

In the Matter of PHELPS DODGE CORPORATION UNITED VERDE BRANCH and INTERNATIONAL ASSOCIATION OF MACHINISTS, LOCAL NO. 223; INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS AND HELPERS, LOCAL NO. 406; INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL NO. B 657; AND INTERNATIONAL BROTHERHOOD OF CARPENTERS AND JOINERS, LOCAL NO. 1061

Cases Nos. R-558 to R-561, inclusive.—Decided April 15, 1938

Copper Mining and Smelting Industry—Investigation of Representatives: controversy concerning representation of employees: controversy concerning appropriate unit—*Units Appropriate for Collective Bargaining:* similarity of interests and duties of members of each craft, employed in both mine and smelter, and distinction from interests and functions of other employees; history of union organization; absence of opposing claims by a bona fide labor organization; craft units found appropriate under circumstances—*Elections Ordered:* parties agreed on use of pay roll dated 2 days prior to date of hearing for determining eligibility to vote.

Mr. David Persinger, for the Board.

Mr. Denison Kitchel, of Phoenix, Ariz., for the Company.

Mr. Sidney S. Bartels, of Phoenix, Ariz., for the I. A. M., the Boilermakers, the I. B. E. W., and the Carpenters.

Mr. Gene Gaillac, of Phoenix, Ariz., for the I. B. E. W.

Mr. Fred H. Eckert, of Cottonwood, Ariz., for the Smelter Committee and for the Mine Committee.

Mr. J. H. Krug, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

On November 7, 1937, International Association of Machinists, Local No. 223, herein called the I. A. M.; International Brotherhood of Boilermakers, Iron Ship Builders and Helpers, Local No. 406, herein called the Boilermakers;¹ International Brotherhood of Electrical

¹ It appears from the record that the correct name is International Brotherhood of Boilermakers, Iron Ship Builders, Welders and Helpers of America, Local No 406. It also appears from the record that the correct name of the Carpenters is United Brotherhood of Carpenters and Joiners of America, Local No 1061.

Workers, Local No. B657, herein called the I. B. E. W.; and International Brotherhood of Carpenters and Joiners, Local No. 1061, herein called the Carpenters, filed with the Regional Director for the Twenty-first Region (Los Angeles, California) four separate petitions alleging that questions affecting commerce had arisen concerning the representation of employees of Phelps Dodge Corporation, herein called the Company, who are employed in its United Verde Branch, located at Jerome and Clarkdale, Arizona, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. The four unions above-mentioned are herein collectively called the Craft Unions. On December 9, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice; the Board further ordered, pursuant to Article III, Section 10 (c) (2), of the above Rules and Regulations, that the four cases be consolidated for the purposes of the hearing.

On January 4, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the four petitioning unions, upon the International Union of Mine, Mill and Smelter Workers, Jerome, Arizona, herein called the I. U. M. M. S. W., a labor organization claiming to represent employees directly affected by the investigation, upon the Central Labor Councils of Los Angeles, California, and Tucson and Pheonix, Arizona, upon the Los Angeles Industrial Union Council, Los Angeles, California, upon the Employees' Committee, Employees' Representation Plan, Phelps Dodge Corporation, United Verde Branch, Mine Division, herein called the Mine Committee,² and upon the Employees' Committee, Employees' Representation Plan, Phelps Dodge Corporation, United Verde Branch, Smelter Division, herein called the Smelter Committee.³ The Mine Committee and the Smelter Committee, herein collectively called the Employees Committees, are labor organizations claiming to represent employees directly affected by the investigation. Both Employees Committees, 2 or 3 days before the hearing, filed separate petitions with the Regional Director similar to those filed by the Craft Unions. The Board did not, however, act

² The notice in this instance was addressed to the Employees Representation Plan of the United Verde Branch, Smelter Division, Copperwood, Arizona; but it appears from the record that this actually gave notice to the Mine Committee

³ The notice was addressed to Employees' Representation Plan of the United Verde Branch, Smelter Division, Clarkdale, Arizona.

upon the Employees Committees petitions, by ordering an investigation, pursuant to Section 9 (c) of the Act and Article III, Section 3, of the Rules and Regulations. The Mine Committee and the Smelter Committee will be regarded, therefore, as intervenors rather than petitioners. This conclusion has no bearing upon our decision.

