

In the Matter of THE B. F. GOODRICH RUBBER COMPANY and OIL
WORKERS INTERNATIONAL UNION, C. I. O.

In the Matter of THE B. F. GOODRICH RUBBER COMPANY and INTER-
NATIONAL ASSOCIATION OF MACHINISTS, DISTRICT LODGE 31, A. F. L.

Cases Nos. 16-R-781 and 16-R-783, respectively.—Decided March 9,
1944

Mr. Walter Monroe, of Port Arthur, Tex., for the Council representing
the Carpenters and the Painters.

Mr. Jerome Taylor, of Akron, Ohio, for the Company.

Mr. Lindsay P. Walden, of Fort Worth, Tex., and *Mr. F. H. Mitchell*,
of Port Arthur, Tex., for the C. I. O.

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

Mr. J. W. Null, of San Antonio, Tex., *Mr. W. L. Holst*, of Beau-
mont, Tex., and *Mr. J. A. Verret*, of Port Arthur, Tex., for the
I. B. E. W.

Messrs. Roy Woods and *W. J. Burkett*, of Beaumont, Tex., for the
Plumbers.

Mr. Arvil Inge, of Fort Worth, Tex., for the Operating Engineers
and the Teamsters.

Mr. William C. Baisinger, Jr., of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by Oil Workers International Union,
C. I. O., herein called the C. I. O., and by International Association
of Machinists, District Lodge 31, A. F. L.,¹ herein called the I. A. M.,
respectively, alleging that questions affecting commerce had arisen
concerning the representation of employees of The B. F. Goodrich

¹ The I. A. M. is designated on its petition as International Association of Machinists,
Local 823, Port Arthur, Texas. At the hearing the Trial Examiner, without objection,
granted the I. A. M.'s motion to amend the caption of its petition by substituting "District
Lodge 31, A. F. L." for "Local 823, Port Arthur, Texas."

Rubber Company, at Port Neches, Texas, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Gustaf B. Erickson, Trial Examiner. The hearing was held at Beaumont, Texas, on January 4 and 5, 1944. Prior to the hearing the C. I. O. filed a formal motion to intervene in Case No. 16-R-783, the case in which the I. A. M. is the petitioner. Also prior to the hearing, International Brotherhood of Electrical Workers, A. F. L., herein called the I. B. E. W., Local Union No. 195, United Association of Plumbers and Steamfitters, A. F. L., herein called the Plumbers, Port Arthur Building Construction Trades Council, A. F. L., herein called the Council, and International Union of Operating Engineers, A. F. L., herein called the Operating Engineers, filed written or telegraphic notices of their desire to intervene in Case No. 16-R-781. Each of the aforesaid organizations, as indicated in footnote 6, *infra*, submitted proof in support of its claim to represent employees of the Company and was duly served with notice of the consolidated hearing. At the hearing the Trial Examiner granted the oral motion to intervene made by International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local 393, A. F. L., herein called the Teamsters. The Company, the C. I. O., the I. A. M., the I. B. E. W., the Plumbers, the Council,² the Operating Engineers,³ and the Teamsters appeared, participated, and were afforded full opportunity to be heard, to examine, and cross-examine witnesses, and to introduce evidence bearing upon the issues. The Company and the C. I. O. object to the participation in this proceeding of the I. B. E. W., the Plumbers, the Council, the Operating Engineers, and the Teamsters, contending that since none of said organizations complied with the Board's Rules with respect to intervention, they did not acquire the status of parties to the proceeding. The Trial Examiner permitted all parties to participate fully in the hearing but reserved final ruling upon the aforesaid motion for the Board. While it is true that none of the motions, which the Company and the C. I. O. attack, fully conform to all the formalities required by the Board for a motion to intervene, since the requirements of the Rules neglected by the intervenors were promulgated mainly for the purpose of extending common courtesy to opposing counsel and to expedite the handling of cases, we fail to see how the Company and the C. I. O. have been prejudiced by the failure of the intervenors to adhere rigidly to the rules. We therefore, affirm the Trial Examiner's ruling in permitting

² The Council intervened on behalf of Carpenters Local 610, Port Arthur, Texas, herein after referred to as the Carpenters, and Brotherhood of Painters and Decorators, Local No. 328, Port Arthur, Texas, hereinafter referred to as the Painters

