

In the Matter of ILLINOIS DIVISION, BENDIX AVIATION CORPORATION, and
INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICUL-
TURAL IMPLEMENT WORKERS OF AMERICA, C. I. O., LOCAL 330

Case No. 13-R-2108.—Decided February 3, 1944

*Messrs. E. H. Cassels, E. A. Michaelsen, and E. Applegate, of Chi-
cago, Ill., and Mr. M. A. Heidt, of South Bend, Ind., for the Company.*

*Meyers & Meyers, by Mr. Ben Meyers, of Chicago, Ill., for the
U. A. W.*

*Messrs. Lee C. Savage, John J. Russo, and A. Taphorn, of Chicago,
Ill., for the Teamsters.*

Mr. Frank Wood, of Chicago, Ill., for the Operating Engineers.

*Mr. Emory J. Smith, of Chicago, Ill., and Mr. William C. Ryan and
Mr. Thomas J. Hanahan, for the I. B. E. W. and the Carpenters.*

Mr. Robert E. Tillman, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petition duly filed by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., Local 330, herein called the U. A. W., alleging that a question affecting commerce had arisen concerning the representation of employees of Illinois Division, Bendix Aviation Corporation, Chicago, Illinois, herein called the Company, the National Labor Relations Board, provided for an appropriate hearing upon due notice before Robert Rissman, Trial Examiner. Said hearing was held at Chicago, Illinois, on December 8, 1943. The Company, the U. A. W., and Local 705, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. L., herein called the Teamsters, and International Union of Operating Engineers, Local 399, A. F. of L., herein called the Operating Engineers, and Local B-134, International Brotherhood of Electrical Workers, herein called the I. B. E. W., and Chicago District Council, United Brotherhood of Carpenters and Joiners of America, herein called the Carpenters appeared, partici-

pated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.¹ The rulings of the Trial Examiner 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

Bendix Aviation Corporation, a Delaware corporation, owns and operates several plants throughout the United States where it is engaged in the manufacture of airplane parts. The plant which is involved in this proceeding, known as the Illinois Division of the Company, is located in Chicago, Illinois, and produces carburetors for airplane engines. The principal raw materials used by the Company in the operation of this plant are steel, aluminum, brass, and magnesium. During the 6-month period ending in December 1943, the total value of such raw materials purchased by the Company for use at its Illinois Division exceeded \$1,000,000, of which more than 50 percent was shipped to the plant from points outside the State of Illinois. During the same period the total value of the finished products manufactured at the Illinois Division exceeded \$1,500,000, of which more than 60 percent was shipped to points outside the State of Illinois. The Company admits that in its operations at the Illinois Division it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 330, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Local 705, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Union of Operating Engineers, Local 399, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

¹ Bendix Aviation Workers Union was served with notice of the hearing and appeared at the hearing, but its representative stated that it claimed no interest and had no desire to intervene in the present proceeding.

Local B-134, International Brotherhood of Electrical Workers, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Chicago District Council, United Brotherhood of Carpenters and Joiners of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

In July 1943, the U. A. W. requested recognition from the Company as the exclusive bargaining representative of certain production and maintenance employees at the Illinois Division. The Company advised the U. A. W. that recognition would not be granted unless and until the U. A. W. was certified by the Board. Each of the intervenors likewise sought recognition and received similar replies from the Company.

A statement of the Regional Director, introduced into evidence at the hearing, as supplemented by a statement of the Trial Examiner made at the hearing, indicates that each of the labor organizations involved represents a substantial number of employees in the unit it contends to be appropriate.²

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 UNITS; THE DETERMINATION OF REPRESENTATIVES

A. Contentions of the parties

The U. A. W. and the Company are in substantial agreement³ that the appropriate unit should be a single unit comprising all production and maintenance employees of the Illinois Division plant of

² See the following table:

Type of unit proposed	No of employees in unit	Cards in units				
		U A. W.	I B. E W	Carpenters	Op Engrs.	Teamsters
Truck drivers	2					
Engineers.....	4				4	2
Carpenters.....	7			7		
Elec maint.....	10		5			
Prod and main.....	1,900	*1,502				