Pursuant to the notice, a hearing was held on January 10 and 11, 1938, at Clarkdale, Arizona, before Walter B. Wilbur, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel, and the Craft Unions by an organizer of the American Federation of Labor; the I. B. E. W. was represented by an agent of its parent body, International Brotherhood of Electrical Workers, and the Smelter Committee and the Mine Committee were also represented.⁴ All the foregoing parties participated in the hearing.⁵ Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that, with two exceptions, no prejudicial errors were committed. When each of the Employees Committees sought to introduce in evidence the Articles governing its operations, as proof of its organization and purposes, the Trial Examiner ruled that the offers of proof were irrelevant. In this we think he erred. An intervenor is clearly entitled to introduce in evidence proof of its existence as a labor organization, and no reason appears in this case for regarding such proof as irrelevant. The rulings of the Trial Examiner are hereby overruled. Since the Articles of both Employees Committees were marked for identification as Exhibits and forwarded with the record, we hereby admit them in evidence. All other rulings made by the Trial Examiner are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY⁶

Phelps Dodge Corporation is incorporated under the laws of New York. In addition to its direct holdings, the Company owns a num-

⁴ The record indicates that the Smelter Committee and Mine Committee were not represented by legal counsel, but they participated in the hearing by a representative.

⁵ A representative of the I U M M S W appeared, but withdrew from the case almost immediately, taking no part in the hearing.

⁶ Most of the facts in this section are derived from a stipulation entered into between counsel for the Company and counsel for the Board.

ber of subsidiaries engaged in mining, refining and fabricating copper and in other types of business.⁷

The United Verde Branch is the name given to the mine and smelter at Jerome and Clarkdale, Arizona, purchased by the Company in February 1935, from United Verde Copper Company. The mine, which is located at Jerome, consists of a large deposit of copper-bearing ore, with traces of silver and gold. Ore produced at the mine is shipped to the smelter at Clarkdale, approximately seven miles distant, by the Verde Tunnel and Smelter Railroad Company. The ore is reduced to copper bullion, which is shipped by rail and steamship line to a copper refinery at Laurel Hill, New York. Only 2 per cent of the ores treated at the smelter are derived from sources other than the mine at Jerome, all of which, however, are within the State of Arizona. Coal used as fuel is shipped to the smelter from New Mexico, but in what quantities the record does not disclose. During 1936, the total production of the United Verde Branch was as follows: Copper, 76,957,725 pounds; silver, 1,514,830 ounces; and gold 55,113 ounces. The copper constituted 6.3 per cent of the total amount of copper produced in the United States during that year.

II. THE ORGANIZATIONS INVOLVED

The four Craft Unions are labor organizations affiliated with the American Federation of Labor. International Association of Machinists, Local No. 223 apparently admits to membership machinists, machinist helpers and apprentices, including tool makers, drill press operators and jigger boss machinists. International Brotherhood of Boilermakers, Iron Ship Builders, Welders and Helpers of America, Local No. 406 apparently admits to membership boilermakers, helpers, apprentices, welders, boiler shop punchmen, and boilermaker jigger bosses. International Brotherhood of Electrical Workers, Local No. B657, apparently admits to membership electricians, electrician helpers and apprentices, electrician jigger bosses, armature winders, metermen, and meterman apprentices, but excludes radio men, refrigerator men, crane workers, switchboard men and generator attendants. United Brotherhood of Carpenters and Joiners of America, Local No. 1061 apparently admits to membership carpenters and appren-

⁷ Wholly owned subsidiaries are as follows: Mining: Montezuma Copper Company and Compania Minera de San Carlos, S. A., both in Mexico; Copper refining: Nichols Copper Company with plants located at Laurel Hill, New York and El Paso, Texas; Copper fabricating: Phelps Dodge Copper Products Corporation with plants in New Jersey, New York, Indiana and California; Utilities: Ajo Improvement Company, Warren Company, The Morenci Water Company, and Upper Verde Public Utilities Company, all doing business in Arizona; Mercantile corporations: Phelps Dodge Mercantile Company, doing business in New Mexico and Arizona, and New Cornelia Cooperative Mercantile Company, doing business in Arizona; Verde Tunnel & Smelter Railroad Company, operating between Jerome and Clarkdale, Arizona; Dawson Fuel Sales Company, Dawson, New Mexico; and Cochise Publishing Company, Bisbee, Arizona.

tices. The record reveals that with the exception of the Machinists, the jurisdiction of the Craft Unions is not confined to persons employed by the Company. The four Craft Unions have formed what is known as the Verde District Metal Trades Council, in which each of them is represented, but the Council is not a party to this proceeding.