³ During the course of the hearing the Trial Examiner granted the request of the Operating Engineers to withdraw its motion to intervene.

intervention.⁴ We do, however, hereby record our censure of the practice of disregarding the Board's reasonable rules. 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

The B. F. Goodrich Rubber Company, a New York corporation, is engaged in the manufacture of synthetic rubber at a plant located in Port Neches, Texas, which it operates as agent for Rubber Reserve Incorporated, a Government-owned corporation. The Company uses a substantial amount of raw materials at its Port Neches plant, approximately 75 percent of which is transported to the plant from points outside the State of Texas. Substantially all of the synthetic rubber manufactured at the Port Neches plant is shipped to points outside the State of Texas.⁵ The Company admits, and we find, that at its Port Neches plant it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Oil Workers International Union is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

International Association of Machinists, District Lodge 31, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

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

Local Union No. 195, United Association of Plumbers and Steamfitters, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Port Arthur Building Construction Trades Council is a labor organization affiliated with the American Federation of Labor, admitting to membership through its constituent unions, employees of the Company.

Carpenters Local 610, Port Arthur, Texas, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

⁴ See *Matter of The Pitcairn Company (Pittsburgh Valve & Fittings Division), et al.*, 52 N. L. R. B. 404.

⁵ Exact figures relating to the volume and value of raw materials and finished products were not disclosed for security reasons.

Brotherhood of Painters and Decorators, Local No. 328, Port Arthur, Texas, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local 393, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

By letter dated November 16, 1943, the C. I. O. requested the Company to recognize it as the exclusive bargaining representative of the employees within an alleged appropriate bargaining unit. On or about December 3, 1943, the I. A. M. made a similar request. In each instance the Company replied, refusing to accord such recognition unless and until the labor organization involved is certified by the Board.

Statements prepared by an attorney of the Board and introduced into evidence at the hearing indicate that the C. I. O., the I. A. M., the I. B. E. W., the Carpenters, the Painters, and the Plumbers each represents a substantial number of employees within the unit it claims to be appropriate.⁶ Although the Teamsters claimed that it had been designated by a substantial number of the employees within its proposed unit as their bargaining representative, it has failed to make any showing in support of its claim.⁷ Under these circumstances we shall not consider its claim of representation.⁸

⁶ The following table summarizes the above-mentioned statements prepared by the Board's attorney :

Name of union	Number of employees in unit alleged appropriate by Union	Number of employees in alleged unit who are represented by Union ¹
C I O.....	471	243
I A M.....	101	48
I B E W.....	30	27
Carpenters and Painters.....	* 16 (combined unit)	14 cards
Plumbers.....	31	18

¹ The evidence of representation consists of application for membership cards and authorization cards bearing the apparently genuine original signatures of persons whose names appear on the Company's pay roll of December 8, 1943

² Since the Carpenters and Painters were represented during the investigation and at the hearing by the Council, their respective unit claims were not specified by the Board's attorney

⁷ At the hearing the Teamsters stated on the record that it had forwarded 66 applications for membership cards signed by employees of the Company to the Regional Director. On February 14, 1944, the Regional Director informed the Board that no evidence had been submitted to him by the Teamsters in support of its claim of designation

⁸ See *Matter of Seas Shipping Company, Inc (Robin Lane)*, 27 N. L. R. B. 460; *Matter of Chrysler Corporation*, 37 N. L. R. B. 877

We find that questions affecting 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 UNIT; THE DETERMINATION OF REPRESENTATIVES

Contentions of the Parties

The C. I. O. contends that all production and maintenance employees of the Company's Port Neches plant, excluding supervisory, clerical, plant-protection, professional, and technical employees, constitute an appropriate bargaining unit. The I. A. M., the I. B. E. W., the Carpenters, the Painters, and the Plumbers each seeks a bargaining unit comprised of skilled employees in the Company's Port Neches plant engaged in occupations bringing them within the jurisdiction of such unions. The Company asserts no definite preference with respect to the appropriate unit or units except to urge that the number of bargaining units be kept to a minimum to eliminate any possible jurisdictional disputes. The craft organizations involved stated on the record that if the Board certifies them as the exclusive bargaining representatives of the employees within the units which they allege to be appropriate, they will deal with the Company on a collective basis similar to that which obtains in a trades council.

