

In the Matter of MONSANTO CHEMICAL COMPANY and INTERNATIONAL  
ASSOCIATION OF MACHINISTS, LODGE 1764

In the Matter of MONSANTO CHEMICAL COMPANY and BROTHERHOOD OF  
RAILROAD TRAINMEN

Cases Nos. 16-R-828 and 16-R-846 respectively.—Decided May 2, 1944

Messrs. D. L. Eynon, R. K. Mueller and F. H. Sanders, of Marshall,  
Tex., for the Company:

Mr. H. A. Bartlett, of Shreveport, La., and Mr. C. L. Mulholland,  
of Dallas, Tex., for the I. A. M.

Mr. A. B. Cranor, of Shreveport, La., for the Brotherhood.

Miss Frances Lopinsky, of counsel to the Board.

DECISION  
DIRECTION OF ELECTION  
AND  
ORDER

STATEMENT OF THE CASE

Upon petitions duly filed by International Association of Machinists, Lodge 1764, herein called the IAM, and Brotherhood of Railroad Trainmen, herein called the Brotherhood, alleging that questions affecting commerce had arisen concerning the representation of employees of Monsanto Chemical Company, Marshall, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Glenn L. Moller, Trial Examiner. Said hearing was held at Marshall, Texas, on March 7, 1944. The Company, the IAM, and the Brotherhood 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.<sup>1</sup> 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:

<sup>1</sup> We hereby approve a stipulation of the parties correcting certain inaccuracies in the record and direct that the corrections be physically incorporated into the record.

## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANY

Monsanto Chemical Company (Longhorn Ordnance Works), a Delaware corporation, operates a plant known as the Karnack plant near Marshall, Texas, where it is engaged in the manufacture of explosives for the United States Government. During the months of March, April, and May 1943, the Company received at its Karnack plant approximately 73 percent of its raw materials from points outside the State of Texas. During the same period, the Company shipped 64 percent of the finished products of that plant to points outside the State of Texas. During the course of the year 1943, the Company's sales on products manufactured and shipped from the plant exceeded \$100,000 in value.

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

## II. THE ORGANIZATIONS INVOLVED

International Association of Machinists, Lodge 1764, affiliated with the American Federation of Labor, is a labor organization admitting to membership certain employees of the Company.

Brotherhood of Railroad Trainmen, is a labor organization admitting to membership certain employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION IN CASE NO. 16-R-846;  
THE ALLEGED QUESTION CONCERNING REPRESENTATION IN CASE NO.  
16-R-828

The Company has refused to grant recognition to either union as exclusive bargaining representative for the employees whom it proposes to represent unless and until it has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, supplemented by a statement of the Trial Examiner made at the hearing, indicates that the Brotherhood represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, in the unit alleged to be appropriate by the Brotherhood, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act. Since, however, we hereinafter find that the unit petitioned for by the IAM is inappropriate.

<sup>2</sup> The Brotherhood submitted 17 authorization cards all of which, with the exception of 1 which was undated, were dated in December 1943. There were 25 railroad employees employed by the Company at the time of the hearing.

we find that no question affecting commerce has arisen concerning the representation of employees in the unit alleged to be appropriate by the IAM, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNITS

The Company is organized into departments and divisions. With the exception of the administrative department, each department is in the charge of a superintendent, and each division is in the charge of a foreman or other named supervisory employee. The Transportation Department includes, *inter alia*, the Automobile and the Railroad Divisions; the Production Department includes, *inter alia*, the Acid and the T. N. T. Divisions;<sup>3</sup> the Maintenance Department includes in five divisions, laborers, painters, carpenters, cement finishers, bricklayers, machinists, millwrights, oilers, toolroom attendants, welders, lead burners, sheet metal workers, blacksmiths, pipe fitters, insulators, instrument mechanics, electricians,<sup>4</sup> and riggers.

The IAM requests a unit of machinists, millwrights, oilers, toolroom attendants, welders, lead burners, blacksmiths, pipe fitters, insulators, and instrument mechanics, in the Company's Maintenance Department, auto mechanics in the Automotive Division of the Transportation Department; the Diesel mechanic and his helper in the Railroad Division of the Transportation Department, and utility mechanics in the Powerhouse and in the production departments. The Brotherhood requests a unit of all engineers, conductors, switchmen, weighmasters, and clerks, excepting confidential clerks in the Railroad Division of the Transportation Department. The Company contends that a plant-wide unit is most appropriate for bargaining with its employees and suggests that the best alternative therefor is departmental or division-wide units, i. e., that the IAM represent employees of the entire maintenance department; that the various categories of mechanics in other departments not be included in the unit but be considered constituents of units comprising employees of their respective departments, and that the Brotherhood's requested unit be expanded to include track repairmen in the Railroad Division, making the unit division-wide.

The employees whom the Brotherhood would represent constitute a well-defined craft from which track maintenance and repairmen are

<sup>3</sup> Production employees in these two divisions, excluding utility mechanics and truck drivers, are represented by Chemical Workers Union No 23505, A. F. of L. See *Matter of Monsanto Chemical Company*, 53 N. L. R. B. 784; certification issued December 30, 1943.

<sup>4</sup> Electricians are represented by the International Brotherhood of Electrical Workers, A. F. of L. See *Matter of Monsanto Chemical Company*, 51 N. L. R. B. 902; certification issued August 20, 1943.

generally excluded.<sup>5</sup> Although there is merit in the Company's contention that the Railroad Division is an integral part of the plant, and the employees therein might appropriately be represented in a departmental or plant-wide unit, no other labor organization is presently seeking to represent the employees claimed by the Brotherhood in any such unit as the Company advocates. We find, therefore, that all engineers, conductors, switchmen, weighmasters, and clerks in the Railroad Division of the Company's Transportation Department, excluding confidential clerks 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.

The unit requested by the IAM is coextensive neither with a craft nor with any operating department of the Company. It is true that employees in all the categories comprising this proposed unit have been organized for collective bargaining purposes, but that fact alone does not warrant a finding that so heterogeneous a group constitutes an appropriate unit within the meaning of Section 9 (b) of the Act.<sup>6</sup> Since, in our opinion, the unit for which the IAM has petitioned is neither homogeneous nor functionally coherent we find that it is inappropriate. We shall, therefore, dismiss the IAM's petition.

#### 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 Monsanto Chemical Company, Marshall, Texas, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from

<sup>5</sup> See *Matter of Houston Shipbuilding Co.*, 46 N. L. R. B. 161; *Matter of Inspiration Consolidated Copper Company*, 44 N. L. R. B. 1160.

<sup>6</sup> See *Matter of Triangle Publications, Inc.*, 40 N. L. R. B. 1330, see also *Matter of Bohm Aluminum & Brass Corporation*, 52 N. L. R. B. 1305.

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 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 any 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 Brotherhood of Railroad Trainmen for the purposes of collective bargaining.

#### ORDER

Upon the basis of the foregoing findings of fact and upon the entire record in the cases, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Monsanto Chemical Company, Marshall, Texas, filed by International Association of Machinists, Lodge 1764, in Case No. 16-R-828, be and it hereby is, dismissed.

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