The Employees Committee, Employees Representation Plan, Smelter Division, consists of the employees' representatives in the Employees Representation Plan for the Smelter Division. The Employees Committee, Employees Representation Plan, Mine Division, bears a similar relationship to the Employees Representation Plan for the Mine Division. Both of the Employees Committees are labor organizations within the meaning of Section 2 (5) of the Act. All of the employees at each Division, excluding supervisory employees but including salaried employees, are eligible to participate in the Employees Representation Plan for that Division.

III. THE QUESTIONS CONCERNING REPRESENTATION

In August 1933, the Mine Committee was established and soon afterwards the Smelter Committee made its appearance. The United Verde Copper Company negotiated separately with each committee, as representing all the employees of the Mine Division and of the Smelter Division, respectively, and the Company, after it acquired the property, continued the same policy. Since May 1937, the Company has also met with the Verde District Metal Trades Council, composed of delegates from the four Craft Unions, and has granted several demands concerning wages and working conditions made by the Council.

At the hearing the Company urged that for purposes of collective bargaining all the employees of the Mine Division should constitute one unit, and the employees at the Smelter Division should constitute another. It argued that craft units were inappropriate, and explained that it had recognized and negotiated with the Metal Trades Council only because legal counsel advised this course in order to preclude any possibility of violating the Act. Although the Company has not refused to negotiate with the Craft Unions, its insistence at the hearing upon bargaining units which conflict with those advanced by the petitioners, gives rise to questions concerning representation.

We find that questions have arisen concerning representation of employees of the Company.

IV. THE EFFECT OF THE QUESTIONS CONCERNING REPRESENTATION UPON COMMERCE

We find that the questions concerning representation which have arisen, occurring in connection with the operations of the Company

described in Section I above, have a close, intimate, and substantial relation to trade, traffic and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNIT

We consider first the problems raised by the participation of the Employees Committees in this case. Each Committee sought a bargaining unit comprised of all employees at its respective Division, excluding supervisory employees. Article I of the Articles governing the Smelter Committee, entitled "Purposes", reads as follows:

The employees and the Management of the United Verde Branch, in order to form an organization for the purpose of promoting closer relations between the employes and the Management, to provide a method for the prompt settlement of any differences that may arise, and to provide a means whereby employes shall have representation in the consideration of questions of policy relating to working conditions, hours of labor, wages, safety and other matters of mutual interest, do hereby establish this Employees' Representation Plan.⁸

The pertinent provisions of the Articles may be summarized as follows: The Smelter Division is divided into five departments or electoral divisions, and the employees working in each of these, excluding foremen, bosses, and those with power to hire and discharge, are entitled to elect a single representative. The Employees Representatives thus chosen, together with representatives of the Management, form what is known as the Industrial Council. The number of Representatives of the Management may not exceed the number of Employees Representatives, but the Representatives of the Management, considered as a group, have voting power equal to that of the Employees Representatives in the Industrial Council. The Employees Representatives and the Representatives of the Management vote as groups. In the event of a tie vote, the matter will be submitted to arbitration at the request of either group. Amendment of the Articles requires a two-thirds vote of the Employees Representatives together with a two-thirds vote of the Management Representatives. Article 18 reads:

This plan may be terminated by a two-thirds vote of the Employes of the Phelps Dodge Corporation, United Verde Branch, or by action of the Board of Directors of the Company.

⁸ Although this paragraph suggests that the organization embraces the entire United Verde Branch, the Articles considered as a whole are clearly confined to the Smelter Division. At the hearing the Employees Committee elected under these Articles contended that it represented only the employees of the Smelter Division.

The language of the Mine Committee Articles follows, almost word for word, the Articles of the Smelter Committee, and contains provisions substantially identical with those to which we have referred.

It is obvious from this outline of the Articles that the Employees Committees cannot be considered as bona fide representatives of the employees for purposes of collective bargaining. This conclusion is compelled in each instance by the entire scheme of the Articles, and especially by the provision empowering the Company to terminate the plan at any time. Under the Act we cannot certify an organization as representative of employees for purposes of collective bargaining, when the Articles governing its existence and operation on their face evidence the complete subjection of the organization to the employer. Such an organization is patently incapable of bargaining at arm's length with the employer.