*No pay-roll check was made, but the Company conceded that the U A W has a substantial interest in the unit it claims to be appropriate

³ The Company objects only to the U. A. W.'s exclusion of "outside truckdrivers" from the proposed unit.

the Company, including inspectors, receiving and shipping employees, powerhouse employees, toolroom employees, crib attendants, truckers, and stockmen, but excluding all office and clerical employees, employees of sales, accounting, personnel and industrial relations departments, superintendents and assistant superintendents, general foremen, foremen, foreladies, and assistant foremen and foreladies, and all other employees acting in a supervisory capacity or having the authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, such as dispatchers and storekeepers, and further excluding time-study men, plant-protection employees (which shall include fire patrol), chief engineers, engineers, and further excluding all production, estimating, and planning engineers, draftsmen, detailers, chemists, metallurgists, timekeepers, counters, follow-up men, chauffeurs, outside truckdrivers, cooperative students, professional employees who are receiving training, and kitchen and cafeteria employees.

The Teamsters contends that a unit of all outside truckdrivers employed by the Company at the Illinois Division is appropriate.

The Operating Engineers urges a separate unit of the operating engineers employed in the powerhouse, excluding the chief engineer.

The I. B. E. W. would excise from the proposed production and maintenance unit a separate unit of all electricians, electrical maintenance men, helpers, supervisors, foremen, and assistant foremen.

The Carpenters seeks a separate unit of all carpenters, maintenance carpenters, millwrights, cabinet makers, supervisors, foremen, and assistant foremen, excluding helpers.

B. The proposed production and maintenance unit

The Board has recognized that the production operations in the airplane and airplane parts industry are highly integrated and interdependent so that the industry lends itself to collective bargaining upon an industrial unit basis.⁴ So, in the instant case, it is clear that a single unit of production and maintenance employees such as proposed by the U. A. W. and concurred in by the Company would be appropriate for collective bargaining purposes. On the other hand, the Board has oftentimes found counterbalancing considerations present which tend to indicate the appropriateness of separate craft units, in which event the Board has frequently postponed its determination of the appropriate unit pending an indication of the desires of the employees sought to be set off in separate units. As is noted, hereinafter, the instant case presents factors in favor of craft units. Accordingly, no final determination as to the appro-

⁴See *Matter of The Glenn L. Martin-Nebraska Company*, 54 N. L. R. B. 424

priateness of a single production and maintenance unit will be made at this time.

If a production and maintenance unit is found appropriate, the Company contends that outside truckdrivers should be included therein. Since the only labor organization seeking to represent employees in a production and maintenance unit does not wish to represent the outside truckdrivers, and inasmuch as another labor organization is seeking to represent them in a separate unit, we find that they should not be included in any production and maintenance unit which may, as a result of the instant proceeding, be found appropriate.

C. The Teamsters' proposed unit

The unit sought by the Teamsters would include only the two outside truckdrivers employed by the Company who deliver material and products to and from the plant. The Company, in addition to its contention that no craft units are appropriate, urges that a unit of two truckdrivers is too small for purposes of collective bargaining. We do not agree that the proposed unit is too small.⁵

The two outside truckdrivers are members of an indentifiable craft group. Since only the Teamsters seeks to represent them, we find that the Company's outside truckdrivers, excluding 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.

D. The Operating Engineers' proposed unit

The Operating Engineers seeks a unit of operating engineers employed in the powerhouse. The Company has four such employees who by themselves comprise a separate department at the plant. They operate and maintain boilers, tend incinerators, unload fuel oil for the boilers, maintain steam driven machinery and equipment, and maintain air compressors, air conditioning, and refrigerator equipment. These employees were retained by the Company when it took over the plant from former occupants. As employees of the former occupants they had been represented by the Operating Engineers in collective bargaining relations. All are licensed employees. The above facts readily support the conclusion not only that the engineers are skilled craftsmen, but also that they are isolated from other employees.

