

In the Matter of BELL AIRCRAFT CORPORATION (GEORGIA DIVISION) and
AIRCRAFT INDUSTRIAL LODGE No. 1638 INTERNATIONAL ASSOCIATION
OF MACHINISTS

In the Matter of BELL AIRCRAFT CORPORATION (GEORGIA DIVISION) and
UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (UAW-CIO)

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WORKERS OF AMERICA (UAW-CIO)

*Cases Nos. 10-R-931, 10-R-983, and 10-R-1008 respectively.—
Decided February 5, 1944.*

*Messrs. James V. Carmichael, Harry E. Collins, O. T. Flournoy
and R. D. Royer, of Marietta, Ga., and Messrs. E. D. Riordan and
Leston P. Faneuf, of Buffalo, N. Y., and Mr. Bryant H. Prentice, Jr.,
of Atlanta, Ga., for the Company.*

*Mr. Maurice Sugar, by Mr. N. L. Smokler, of Detroit, Mich., and
Messrs. Thomas J. Starling and George D. Guest, of Atlanta, Ga.,
for the U. A. W.*

*Mr. L. O. Thomas, of Washington, D. C., and Mr. C. F. McDonald,
of Marietta, Ga., for the I. A. M.*

Miss Melvern R. Krelow, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petition duly filed by United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), herein called the U. A. W., Case No. 10-R-933, alleging that a question affecting commerce had arisen concerning the representation of employees of Bell Aircraft Corporation (Georgia Division), Marietta, Georgia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Erwin C. Catts, Trial Examiner. Said hearing was held at Atlanta, Georgia, on October 30, 1943. The Company and the U. A. W. ap-

peared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

On November 4, 1943, Aircraft Industrial Lodge No. 1638, International Association of Machinists, herein called the I. A. M., filed a motion to reopen the record in Case No. 10-R-983 in order to permit the I. A. M. to intervene, and to consolidate with said case, Cases Nos. 10-R-931 and 1008, in which the I. A. M. and the U. A. W., respectively, had filed petitions. Pursuant to an order of the Board dated December 16, 1943, directing the reopening of the record in Case No. 10-R-983, referring said proceeding to the Regional Director for the purpose of conducting a further hearing, and consolidating with said case, Cases Nos. 10-R-931 and 1008, a further hearing, upon due notice, was held at Atlanta, Georgia, on January 5, 1944, before Erwin C. Catts, Trial Examiner. The Company, the U. A. W., and the I. A. M. appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings 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 records in the consolidated cases, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Bell Aircraft Corporation, a New York corporation, operates a plant in Marietta, Georgia, where it is engaged in the manufacture of airplanes and airplane parts. This proceeding involves only the Marietta plant. During 1943, the Company used raw materials valued in excess of \$1,000,000, consisting mainly of steel, aluminum, and alloy metals, of which more than 90 percent was shipped to the Marietta plant from points outside the State of Georgia, which raw materials are now being processed for shipment in interstate commerce. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Aircraft Industrial Lodge No. 1638 International Association of Machinists is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

United Automobile, Aircraft and Agricultural Implement Workers

of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The U. A. W. and the I. A. M. have requested recognition for employees of the Company, and the Company has refused such requests unless and until either organization is certified by the Board.

Statements of a Field Examiner of the Board introduced into evidence at the hearing, indicate that the U. A. W. and the I. A. M., represent a substantial number of employees in the units hereinafter found appropriate.¹

We find that questions effecting commerce have 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 parties are in general agreement that all production and maintenance employees including trainees, but excluding officers, executives, administrative, clerical (who do not handle productive material), technical and professional employees, training instructors, and supervisors with authority to hire, discharge, discipline, effect changes in the status of employees or effectively recommend such action, and all employees in Departments Nos. 10, 11, 12, 13, 14, 15, 16, 18, 20, 22, 23, 25 (except junior and intermediate dispatchers, and material handlers), 26 (except junior and intermediate dispatchers, material handlers, tractor drivers, material clerks. and laborers), 27, 28 (Plant Protection), 30, 31, 55, 58, 60, 64, 72, 73, 74, 77 and 80, constitute an appropriate unit. The parties are in disagreement, however, with respect to senior dispatchers, and inspection, timekeeping, cafeteria, and mold loft employees.

Senior dispatchers: The Company and the I. A. M. desire the exclusion of these employees on the ground that they are supervisory, whereas the U. A. W. took no affirmative position, leaving the determination to the Board. The record clearly indicates that these employees supervise and direct the activities of junior and inter-

¹The Field Examiner reported that the U. A. W. submitted designations, bearing apparently genuine signatures of employees whose names appear on the Company's pay roll, indicating a showing of representation of approximately 38 percent among the employees in the production and maintenance unit. He further reported that the I. A. M. submitted designations, bearing apparently genuine signatures of employees whose names appear on the Company's pay roll, indicating a showing of representation of approximately 23 percent among the employees in said unit.

The Field Examiner also reported that the U. A. W. and the I. A. M. presented designations bearing apparently genuine signatures of employees whose names appear on the Company's pay roll, indicating respective showings of representation of 68 percent and 8 percent among the militarized guards.

mediate dispatchers, and have the authority to effectively recommend hire and discharge and changes in the status of the employees under their direction and supervision. We find that they are supervisory employees, and we shall, accordingly, exclude them from the unit.