In the course of the hearing witnesses testified that the Company had in several instances granted requests made by the Committees. The adjustments thus made, however, were comparatively insignificant; and, admittedly, the Company has never entered into a contract with either of the Committees. The evidence upon the dealings between the Employees Committees and the Company fails to alter the convincing evidence of subjection to the Company afforded by the Articles themselves. To place upon the ballot an organization so congenitally subservient to the employer would be to subvert the fundamental purposes of the Act. Accordingly, the requests of the Mine Committee and Smelter Committee for certification, or for an election, are hereby denied. This disposes, also, of the Company's contention that the Employees Committees are the representatives of its employees in the appropriate units, and that it wishes to continue to bargain with these representatives.

The Craft Unions contend that members of each of the four skilled crafts, working in both Divisions, should be regarded as separate bargaining units. It appears from testimony of their witnesses, and from cross-examination of the Company's witness, that a skilled craftsman employed at one Division can perform the work required of members of his craft at the other Division, although the machinery or equipment to which he is assigned may be more or less different from what he has worked at in the first Division. There have been occasional instances of interchange of craftsmen between the mine and the smelter. Members of an individual craft receive the same rates of pay and work the same number of hours in both Divisions. The function of members of the four crafts is to install and maintain the equipment used by the regular production employees in mining or reducing the ore. These considerations, urge the Craft Unions, call for the designation of four collective bargaining units, each composed of workers in a single craft.

The Company maintains that the units sought by the four petitioning Craft Unions are inappropriate both because they are framed upon a narrow craft basis, and because they seek to include in the same unit both mine and smelter workers. The grounds for its position are as follows: The supervisory staffs of the two Divisions are separate and distinct; the entire Branch is in charge of a single manager, but each Division has its superintendent and a separate staff of supervisory employees. Operations of the two Divisions are functionally distinct; the mine produces the ore and the smelter reduces it to copper bullion. If the smelter closed down the mine would have enough storage space to remain in operation for a year or more. The mine and smelter are approximately seven miles apart, and the mine is more than 2,000 feet higher in elevation than the smelter. As a general rule, employees at the Mine Division live in the nearby town of Jerome, and those at the Smelter Division in Clarkdale; there is little communication or social contact between the two communities. Workers at one Division, craftsmen as well as others, do not come in contact on the job with employees of the other Division. Some of the craftsmen work in shops apart from the rest of the employees, but this is by no means the general rule; for example, most of the electricians at the smelter are assigned to the various departments of the Division, more or less permanently, to repair and maintain the electrical equipment. The work of members of the other crafts, in both Divisions, has the same feature, although not to a like degree. A foreman of a department sometimes has charge of the craftsmen assigned to that department as well as of non-craft employees. Members of a craft usually have little contact with each other on the job; apart from work in the shop, their working conditions are the same as those of the regular production employees. The superintendent of the Smelter Division, who had negotiated with both the Metal Trades Council and the Employees Committees, testified that most of the requests made by the Council concerned all the employees at the Branch, and that on several occasions he was engaged in two separate conferences, one with the Council and one with an Employees Committee, dealing with the same subject. These facts, the Company asserted, made it clear that the problems of craftsmen were substantially identical with those of other employees in the Division in which they worked.

Although there is substantial evidence in support of the position taken by the Company, we think that under the circumstances disclosed by the record, the units sought by the petitioning Craft Unions are appropriate. The smelter and mine superintendents have a large degree of authority concerning labor problems, each in his own Division, but the general labor policy for the entire Branch is determined by the manager of the Branch together with the general

manager of the Western Division of the Company. There is no evidence that the Craft Unions attempted to bargain with the Company until May 1937, but the record reveals that they were organized for some years prior to that date. Most of the employees in an individual craft at each Division are subject to a separate craft foreman, and spend at least a part of their working time in the shop established for that craft. Each of the four crafts is composed of skilled workers. Their interests, type of work and the differential in wages which they enjoy, distinguish them sharply from the production employees. As a consequence of our decision that the Employees Committees are not entitled to represent employees for purposes of collective bargaining, the units requested by the Craft Unions were not opposed by any bona fide labor organization. In the absence in this case of any effective claim by a rival employee organization for a bargaining unit on a broader scale, we conclude that the craft units are appropriate.

