

In the Matter of NECHES BUTANE PRODUCTS COMPANY and DISTRICT  
LODGE No. 31, INTERNATIONAL ASSOCIATION OF MACHINISTS

*Case No. 16-R-863.—Decided April 27, 1944*

*Messrs. W. H. Hoffman, R. S. Crockett, and E. O. Bennett, all of Port Neches, Tex., for the Company.*

*Mr. W. L. Grant, of Houston, Tex., and Mr. Earl H. Spencer, of Nederland, Tex., for the I. A. M.*

*Mr. F. H. Mitchell, of Port Arthur, Tex., for the C. I. O.*

*Mr. Joseph W. Kulkis, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by District Lodge No. 31, International Association of Machinists, herein called the I. A. M., alleging that a question affecting commerce had arisen concerning the representation of employees of Neches Butane Products Company, Port Neches, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sultan J. Boyd, Trial Examiner. The Company, the I. A. M., and Oil Workers International Union, herein called the C. I. O., appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues, and to file briefs with the Board. The I. A. M.'s motion to dismiss the C. I. O.'s motion to intervene, and the C. I. O.'s motion to dismiss the petition were reserved to the Board by the Trial Examiner. For reasons hereinafter set forth, the motions are hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Neches Butane Products Company, a Delaware corporation, operates a plant located at or near Port Neches, Texas, where it is

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engaged in the manufacture of butadiene, one of the ingredients of synthetic rubber. The principal raw material used by the Company other than repair parts and supplies essential to the operation of the equipment, is butane-butylene, which is obtained from nearby refineries. Butane-butylene, is a byproduct of petroleum obtained by these refineries from points outside the State of Texas. The Company receives approximately 15,000 to 18,000 barrels of butane-butylene per day. The Company produces daily approximately 3,000 barrels of butadiene when in full operation, which is delivered by pipe lines to designated rubber manufacturing plants of the Firestone and Goodrich Companies, where the rubber is manufactured and delivered to various rubber companies at the direction of Rubber Reserve Corporation, and transported in interstate commerce by means of various pipes of interstate carriers.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

District Lodge No. 31, International Association of Machinists, affiliated with the American Federation of Labor, and the Oil Workers International Union, affiliated with the Congress of Industrial Organizations, are labor organizations admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On or about March 1, 1944, the I. A. M. requested the Company for recognition as bargaining representative of the employees in the alleged unit. The Company refuses to accord the I. A. M. such recognition unless and until the I. A. M. is certified by the Board.

A statement of the Field Examiner of the Board, introduced into evidence at the hearing, indicates that the I. A. M. represents a substantial number 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.

<sup>1</sup>The report of the Field Examiner shows that the I. A. M. submitted 26 authorization cards. The Company stated that it had 26 employees within the alleged unit and expected to have 30 employees when the Department was in full operation. At the hearing the I. A. M. submitted 6 additional authorization cards.

The C. I. O. did not submit any evidence of membership in the unit hereinafter found to be appropriate, nor did it request to be placed on the ballot in the event an election was directed herein. Accordingly, we shall not accord the C. I. O. a place on the ballot.

## IV. THE APPROPRIATE UNIT

The I. A. M. seeks a unit comprised of all employees in the Company's Machine Shop Department, exclusive of supervisory and clerical employees. The C. I. O. contends that all production and maintenance workers in the Company's plant, exclusive of supervisory and clerical employees, constitute a more appropriate unit. The Company has taken no position with respect to the alleged units.

There is no labor organization which has an exclusive recognition contract with the Company covering its employees. While the C. I. O. contends that since October 1943 it has been conducting an organizational drive on a plant-wide basis, as indicated above, it made no claim nor did it produce evidence to show that it represented any of the employees of the Company. The I. A. M., on the other hand, claims a majority of the employees in the Company's Machine Shop Department and has produced evidence in support thereof. Thus, organization of the Company's employees has been confined to the Machine Shop Department, the employees of which constitute a clearly identifiable and homogenous group, and unless these employees are recognized as a separate unit, there may be no collective bargaining for them in the immediate future. Pursuant to our policy under such circumstances, we shall render collective bargaining an immediate possibility by designating as appropriate the unit desired by the I. A. M.<sup>2</sup> Our finding does not, however, preclude future reconsideration of the appropriateness of an industrial unit.

We find at this time, that all employees of the Company's Machine Shop Department, excluding subforemen, foremen, clerical employees, and all 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

There are several employees engaged as laborers in the Machine Shop Department. The record reveals that these employees are only temporarily assigned to that department due to the existence of an unusual clean-up condition occasioned by construction work. In view of the temporary nature of their work, these employees do not

<sup>2</sup> *Matter of Gardner Richardson Company*, 52 N. L. R. B. 1260; *Matter of American Steel Foundries*, 51 N. L. R. B. 78; *Matter of Armour & Company*, 49 N. L. R. B. 733; *Matter of General Batteries, Inc.*, 27 N. L. R. B. 1021; *Matter of Waterbury Cloak Company*, 4 N. L. R. B. 120; *Matter of Indianapolis Water Company*, 48 N. L. R. B. 1399; *Barrett Equipment Company*, 52 N. L. R. B. 1373.

have a permanent interest in the Machine Shop Department, and, accordingly, we find that they are not eligible to vote.

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 our 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 Neches Butane Products Company, Port Neches, Texas, 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 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 employees 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 District Lodge No. 31, International Association of Machinists, for the purposes of collective bargaining.