Inspectors: The Company employs in its inspection department assistant chief inspectors, foremen, assistant foremen, subforemen, and supervisors, whom the parties agree are supervisory employees and should be excluded from the unit. In addition there are junior, intermediate, and senior inspectors, who are non-supervisory employees, and whom the I. A. M. and the U. A. W. desire included in the unit. The Company contends that they perform a managerial function and therefore are not properly part of a production and maintenance unit. It is the function of these employees to examine incoming materials and the work of production employees at all stages of production to ascertain whether they meet with certain specifications. As we have previously stated, non-supervisory inspectors, such as are here involved, are appropriately included within a unit of production and maintenance employees.² We shall include junior, intermediate, and senior inspectors within the unit.

Timekeepers: The I. A. M. and the U. A. W. desire the inclusion of timekeepers in the unit. The Company contends that they are clerical employees, and should be excluded from the unit. Their duties consist of placing cards in the time clocks throughout the plant, in picking up the cards after they have been punched by incoming or outgoing employees, and making appropriate ledger charges. They make periodical "spot floor" checks throughout the plant to determine whether or not employees whose cards are punched are actually at their work. We are of the opinion that the timekeepers are clerical employees, and, as such, should not be included in a unit of production and maintenance employees; we shall exclude them.

Cafeteria employees: The cafeterias are located in the administration building and in the basement of the plant. The employees engage in preparing and serving food, and perform no productive or maintenance functions. Their wages differ from those of the production and maintenance employees. The Company desires their exclusion on the ground that they have no community of interest with the production and maintenance employees. Both the I. A. M. and the U. A. W. desire their inclusion within the unit. Since their function, working conditions, and interests are distinct from those of the production and maintenance employees, we shall exclude the cafeteria employees from the unit.³

Mold Loft Department: The Company contends that the loftsmen and template filers should be excluded from the unit on the ground

² See *Matter of Gardner-Denver Company*, 44 N. L. R. B. 1192, and cases cited therein.

³ See *Matter of Caterpillar Tractor Co.*, 36 N. L. R. B. 1035, and cases cited therein.

that they are technical employees, but states that the saw, shear, and machine operators might properly form part of the production and maintenance unit. The I. A. M. desires the inclusion of all mold loft employees within the unit, whereas the U. A. W. desires their exclusion. The mold loft department is located in the administration building which is separate from the plant and adjacent to the engineering offices. This department reports to and is part of the engineering division. The employees have different rates of pay, working hours, and working conditions from those of the production and maintenance employees, and they do not engage in regular production work. The record does not indicate that there is any interchange between these employees and those in the production and maintenance departments. The function of the mold loft department is of a technical nature which is executed, in the main, by highly skilled employees. The lofting process in the aircraft industry is more highly skilled than in shipbuilding where it originated; the process in the Company's plant is even a more highly skilled operation than that in aircraft plants generally. We are of the opinion, therefore, that these employees do not have interests in common with the other production and maintenance employees and should not be included in a unit of such employees. We shall, nevertheless, accord them an opportunity to bargain collectively in a unit separate and apart from that of the production and maintenance employees.

We find that all production and maintenance employees of the Company in the Marietta plant, including trainees, junior, intermediate and senior inspectors, but excluding cafeteria, administrative, clerical (who do not handle productive material), technical, and professional employees, all employees in Departments Nos. 10 (Officers and Executives), 11 (Office Service), 12 (Stenographers), 13 (Accounting), 14 (Contracts and Cash Control), 15 (Tool Design), 16 (Engineering), 18 (Wage Administration), 20 (Factory Administration), 22 (Purchasing), 23 (Material Allocation), 25 (Tool Control, except junior and intermediate dispatchers, and material handlers), 26 (Production Control, except junior and intermediate dispatchers, material handlers, tractor drivers, material clerks, and laborers), 27 (Industrial Relations), 28 (Plant Protection), 30 (Production Engineering), 31 (Statistical), 55 (B-29 Coordinating), 58 (Estimating), 60 (Plant Layout), 64 (Photographic and Art), 72 (Functional Test), 73 (Employee Welfare), 74 (House Organ), 77 (Industrial Engineering) and 80 (Outside Production Coordinating), training instructors, senior dispatchers, officers, executives, 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 appro-

appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act. We further find that the employees in the mold loft department of the Company in its Marietta plant, excluding the chief loftsman⁴ 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 separate unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

The parties are in further agreement that all militarized guards, except the chief, assistant chiefs, captains, lieutenants, and sergeants and all firemen except the specialist, the chief, assistant chiefs, captains, lieutenants, and all other supervisory employees in both categories who have the authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees or effectively recommend such action, constitute a separate appropriate bargaining unit.

The guards and firemen engage in duties normally associated with such employees. Although they have interests in common, the record here indicates that the guards are militarized, whereas the firemen are not, and there is no indication that they may become militarized in the near future. We shall, therefore, exclude firemen from the unit.⁵ We find that all militarized guards of the Company in the Marietta plant, excluding the chief, assistant chiefs, captains, lieutenants, and sergeants, and all other supervisory employees with the 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

We shall direct that the questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units who were employed during the payroll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.⁶

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 Re-

⁴ The parties agree, and we find, that the chief loftsman is a supervisory employee, within our customary definition.

⁵ See *Matter of Dravo Corporation*, 52 N. L. R. B. 322.

⁶ The I A M desires that its name appear on the ballot as "International Association of Machinists, affiliated with the A. F. of L." The request is hereby granted.

lations 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 Bell Aircraft Corporation (Georgia Division), Marietta, Georgia, elections 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 Tenth 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 units 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 those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the elections, to determine whether they desire to be represented by United Automobile, Aircraft and Agricultural Implement Workers of America (UAW-CIO), or by International Association of Machinists, affiliated with the A. F. of L., for the purposes of collective bargaining, or by neither.