It remains for us to define, with some degree of precision, the employees to be included in the respective bargaining units. Witnesses for the Craft Unions at the hearing experienced difficulty in stating what employees the unit should include. To meet the difficulty, the recording secretary or financial secretary of each union selected from the Company's pay roll,⁹ and read into the record; the names and job classifications of those employees whom the witness desired the bargaining unit to embrace. The great majority of the names correspond to those contained in lists of workers in the four crafts, taken from the pay roll and prepared by the Company, which appear in the record.¹⁰ Since the Company and the Craft Unions thus agree that every such employee is properly considered a member of one of the four crafts, we are of the opinion that they should be included in the appropriate units.

Some of the names read into the record by witnesses for the Craft Unions do not appear on the lists of craft workers submitted by the Company. On the other hand, certain names on the Company's lists were omitted by the Craft Union witnesses. We take for granted that the Craft Unions, by failing to mention these, indicated a belief that such employees should not be included in the respective units. Similarly, the Company, in presenting its lists, signified its opinion that the lists contained the names of all workers in the four crafts. But upon checking with the pay roll the names omitted either by the Craft Unions or by the Company, we observe that in several instances the pay-roll classification clearly indicates that such names were omitted inadvertently. The Craft Unions presented no evidence, with

⁹ Respondent Exhibit No. 2, entitled "List of Employees on Payroll—Mines Division," and Respondent Exhibit No. 4, entitled "List of Employees on Payroll—Smelter Division."

¹⁰ Respondent Exhibit Nos. 6 and 7.

a single exception, to explain their failure to include employees who appeared on the Company's lists, nor did the Company attack any names advanced by the Craft Unions. The exception is as follows: The Company's lists include the names of two employees under the heading, "Carpenter's Helper". One of these is listed on the pay roll as an oiler. The witness for the Carpenters testified that his union admitted to membership carpenters and apprentices, but not helpers, and this position is supported by the provisions of the Constitution and Laws of the United Brotherhood of Carpenters and Joiners of America. Since the Company did not object, and the helpers did not appear and make known their wishes, we find that Homer Crockett and Rudolph J. Svob, each classified as Carpenter's Helper on the Company's lists of craftsmen, should be excluded from the bargaining unit for carpenters and apprentices. With this exception, in the absence of express controversy, supported by evidence on both sides, we conclude that all workers claimed, by either the Craft Unions or the Company, to fall within the various crafts, should be included in their respective bargaining units. These names are listed on Appendices A, B, C, and D, which are attached to this Decision.

The Craft Unions, apparently in the belief that the names read into the record did not exhaust all those who should properly be regarded as members of the crafts, expressed a desire that the unit embrace all workers falling under the appropriate job classifications. Thus, the I. B. E. W. requested the inclusion of all persons classified on the pay roll as electricians, armature winders, electrician jigger bosses, electrician helpers, electrician apprentices, metermen, and meterman apprentices. The I. A. M. desired to include within the unit employees classified on the pay roll as, or performing the work of, machinists, jigger boss machinists, machinist apprentices, machinist helpers, tool makers, special machinists, drill press operators, mill machinists, mine machinists, and smelter machinists. The Boilermakers requested the inclusion of persons classified on the pay roll as, or performing the work of, boilermakers, boilermaker helpers, boilermaker apprentices, special boilermakers, boilermaker jigger bosses, welders, boiler shop punchmen, mill boilermakers, and boiler shop layer-out. The Carpenters desired to include all carpenters and carpenter apprentices.¹¹ There was no effort on the part of the Company to show that persons listed under these classifications or performing the functions indicated, should be excluded from the appropriate craft units. Moreover, we see no reason to exclude from the appropriate units persons employed as craftsmen, merely because they appear under a different classification on the pay roll. We conclude

¹¹ The Boilermakers and the Carpenters did not express their desires, in this respect, as clearly as did the other two locals, but we think the entire testimony of the witnesses for the Boilermakers and the Carpenters points to our conclusion

that the definitions of the various units should be sufficiently flexible to include the workers falling within the classifications, or performing the work, outlined in this paragraph.

The I. B. E. W. desired to exclude from its unit certain classes of employees who worked with electrical equipment, such as radio men, refrigerator men, switchboard operators, crane men, and generator attendants. It was doubtful, according to its witnesses, whether the local union had jurisdiction over any of these, with the exception of the switchboard operators. The recording secretary of the I. B. E. W. testified that the switchboard operators were eligible to membership, but that his union did not desire to represent them. Although counsel for the Company questioned the witness as to his reasons for excluding the switchboard operators, as well as the other classes of employees, the record fails to show any request by the Company for their inclusion in the unit. None of the employees in question appeared at the hearing to ask that the unit be defined to embrace them. The exclusions are consistent with the desire of the I. B. E. W. to represent all workers engaged in the installation and maintenance of electrical equipment at the United Verde Branch. We conclude that the employees considered in this paragraph should be excluded from the bargaining unit appropriate for electricians.