The plant organization

The Company's plant functions as an integrated manufacturing unit comprised of three main operating divisions designated as (1) the processing division, (2) the maintenance division, and (3) the utility division. The processing division consists of the following departments: (1) tank farm, (2) pigment preparation, (3) reactor building, (4) recovery building, (5) rubber processing building, and (6) warehouse and shipping. The maintenance division is located in a machine shop which houses the following departments: (1) machine tools, (2) woodworking, (3) instrument repair, and (4) electrical repair. The utility division consists of (1) a boilerhouse, (2) a water treating plant, (3) a water pumphouse, and (4) an electrical substation.

As to the unit proposed by the I. A. M.

The I. A. M. desires to represent a bargaining unit comprised of all machinists, machinists' helpers, blacksmiths, blacksmiths' helpers, welders, welders' helpers, machine oilers, sheet metal workers, sheet metal workers' helpers, machine shop toolroom clerks, and machine shop clerks, employed in the machine shop department of the Company's Port Neches plant, including apprentices, if any, but exclud-

ing supervisory employees within our customary definition. According to the Company's classified pay roll, introduced into evidence, this proposed unit includes approximately 60 persons, all of whom work out of the machine shop as part of the plant's maintenance division.

As to the unit proposed by the I. B. E. W.

The I. B. E. W. claims that all electrical workers employed in the Port Neches plant who are engaged in the installation, operation, and maintenance of all electrical devices, excluding clerical employees and supervisory employees, constitute an appropriate bargaining unit.⁹ This proposed unit consists of approximately 32 employees, the majority of whom work out of the machine shop performing electrical maintenance work throughout the plant. From the record it is not clear whether all employees within the unit sought by the I. B. E. W. are under the supervision of the maintenance division or whether certain of the electricians are employed in the electrical substation which is a part of the utility division.

As to the unit proposed by the Carpenters.

The Carpenters seeks to establish a bargaining unit comprised of all carpenters engaged in performing duties connected with their trade, including apprentices and helpers. This unit comprises five carpenters and four helpers who work out of the machine shop performing maintenance work throughout the plant.

As to the unit proposed by the Painters.

The Painters' proposed unit consists of all employees engaged as painters whether they use brushes or spray guns and all employees who mix paint on the job. There are approximately seven employees within this unit, all of whom work out of the machine shop. They perform maintenance painting in the plant.

As to the unit proposed by the Plumbers.

The Plumbers contends that all pipefitters, pipefitter apprentices, pipefitter welders and apprentices, and insulators, excluding foremen and any other supervisory employees with the right to hire or discharge, constitute an appropriate unit. This unit consists of 15 pipefitters, 16 pipefitter helpers, and 2 insulators, all of whom are employed in the machine shop and are engaged in maintenance and

⁹The original unit proposed by the I. B. E. W. comprised "all electrical workers employed in the plant in the installation, operation and maintenance of all electrical devices, such as electricians, linemen, instrument men, telephone men, telephone operators, telegraph operators, apprentice electricians, apprentice linemen, and radio men below the grade of superintendent, excluding clerical employees and supervisors above the grade of superintendent." The record shows only 5 employee classifications listed on the Company's pay roll which are within the above-described unit namely, electricians, electricians' helpers, instrument men, instrument men's helpers, and P. B. X. operators. At the hearing the I. B. E. W. agreed to exclude the 4 P. B. X. operators since the Company contended that they were part of the office clerical staff.

repair work. The Company employs no pipefitter welders as such, but all welders in the maintenance division are required to do various types of welding.

Since the Teamsters has failed to present any evidence in support of its claim to represent certain employees of the Company, we shall not consider its contention with respect to the appropriate unit.

There is no history of collective bargaining among the Company's employees involved herein which may be considered determinative of the appropriate units.

As indicated in Section III, *supra*, the C. I. O., the I. A. M., the I. B. E. W., the Carpenters, the Painters, and the Plumbers each produced evidence indicating that it has organized a substantial number of employees within its proposed unit.

From the foregoing, it appears that the employees in the units proposed by the I. A. M., the I. B. E. W., the Carpenters, the Painters, and the Plumbers, except for certain named exclusions discussed *infra*, and the remaining production and maintenance employees, excluding supervisory, clerical, plant-protection, professional and technical employees, and certain other employees discussed below, might properly constitute separate units or be merged in the single industrial unit proposed by the C. I. O. In this situation we are of the opinion that our determination of the scope of the bargaining unit or units should depend, in part, upon the desires of the affected employees themselves, to be expressed in the separate elections which we hereinafter direct. Consequently, we shall make no final determination of the appropriate unit or units at this time.