Although the U. A. W. opposes the separation of operating engineers from its proposed production and maintenance unit, it does not desire to appear on any ballot where the engineers would be given

⁵ See *Matter of Merchants & Miners Transportation Co.*, 37 N. L. R. B. 1165, 1168-9.

the opportunity to determine whether they desire to be represented in a separate unit. We shall, therefore, treat the Operating Engineers as the only labor organization having a substantial interest in the powerhouse engineers. Such being the case, we find that the operating engineers employed in the Company's powerhouse, excluding the chief engineer, 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.

E. The I. B. E. W.'s proposed unit

The I. B. E. W. seeks a unit of electricians, electrical maintenance men, helpers, supervisors, foremen, and assistant foremen. The Company has nine maintenance electricians and one helper. These employees must be able to wire motors, starters and other electrical devices, must be able to read electrical blueprints and drawings, and must be familiar with the electrical codes of the State of Illinois and the City of Chicago. The Company employs them exclusively on maintenance work. They are, therefore, included in the maintenance department with carpenters, millwrights, pipe fitters, welders, janitors, and oilers. Their work carries them all over the plant.

The evidence indicates that the maintenance electricians employed by the Company constitute a clearly identifiable, skilled craft. In view of this, and in the absence of any history of collective bargaining, we are of the opinion that the considerations in favor of a separate unit of maintenance electricians are balanced with those tending to favor an industrial unit, so that the maintenance electricians could function as a separate unit for the purposes of collective bargaining or be included in a single production and maintenance unit. Under the circumstances, our determination of the unit issue with respect to the maintenance electricians will depend in part upon the results of the election hereinafter directed among them.

The electricians are under the immediate supervision of a chief electrician, whom the I. B. E. W. would include in its proposed unit. The Company objects to the inclusion of the chief electrician on the ground that he is a supervisory employee. The chief electrician is a salaried employee having the power to recommend hiring or discharging and the power to take disciplinary action with respect to the electricians under him. It is clear that the chief electrician is a supervisory employee. We shall, therefore, exclude him from the maintenance electricians' voting group.

F. The Carpenters' proposed unit

The Carpenters, in substance, seeks a unit of all woodworking employees in the plant, including millwrights. The Company employs 7 carpenters, one carpenter helper, 20 millwrights and 10 millwright helpers, all located in the maintenance department. The qualifications of the carpenters include the ability to handle woodworking construction, to build cabinets, to operate woodworking machines and tools, and to read blueprints and drawings. They do no production work. As in the case of the maintenance electricians, we are of the opinion that the carpenters may function as a separate unit for the purposes of collective bargaining or may be included in a single production and maintenance unit. Under these circumstances, our determination of the unit issue with respect to the carpenters will depend in part upon the results of the election hereinafter directed among them.

The record is clear that the millwrights do not ordinarily perform carpentry work. Their duties include the moving, setting, and leveling of machinery, the erection of other equipment such as conveyors, tables, and benches, and the moving of heavy motors and pumps. All millwrights are qualified to do sheet metal work, and, at any specified time, it is common to find half of the millwrights engaged in sheet metal work, the Company having no employees classified as sheet metal workers. Likewise, the Company's only rigger is classified as a millwright. The record is also clear that the carpenters do not ordinarily perform work assigned to the millwrights. Furthermore, the millwrights share a room with the maintenance electricians and not with the carpenters, who have a room to themselves. The above facts afford no basis for including millwrights with carpenters in a separate craft unit. We shall, therefore, exclude millwrights from the voting group of carpenters.

As indicated above, the Company employs one carpenter helper. The Carpenters does not wish to include helpers in its proposed unit. The helper assists the carpenters by doing heavy lifting and general roustabout work. On occasion, similar help is rendered by the millwright helpers. In view of the Carpenters' position, and since helpers are not ordinarily skilled craftsmen, we shall exclude helpers from the carpenters' voting group.

Both the carpenters and millwrights are under the supervision of the millwright foreman. Other than the millwright foreman, the carpenters have no supervisor directly over them.