We find that all persons employed by the Company at its United Verde Branch, located at Jerome and Clarkdale, Arizona, as machinists, jigger boss machinists, machinist apprentices, machinist helpers, tool makers, special machinists, drill press operators, mill machinists, mine machinists and smelter machinists, including those whose names appear on Appendix A, attached hereto, constitute a unit appropriate for the purposes of collective bargaining.

We find that all persons employed by the Company at its United Verde Branch, located at Jerome and Clarkdale, Arizona, as boiler-makers, boilermaker helpers, boilermaker apprentices, special boilermakers, boilermaker jigger bosses, welders, boiler shop punchmen, mill boilermakers and boiler shop layer-out, including those whose names appear on Appendix B, attached hereto, constitute a unit appropriate for the purposes of collective bargaining.

We find that all persons employed by the Company at its United Verde Branch, located at Jerome and Clarkdale, Arizona, as electricians, armature winders, electrician jigger bosses, electrician helpers, electrician apprentices, metermen and meterman apprentices, including those whose names appear on Appendix C, attached hereto, but excluding all persons employed as radio men, refrigerator men, switchboard operators, crane men, and generator attendants, constitute a unit appropriate for the purposes of collective bargaining.

We find that all persons employed by the Company at its United Verde Branch, located at Jerome and Clarkdale, Arizona, as car-

penters and carpenter apprentices, including those employees whose names appear on Appendix D, attached hereto, but excluding carpenter helpers, constitute a unit appropriate for the purposes of collective bargaining.

We find that these units will insure to employees of the Company at its United Verde Branch, located at Jerome and Clarkdale, Arizona, the full benefit of their right to self-organization and to collective bargaining and will otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

At the hearing the Craft Unions did not introduce membership cards. The recording secretary or financial secretary of each union read into the record the names of those employees claimed by the witness to be members of his union. The number of union members thus named constituted a majority of the employees in the bargaining unit described by the witness. The membership claims of the Craft Unions were not contradicted by the Company. But the units herein defined as appropriate will probably embrace, in the case of each craft, a number of employees not specifically mentioned by the Craft Union witnesses. We are not convinced, therefore, that any of the Craft Unions has made a clear showing that it represents a majority in its respective unit. The questions concerning representation which have arisen can best be resolved by means of elections by secret ballot.

We come finally to the selection of a date for determining eligibility to vote. Both the Craft Unions and the Company selected the names of craftsmen from the Mine Division and Smelter Division pay rolls dated January 8, 1938.¹² Although prior to that date, and since the time the petitions were filed, the Company had laid off a number of employees, both parties were evidently in accord upon the suitability of the January 8 pay rolls. We conclude that all employees embraced in the bargaining units herein defined, whose names appear on the pay rolls for the Mine Division and Smelter Division, United Verde Branch, dated January 8, 1938, shall be eligible to vote, excluding those who have since quit or been discharged for cause.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. Questions affecting commerce have arisen concerning the representation of employees of Phelps Dodge Corporation at its United Verde Branch, Jerome and Clarkdale, Arizona, within the meaning

¹² Respondent Exhibit Nos. 2 and 4

of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. (a) All persons employed by the Company at its United Verde Branch, Jerome and Clarkdale, Arizona, as machinists, jigger boss machinists, machinist apprentices, machinist helpers, tool makers, special machinists, drill press operators, mill machinists, mine machinists and smelter machinists, including those whose names appear on Appendix A, attached hereto, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

(b) All persons employed by the Company at its United Verde Branch as boilermakers, boilermaker helpers, boilermaker apprentices, special boilermakers, boilermaker jigger bosses, welders, boiler shop punchmen, mill boilermakers and boiler shop layer-out, including those whose names appear on Appendix B, attached hereto, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

(c) All persons employed by the Company at its United Verde Branch as electricians, electrician helpers, electrician apprentices, armature winders, electrician jigger bosses, metermen and meterman apprentices, including those whose names appear on Appendix C, attached hereto, but excluding all persons employed as radio men, refrigerator men, switchboard operators, crane men, and generator attendants, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

