

In the Matter of TRUMAN BOWEN AND J. L. McLAUGHLIN, COPARTNERS,
D/B/A BOWEN & McLAUGHLIN *and* FEDERATED MECHANICS OF AMERICA, INDEPENDENT

In the Matter of TRUMAN BOWEN AND J. L. McLAUGHLIN, COPARTNERS,
D/B/A BOWEN & McLAUGHLIN *and* INTERNATIONAL ASSOCIATION OF MACHINISTS, DISTRICT 49

Cases Nos. 21-R-2441 and 21-R-2445.—Decided December 21, 1944

Mr. Blaine B. Shimmel, of Phoenix, Ariz., for the Company.

Mr. William C. Fields, of Phoenix, Ariz., for the Mechanics.

Mr. E. R. White, of Los Angeles, Calif., for the I. A. M.

Mr. J. C. Fitzgerald, of Los Angeles, Calif., and *Mr. W. A. Gray*, of Phoenix, Ariz., for the Operating Engineers.

Mr. A. E. Williams, of Phoenix, Ariz., for the Trades Council.

Mr. Dean A. Sisk, of Phoenix, Ariz., for the Laborers.

Mr. Sidney Grossman, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon the separate petitions duly filed by the Federated Mechanics of America, Independent, herein called the Mechanics, and the International Association of Machinists, District 49, affiliated with the American Federation of Labor, herein called the I. A. M., alleging that a question affecting commerce had arisen concerning the representation of employees of Truman Bowen and J. L. McLaughlin, copartners, doing business as Bowen & McLaughlin, Phoenix, Arizona, herein called the Company,¹ the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before William B. Esterman, Trial Examiner. Said hearing was held at Phoenix, Arizona, on October 31, 1944. The Company, the Mechanics, the I. A. M., the International Union of Operating

¹ At the hearing, the Company stated that its correct designation is that set forth above.

Engineers, Local 428, affiliated with the American Federation of Labor, herein called the Operating Engineers, the Production and Maintenance Laborers, Local 383, affiliated with the International Hod Carriers, Building and Common Laborers Union of America, American Federation of Labor, herein called the Laborers, and the Phoenix Building and Construction Trades Council, affiliated with the American Federation of Labor Building and Construction Trades Union, herein called the Trades Council, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. Since the petitions are dismissed for the reasons hereinafter set forth in Section III, it is unnecessary to rule specifically upon the motions of the Company and the Operating Engineers to dismiss the petition of the Mechanics. 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

Truman Bowen and J. L. McLaughlin, copartners, doing business as Bowen & McLaughlin, Phoenix, Arizona, are engaged in the general contracting and construction business. Since about April 1944, the Company, in Arizona, has been engaged in rebuilding, remodeling, and manufacturing half-track army vehicles pursuant to United States Army Ordnance contracts, the dollar value of which is in excess of \$1,000,000. About 80 percent in dollar value of the supplies employed in the reclamation of the half-track army vehicles is furnished by the Ordnance Department. In addition, the Company is engaged in substantial construction projects outside the State of Arizona.

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

II. THE ORGANIZATIONS INVOLVED

Federated Mechanics of America, Independent, is a labor organization admitting to membership employees of the Company.

International Association of Machinists, District 49, International Union of Operating Engineers, Local 428, and Production and Maintenance Laborers, Local 383, affiliated with the International Hod Carriers, Building and Common Laborers Union of America, are all affiliated with the American Federation of Labor and are labor organizations admitting to membership employees of the Company.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

The Company contends that a current agreement² between it and the Trades Council constitutes a bar to this proceeding. We find it unnecessary to decide this question, since we are of the opinion that neither the Mechanics nor the Machinists has made a sufficient showing of representation among the employees in the alleged appropriate unit to warrant holding an election at this time.³

At the hearing, the Trial Examiner stated that the Mechanics submitted 27 authorizations, of which 25 represented the names of persons appearing on the Company's pay roll of June 24, 1944, in an alleged appropriate unit of 187 employees. He also reported that the I. A. M. submitted 87 authorizations, of which 68 bore the names of persons on the pay roll referred to, in an alleged appropriate unit of 197 employees. In the course of the hearing, the I. A. M. submitted a sworn membership list, dated October 31, 1944, which contained the names of 156 persons, of which 105 appeared on the Company's pay roll of October 16, 1944. The pay roll of October 31, 1944, disclosed a total of approximately 510 employees in the alleged appropriate unit. Under the circumstances, we find that no question concerning the representation of employees of the Company has arisen, within the meaning of Section 9 (c) of the Act. We shall, therefore, dismiss the petitions of the Mechanics and the I. A. M.

ORDER

Upon the basis of the above findings of fact and the entire record in the case, the National Labor Relations Board hereby orders that the petitions of Federated Mechanics of America, Independent, and International Association of Machinists, District 49, affiliated with the American Federation of Labor, for investigation and certification of representatives of employees of Truman Bowen and J. L. McLaughlin, copartners, doing business as Bowen & McLaughlin, be, and they hereby are, dismissed.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Order.

² Numerous affiliates of the Trades Council, including the Operating Engineers and the Laborers are also parties to this agreement.

³ We note, however, that the agreement, by its terms, specifically relates to general construction work and does not cover the type of work in which the Company is presently engaged in Arizona.