G. Concluding findings

In view of our findings with regard to the maintenance electricians and the carpenters employed by the Company, we shall make no final determination of a unit as regards the production and maintenance employees at this time. We shall direct that the question concerning representation which has arisen be resolved by separate elections by secret ballot among the employees in the following voting groups who were employed during the pay-roll period immediately preceding the date of our Direction of Elections, subject to the limitations and additions set forth therein: (1) all maintenance electricians and helpers, excluding the chief electrician, 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, to determine whether they desire to be represented by the I. B. E. W., the U. A. W., or neither; (2) all maintenance carpenters, excluding helpers, millwrights, 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, to determine whether they desire to be represented by the Carpenters, the U. A. W., or by neither; (3) all remaining production and maintenance employees, including inspectors, receiving and shipping employees, toolroom employees, crib attendants, truckers, and stockmen, but excluding all office and clerical employees, employees of sales, accounting, personnel and industrial relations departments, superintendents and assistant superintendents, general foremen, foremen, foreladies, assistant foremen and foreladies, 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, such as dispatchers and storekeepers, and further excluding powerhouse operating engineers, time-study men, plant-protection employees (which shall include fire patrol), chief engineers, engineers, all production, estimating, and planning engineers, draftsmen, detailers, chemists, metallurgists, timekeepers, counters, follow-up men, chauffeurs, outside truckdrivers, cooperative students, professional employees who are receiving training, and kitchen and cafeteria employees, to determine whether or not they desire to be represented by the U. A. W.; (4) all outside truckdrivers, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether or not they desire to be represented by the Teamsters; (5) all operating engineers employed in the powerhouse, excluding the chief engineer 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, to determine whether or not they desire to be represented by the Operating Engineers. Upon the results of the first three elections will depend in part our determination of the appropriate unit of production and maintenance employees.

DIRECTION OF ELECTIONS

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 Illinois Division, Bendix Aviation Corporation, Chicago, Illinois, elections by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction of Elections, under the direction and supervision of the Regional Director for the Thirteenth 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 following employees who were employed by the Company during the pay-roll period immediately preceding the date of this Direction of Elections, 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 and have not been rehired or reinstated prior to the date of the election:⁶

1. All maintenance electricians and helpers, excluding the chief electrician 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, to determine whether they desire to be represented by International Brotherhood of Electrical Workers, Local B-134, A. F. L., or by Bendix Local No. 330, UAW-CIO, for the purposes of collective bargaining, or by neither;

2. All maintenance carpenters, excluding helpers, millwrights, 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, to determine whether they desire

⁶ The several unions expressed preferences at the hearing that their respective names appear on the ballot as set forth in the Direction of Elections.

to be represented by Chicago District Council of Carpenters, A. F. L., or by Bendix Local No. 330, UAW-CIO, for the purposes of collective bargaining, or by neither;

3. All production and maintenance employees, including inspectors, receiving and shipping employees, toolroom employees, crib attendants, truckers, and stockmen, but excluding all office and clerical employees, employees of sales, accounting, personnel and industrial relations departments, superintendents and assistant superintendents, general foremen, foremen, foreladies, assistant foremen and foreladies, 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, such as dispatchers and storekeepers, and further excluding powerhouse operating engineers, time-study men, plant-protection employees (which shall include fire patrol), chief engineers, engineers, all production, estimating, and planning engineers, draftsmen, detailers, chemists, metallurgists, timekeepers, counters, follow-up men, chauffeurs, outside truckdrivers, cooperative students, professional employees who are receiving training, kitchen and cafeteria employees, and all employees included in groups 1 and 2, above, to determine whether or not they desire to be represented by Bendix Local No. 330, UAW-CIO, for the purposes of collective bargaining;

4. All outside truckdrivers, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether or not they desire to be represented by Truck Drivers and Chauffeurs Union, Local 705, I. B. of T., A. F. L., for the purposes of collective bargaining;

5. All operating engineers employed in the powerhouse, excluding the chief engineer 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, to determine whether or not they desire to be represented by International Union of Operating Engineers, Local 399, A. F. of L., for the purposes of collective bargaining.