(d) All persons employed by the Company at its United Verde Branch as carpenters and carpenter apprentices, including those whose names appear on Appendix D, attached hereto, but excluding carpenter helpers, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

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 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with Phelps Dodge Corporation, United Verde Branch, Jerome and Clarkdale, Arizona, elections by secret ballot shall be conducted

within thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Twenty-first Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, among

a. All persons employed as machinists, jigger boss machinists, machinist apprentices, machinist helpers, tool makers, special machinists, drill press operators, mill machinists, mine machinists and smelter machinists, whose names appear on the pay rolls for the Mine Division and the Smelter Division dated January 8, 1938, including those whose names appear on Appendix A, attached hereto, but excluding those employees who have since quit or been discharged for cause, to determine whether or not they desire to be represented by International Association of Machinists, Local No. 223, affiliated with the American Federation of Labor, for the purposes of collective bargaining;

b. All persons employed as boilermakers, boilermaker helpers, boilermaker apprentices, special boilermakers, boilermaker jigger bosses, welders, boiler shop punchmen, mill boilermakers and boiler shop layer-out, whose names appear on the pay rolls for the Mine Division and the Smelter Division dated January 8, 1938, including those whose names appear on Appendix B, attached hereto, but excluding those employees who have since quit or been discharged for cause, to determine whether or not they desire to be represented by International Brotherhood of Boilermakers, Iron Ship Builders, Welders and Helpers of American, Local No. 406, affiliated with the American Federation of Labor, for the purposes of collective bargaining;

c. All persons employed as electricians, electrician helpers, electrician apprentices, armature winders, electrician jigger bosses, metermen and meterman apprentices, whose names appear on the pay rolls for the Mine Division and the Smelter Division dated January 8, 1938, including those whose names appear on Appendix C, attached hereto, but excluding all persons employed as radio men, refrigerator men, switchboard operators, crane men, and generator attendants, and those employees who have since quit or been discharged for cause, to determine whether or not they desire to be represented by International Brotherhood of Electrical Workers, Local No. B657, affiliated with the American Federation of Labor, for the purposes of collective bargaining; and

d. All persons employed as carpenters and carpenter apprentices, whose names appear on the pay rolls for the Mine Division and the Smelter Division dated January 8, 1938, including those whose names appear on Appendix D, attached hereto, but excluding carpenter helpers and those employees who have since quit or been discharged for cause, to determine whether or not they desire to be represented

by United Brotherhood of Carpenters and Joiners of America, Local No. 1061, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

APPENDIX A

Myron L. Scott.....	Machinist.
E. R. Meinhold.....	Machinist.
G. W. Williams.....	Special Machinist.
Silas M. Gibson.....	Machinist.
Jas. Cyra.....	Machinist.
Walter S. Goldthwaite.....	Machinist.
George G. Doty.....	Machinist.
R. E. Blackburn.....	Machinist.
Reuben Pamagua.....	Machinist.
F. J. Reilly.....	Machinist.
Michael J. Blazina.....	Machinist helper.
J. L. Harrington.....	Machinist helper.
James I. Bates.....	Machinist helper.
John S. Medigovich.....	Machinist helper.
Dan Richie.....	Machinist helper (Classified on the pay roll as "Crane Operator").
Gordon J. Harrington.....	Machinist helper.
Ralph E. Denison.....	Machinist apprentice.
W. J. Cureton.....	Machinist apprentice.
Robert E. Riordan.....	Machinist apprentice.
John M. Radetich.....	Machinist tool maker.
R. N. Morell ¹⁸	Drill press operator.
Lance C. Baring.....	Jigger machinist (Classified on the pay roll as "Truck Shop jigger").
E. B. McLellen.....	Jigger boss machinist (Classified on the pay roll as "Jigger Boss").
Manuel S. Franquero.....	
A. Casteneda.....	
Frank Franquero.....	
William Jennings.....	Machinist.
C. T. Magill.....	Machinist.
D. E. Wombacher.....	Machinist.
John F. Lindner.....	Machinist.
Harry R. Keller.....	Machinist.
M. K. Fisher.....	Machinist.
J. H. Stout.....	Machinist.
D. H. Jones.....	Machinist.

¹⁸ The name given by the witness was N. R. Morell.

