presently the case with respect to the guards. In conformance with our established policy, we shall exclude from the unit the firemen and firemen trainees, since they will soon be auxiliary military police.<sup>2</sup>

In accordance with the stipulation of the parties and the above conclusions we find that all hourly paid production, maintenance, and service employees, trainees and advanced trainees who have had more than 5 weeks of training, and all dispatchers who do stock handler's work, at the Company's plant at Birmingham, Alabama, excluding dispatchers who do not do stock handler's work, guards, corporals and sergeants of the guard, firemen and firemen trainees, escorts, duplicating machine operators, trainees who have had less than 5 weeks training, advanced trainees who have had less than 5 weeks training, and all supervisors above the rank of leadman, 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

Early in July 1943, the Company effected a substantial reduction of personnel, laying off approximately one-third of its employees in all classifications. Since that time the Company has increased its pay roll slightly, including among its recently employed personnel some of the previously laid-off employees. The Company indicated

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<sup>2</sup> *Matter of Radio Receptor Company, Inc.*, 45 N L R. B. 402; *Matter of U S Electrical Motors, Inc.*, 45 N. L. R. B. 298; *Matter of Dravo Corp.*, 52 N L. R. B. 322.

at the hearing that this trend will continue over the next few months, during which time it will be able to rehire about half of the laid-off employees. The Company, at the time of the hearing, had already rehired a few of the laid-off employees, but in each case the rehired employee had been required to clear his application through the United States Employment Service, in the same manner as persons applying for work with the Company for the first time. The Company stated that the July lay-off, although made "without prejudice" and because of "force reduction," effected complete termination of the employment of the persons laid off, and that such former employees will be reemployed only if they are competent and if they apply through the regular employment channels. The IAM contends that the employees who were laid off in July were only temporarily laid off and that they should be permitted to vote. In order to render these persons definitely eligible, the IAM urges that the Board determine eligibility to participate in the election on the basis of the Company's pay roll for the period immediately preceding the lay-offs in July. However, it appears unlikely that an appreciable number of the separated employees will attempt to return. We consider such a possibility as too tenuous to warrant departure from our customary practice. Moreover, it appears that a large portion of those whom the Company will rehire will have been reemployed by the time this Decision is issued.

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 pay-roll 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 2, as amended, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Bechtel-McCone-Parsons Corporation, Birmingham, Alabama, 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 Regula-

tions, 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 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, to determine whether they desire to be represented by Vulcan Aircraft Lodge #1723, International Association of Machinists or by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.