There remains for consideration the specific composition of the voting groups.

Supervisory employees.

The entire plant is under the supervision of the head of the chemicals division, the production superintendent, and the plant manager. A general foreman is in charge of each department in the processing division. Under the general foremen are shift foremen and floor foremen. All parties agree to exclude all supervisory employees of the rank of floor foremen and above from the appropriate units. The maintenance division and the utility division are under the general supervision of the plant engineer. The utility division is under the direct supervision of the power engineer under whom is a general foreman of the boilerhouse and a general foreman of the water treating plant and water pumphouse. The maintenance division is under the direct supervision of the maintenance engineer and the electrical engineer. Under the maintenance engineer are the general foreman of mechanical maintenance, the machine shop foreman, and several mechanical maintenance foremen. Under the electric engineer are an electrical main-

tenance foreman, an instrument engineer, and an instrument control and repair shift engineer. In accordance with the agreement of the parties, we shall exclude from the voting groups all of the above-described supervisory employees in the processing, maintenance and utility divisions, since it is evident that they exercise authority customarily vested in supervisory employees.

Clerical employees.

All parties, except the I. A. M., agree to exclude all shipping and receiving clerks, engineering and stock room clerks, machine shop toolroom clerks, and machine shop clerks, from any unit which the Board may find to be appropriate. Since we are not considering the Teamsters' claim, the only dispute is with respect to the machine shop toolroom clerks and machine shop clerks whom the I. A. M. desires included in its unit. There are two toolroom clerks employed in the machine shop who act as tool checkers. They are on the warehouse pay roll and not under the supervision of the machine shop foreman. From the record it appears that they are unskilled employers performing essentially clerical duties. We shall exclude them as clerical employees. The machine shop clerks of whom there are four, act as secretaries to the machine shop foreman. They perform purely clerical work. We shall exclude them from both the machinists' voting group and the residual group. We shall likewise exclude as clerical employees all shipping and receiving clerks, and engineering and stock room clerks.

Welders.

All welders employed by the Company work out of the machine shop performing repair work throughout the plant. There are four welders and three helpers employed in the plant. They must perform all types of welding and consequently none are classified as pipe welders. The I. A. M. claims all welders engaged in general welding work while the Plumbers claims only pipe welders. Since there are no pipe welders employed in the plant, we shall include the welders and welders' helpers in the machinists' voting group.

Instrument men.

The I. B. E. W. requests that instrument men be included in its proposed unit. The Company contends that the instrument men are technical employees who should be excluded from any bargaining unit. These employees are hourly paid workers who work under the supervision of the instrument control and repair engineer maintaining all electrical automatic temperature and pressure control instruments in the plant. They must have a knowledge of mechanics and physics. From the foregoing facts, we are of the opinion that the instrument men are technical employees, not members of the elec-

tricians' craft, and accordingly, we shall exclude them from the voting groups.

Machine oilers.

There are approximately 14 employees within this classification employed in the maintenance division. The I. A. M. urges that they be included within its proposed unit. The record shows that the machine oilers are unskilled employees engaged in lubricating the numerous machines used in the manufacture of synthetic rubber. Since they are unskilled employees engaged in general maintenance work, we shall exclude them from the machinists' voting group and include them in the residual group.

Leadermen.

All parties agree to include leadermen within the voting groups. Leadermen are in charge of the various groups of maintenance employees working out of the machine shop. They spend approximately 80 percent of their time working with the tools of their trade. Since it is apparent that the leadermen do not fall within our customary definition of supervisory employees, we shall include them within the respective voting groups.

