

our Decision and Direction of Election herein, constitutes a traditional toolroom department appropriate for severance, and that an election was not directed among only the employees therein solely because of the misapprehension that department 31 was also a toolroom. However, we have found that department 31 is not a toolroom, and the record fails to establish that there are any other toolrooms at this plant which have employees who should appropriately be included in a unit with the employees in department 42.⁵ In these circumstances, we find the employees in department 42 may constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act, and that sufficient cause has not been shown why the voting group should not be amended as proposed in the Board's notice heretofore issued; accordingly,

IT IS HEREBY ORDERED that the description of the voting group in which an election was directed in the Decision and Direction of Election be, and it hereby is, amended to read as follows: All employees in the tool manufacturing department (department 42) at the Employer's Pomona, California, missile plant, excluding all other employees and supervisors as defined in the Act.

⁵ Although there are several toolmakers, as well as employees of other classifications similar to those of employees in department 42, assigned to other departments, including department 31, the existence of such employees in department 31 and other parts of the plant does not, as the Board has held, affect the appropriateness of the toolroom unit. *The Gemex Corporation*, 120 NLRB 46; *Kinnear Manufacturing Company*, 109 NLRB 948; *Procter & Gamble Manufacturing Company*, 109 NLRB 315, 317.

Vernon Calhoun Packing Company, Inc., Petitioner and Local 103, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO. *Case No. 16-RM-166. February 18, 1959*

SUPPLEMENTAL DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Pursuant to a Decision and Direction of Election issued by the Board on August 15, 1958,¹ an election by secret ballot was conducted on September 12, 1958, under the direction and supervision of the Regional Director for the Sixteenth Region among the employees in the unit found appropriate by the Board. At the close of the election, the parties were furnished a tally of ballots which showed that of approximately 61 eligible voters, 67 cast ballots, of which 24 were for, and 34 were against, the Union. There were 9

¹ Unpublished.

challenged ballots, a number insufficient to affect the results of the election.

Thereafter, the Union filed timely objections to conduct affecting the results of the election. In accordance with the Rules and Regulations of the Board, the Regional Director investigated the objections and on November 26, 1958, issued and served on the parties his report on objections, in which he found the objections to be without merit and recommended they be overruled. Thereafter, the Union filed timely exceptions to the Regional Director's report, and a supporting brief.²

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Rodgers, Jenkins, and Fanning].

The Board has considered the objections, the exceptions and brief, and the entire record in the case, and finds as follows:

The Union objected to the election on the grounds, in substance, that:

(1) On July 14, 1958, the Employer discharged Hugh Hall, informing him that he was seen riding with a union representative and that he was having too much to do with the union.

(2) All employees were told that they were to have nothing to do with the union and if they did they would be discharged.

(3) On about July 14, 1958, Superintendent George Hutchinson stated to the employees of the Kill Floor that Hugh Hall had been discharged because he was seen with a union man and the same would happen to anyone who was seen with, or had anything to do with, the union.

(4) On about September 11, 1958, the Employer advised its employees at a meeting to vote "NO" at the election to be held on September 12, 1958.

(5) The Employer intends to take disciplinary action against the employees who voted in favor of the union. Leanord [sic] Scoggins, foreman of the Kill Floor, offered to buy the names of the employees who had attended a meeting held by the union and those who had joined the union.

(6) On or about September 15, 1958, four employees, three of whom were Elvin Green, Kenneth Griffin, and Willie Huckaby, were discharged. The Employer informed the discharged employees that they were going to get rid of all of the employees who had voted for the union.³

The Regional Director found as to the objection described in (4), that the meeting took place more than 24 hours before the election,⁴

² Prior to issuance of the report on objections, the Employer filed "Reply of Employer and Petitioner to Objections of Union to Election."

³ This objection was submitted as an amendment to the other objections.

⁴ See *Peerless Plywood Company*, 107 NLRB 427, and *Verson Manufacturing Co.*, 114 NLRB 1297, 1299, which control this issue. We find no merit to the Union's contention that the *Peerless Plywood* rule has been misapplied.

and that the employees were advised they could vote any way they wanted to and their jobs would not be affected thereby. As to this objection, and as to all the other objections, the Regional Director found in the course of his investigation no probative evidence in support thereof.⁵ Accordingly, he recommended they be overruled.

Having considered the objections, the Regional Director's report, and the exceptions thereto, we find in agreement with the Regional Director that the objections do not raise substantial and material issues with respect to the conduct of the election. Accordingly, the objections are hereby overruled. As the Union has not secured a majority of the valid votes cast in the election, we shall merely certify the results thereof.

[The Board certified that a majority of the valid ballots was not cast for Local 103, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, and that said organization is not the exclusive representative of the Employer's employees in the unit found appropriate.]

⁵ Specifically, the Regional Director found that no objectionable conduct affecting the results of the election had occurred between August 15, the date of the Decision and Direction of Election, and September 12, the date on which the election was held. See *F. W. Woolworth Company*, 109 NLRB 1446. We have fully considered and find no merit in the Union's request that the Board overrule the cutoff doctrine in the *Woolworth* case, *supra*, which holds that only alleged objectionable conduct occurring after the date of the decision and direction of election in a Board-ordered election will be considered.

The Union asserts in its brief that the evidence it submitted in support of the objections and pending unfair labor practice charges provides grounds to set aside the election. As above noted, the Regional Director found otherwise, and we agree, so far as concerns such evidence relating to the objections which was timely submitted and disclosed in the Regional Director's investigation. The Union does not allege further evidence which would not be foreclosed by the *Woolworth* cutoff rule.

It appears, in any event, that the discharge of Hall took place prior to the *Woolworth* cutoff date, and that the discharges of Green, Griffin, and Huckaby did not occur until September 15, 1958, 3 days after the election, and therefore could not have affected the results of the election.

**Mistletoe Operating Company and Building Service Employees,
Local 245, AFL-CIO, Petitioner. Case No. 16-RC-2424. Feb-
ruary 19, 1959**

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 Evert P. Rhea, hearing officer. 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 a partnership of M. Murray McCune and Gordon A. McCune, and is engaged in the business of real estate management in Tulsa, Oklahoma. In 1957 the Employer entered