Roland Hampton-----	Machinist helper (Classified on the pay roll as "P. H. Mach. Helper").
Alvin Fuller-----	Machinist helper (Classified on the pay roll as "Conc. Hdy. Man").
Novian E. Anderson-----	Machinist helper.
Jim Hunt-----	Machinist helper.
Walter L. Wedgworth-----	Machinist helper.
Jack Sullivan-----	Machinist apprentice.
James Magill-----	Machinist apprentice.
A. T. Brose-----	Mill machinist.
Charles Anderson-----	Jigger machinist (Classified on the pay roll as "Conc. Jigger Mach.>").
J. A. Magill-----	Machinist (Classified on the pay roll as "P. H. Mach.>").
Clarence Smith-----	
Lorenzo Lopez-----	

APPENDIX B

Dulhe M. Petty-----	Boilermaker.
Charles Harrison-----	Boilermaker.
Walter J. Clark-----	Special boilermaker.
A. W. Griffin-----	Boilermaker jigger boss.
H. R. Petty-----	Special boilermaker.
George B. Evans-----	Boilermaker.
James B. Tissaw-----	Boilermaker.
Philip W. Crookham-----	Boilermaker.
L. J. Brostrom-----	Boilermaker.
M. F. Gay-----	Boilermaker.
B. B. Marta-----	Boilermaker.
J. H. Achilles-----	Boilermaker helper.
W. L. Hogan-----	Boilermaker helper.
D. J. Murphy-----	Boilermaker apprentice (Classified as boilermaker helper on the pay roll).
F. O. Andrews-----	Boilermaker apprentice.
D. D. Gilbert-----	Boilermaker apprentice.
Victor Svob-----	Boilermaker apprentice.
Charles Cutler-----	Boilermaker (Classified on the pay roll as "Shaft Timberman>").
L. H. Rea-----	Boilermaker.
Thomas Sherman-----	Welder.
Charles C. Goodrich-----	Welder.
Miguel R. Sanchez, Jr-----	Boilermaker.
Tim Harrington-----	Welder.

D. L. Robinson, Jr.....	Boiler shop layer-out.
George W. Rupe.....	Boilermaker.
Frank Abbott, Sr.....	Boilermaker.
M. E. Wellington.....	Boilermaker helper.
Andy Black.....	Boilermaker helper.
Mike Krmpotich.....	Boilermaker helper (Classified on the pay roll as "B. M. Hdyman").
Dewey Balen.....	Boilermaker helper.
John O'Brien.....	Boiler shop punchman.
B. P. Pittman.....	Mill boilermaker.
Lee Hall.....	Boilermaker apprentice.
Frank Abbott, Jr.....	Boilermaker apprentice.
Joe Derrick.....	Welder (Classified on the pay roll as "Temp. Const. Welder").

APPENDIX C

Joseph I. Crawley.....	Armature winder.
R. G. Cartmell.....	Electrician jigger boss.
Thomas P. Geary.....	Electrician.
L. J. Bonar.....	Electrician.
J. P. Pecharich.....	Electrician.
S. P. Henderson.....	Electrician jigger boss.
C. W. Wykoff.....	Electrician.
D. Cole.....	Electrician.
L. F. Sullivan.....	Electrician.
P. N. Hatch.....	Electrician helper.
J. L. Sullivan.....	Electrician apprentice.
J. R. Henson.....	Electrician apprentice.
Jess Hudson.....	Electrician.
J. F. Maneth.....	Electrician.
R. W. Alexander.....	
A. J. D. Moodie.....	
R. A. Clark.....	
O. F. Luepke.....	Electrician jigger boss.
Gerald B. Cookson.....	Electrician.
Fred W. Wilgus.....	Meterman.
S. W. Vidler.....	Electrician.
R. A. Dugger.....	Electrician.
Joseph Dugan.....	Electrician.
C. Frank Spooner.....	Electrician.
Leonard Conner.....	Electrician.
Harry Kinsey.....	Armature winder.
R. A. Spooner.....	Electrician helper.
C. H. Dearing.....	Electrician helper.

Marion S. Morris----- Meterman apprentice.
 William Nash----- Electrician apprentice.
 J. W. Eagar----- Electrician apprentice.
 W. J. Johnston-----

APPENDIX D

Joe H. Mayagoitia----- Carpenter.
 L. C. Beltz----- Carpenter.
 O. A. Haydon----- Carpenter.
 Mihal Amersek-----
 Homer Stillwell----- Carpenter.
 Albert Sloper----- Carpenter.
 Joel Willard----- Carpenter.
 C. C. Markham----- Carpenter.
 Thomas Westfall----- Carpenter apprentice.