Upon the basis of the entire record in the case and in accordance with the foregoing findings of fact, we shall direct that elections be held among the employees of the Company's Port Neches plant within each of the groups described below. Leadermen, if any, shall be included in each of such voting groups, but we shall exclude from each voting group, in addition to others specifically mentioned therein, all clerical employees, supervisory employees of the rank of floor foremen and above, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action. The respective voting groups shall be as follows:

(1) All machinists, machinists' helpers, blacksmiths, blacksmiths' helpers, welders, welders' helpers, sheet metal workers, and sheet metal workers' helpers, employed in the machine shop department, excluding machine oilers, machine shop toolroom clerks, and machine shop clerks, to determine whether they desire to be represented by the I. A. M. or by the C. I. O. for the purposes of collective bargaining, or by neither;

(2) All electrical workers employed in the plant engaged in the installation, operation, or maintenance of electrical equipment, excluding instrument men, to determine whether they desire to be represented by the I. B. E. W. or by the C. I. O. for the purposes of collective bargaining, or by neither;

(3) All carpenters and carpenters' helpers employed in the plant engaged in carpentry work, to determine whether they desire to be

represented by the Carpenters or by the C. I. O. for the purposes of collective bargaining, or by neither.

(4) All employees engaged as painters and painters' helpers whether they use brushes or spray guns and all employees who mix paint on the job, to determine whether they desire to be represented by the Painters or by the C. I. O. for the purposes of collective bargaining, or by neither;

(5) All pipefitters and pipefitter helpers, and insulators and their helpers, to determine whether they desire to be represented by the Plumbers or by the C. I. O. for the purposes of collective bargaining, or by neither;

(6) All remaining production and maintenance employees, including machine oilers, but excluding shipping and receiving clerks, engineering and stock room clerks, machine shop toolroom clerks, machine shop clerks, instrument men, plant-protection employees, professional employees, and technical employees, to determine whether or not they desire to be represented by the C. I. O. for the purposes of collective bargaining.

As previously stated, there will be no final determination of the appropriate unit or units pending the results of the elections.

Since as pointed out in Section III, *supra*, the Teamsters made no showing that any employees of the Company have designated it as their representative for the purposes of collective bargaining, we shall not include its name upon the ballots in any of the elections which we shall direct.

We shall direct that the questions which have arisen concerning the representation of employees of the Company's Port Neches plant be resolved, in part, by means of elections by secret ballot among the employees of the Port Neches plant within the voting groups hereinbefore specified. The employees eligible to vote shall be those who were employed in eligible categories during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the customary limitations and additions set forth in the Direction.¹⁰

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 The B. F. Good-

¹⁰ At the hearing the participating labor organizations requested that their respective names appear on the ballots as hereinafter set forth in the Direction of Elections.

rich Rubber Company, at Port Neches, Texas, 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 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 of the Company in each of the groups described below who were employed during the pay-roll period immediately preceding the date of this Direction, including leadermen, and including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and further 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 elections, and further excluding all clerical employees, supervisory employees of the rank of floor foremen and above, and any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action:

(1) All machinists, machinists' helpers, blacksmiths, blacksmiths' helpers, welders, welders' helpers, sheet metal workers, and sheet metal workers' helpers, employed in the machine shop department, excluding machine oilers, machine shop toolroom clerks, and machine shop clerks, to determine whether they desire to be represented by International Association of Machinists, District Lodge 31, A. F. L., or by Oil Workers International Union, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither;

(2) All electrical workers employed in the plant engaged in the installation, operation, or maintenance of electrical equipment, excluding instrument men, to determine whether they desire to be represented by Local Union 390, International Brotherhood of Electrical Workers, or by Oil Workers International Union, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither;

(3) All carpenters and carpenters' helpers employed in the plant engaged in carpentry work, to determine whether they desire to be represented by Carpenters Local 610, Port Arthur, Texas, A. F. L., or by Oil Workers International Union, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither;

(4) All employees engaged as painters and painters' helpers whether they use brushes or spray guns and all employees who mix paint on

the job, to determine whether they desire to be represented by International Brotherhood of Painters and Decorators, No. 328, Port Arthur, Texas, or by Oil Workers International Union, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither;

(5) All pipefitters and pipefitter helpers, insulators and insulator helpers, to determine whether they desire to be represented by Pipefitters Local 195, Beaumont, Texas, A. F. L., or by Oil Workers International Union, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither;

(6) All remaining production and maintenance employees, including machine oilers, but excluding shipping and receiving clerks, engineering and stock room clerks, machine shop toolroom clerks, machine shop clerks, instrument men, plant-protection employees, professional employees, and technical employees, to determine whether or not they desire to be represented by Oil Workers International Union, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Elections.