

In the Matter of PHELPS DODGE CORPORATION, COPPER QUEEN BRANCH,
SMELTER DIVISION and UNITED BROTHERHOOD OF CARPENTERS AND
JOINERS, LOCAL 2302, AFL

In the Matter of PHELPS DODGE CORPORATION, COPPER QUEEN BRANCH,
SMELTER DIVISION and INTERNATIONAL BROTHERHOOD OF BOILERMAK-
ERS, LOCAL #639 AFL

*Cases Nos. 21-R-2090 and 21-R-2091 respectively.—Decided
February 16, 1944*

Mr. Frank Ryley, of Phoenix, Ariz., and *Mr. C. R. Kuzell*, of Clark-
dale, Ariz., for the Company.

Mr. Paul M. Peterson, of Bisbee, Ariz., for the Carpenters and Boil-
ermakers.

Mr. Cotton Murray, of Phoenix, Ariz., for the Boilermakers.

Mr. Orville Larson, of Miami, Ariz., and *Mr. Houston Splawn*, of
Douglas, Ariz., for the CIO.

Mr. Glenn L. Moller, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon petitions duly filed by United Brotherhood of Carpenters and Joiners, Local 2302, AFL, herein called the Carpenters, and by International Brotherhood of Boilermakers, Local #639, AFL, herein called the Boilermakers, alleging that questions affecting commerce had arisen concerning the representation of employees of Phelps Dodge Corporation, Copper Queen Branch, Smelter Division, Douglas, Arizona, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Charles M. Ryan, Trial Examiner. Said hearing was held at Douglas, Arizona, on December 3, 1943. The Company, the Carpenters, the Boilermakers, and International Union of Mine, Mill and Smelter Workers, for itself and on behalf of its Local Union No. 470, herein called the CIO, appeared and participated. All par-

ties 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.¹ 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

Phelps Dodge Corporation is a New York corporation which operates mines and ore reduction plants in the State of Arizona. The Company owns and operates at Douglas, Arizona, a smelter, referred to as the Copper Queen Branch, Smelter Division. At this smelter, the only operation of the Company here involved, the Company is engaged in the smelting of copper ore for the production of metallic bullion, which is shipped in interstate commerce. During the 12-month period ending December 1, 1943, the Company shipped in interstate commerce over 200,000,000 pounds of copper bullion.

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

II. THE ORGANIZATIONS INVOLVED

United Brotherhood of Carpenters and Joiners, Local 2302, and International Brotherhood of Boilermakers, Local #639, both affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

International Union of Mine, Mill and Smelter Workers and its Local Union No. 470, affiliated with the Congress of Industrial Organizations, are labor organizations admitting to membership employees of the Company.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION IN AN APPROPRIATE UNIT

The Carpenters contends that all employees in the carpenter shop at the Douglas smelter, excluding the foreman and an employee whom the Carpenters describes as a clean-up man, constitute an appropriate bargaining unit. The Boilermakers contends that all employees in the structural iron gang, known as riggers, constitute an appropriate

¹ International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, affiliated with the American Federation of Labor, appeared at the hearing and requested leave to intervene. The Trial Examiner correctly refused this request on the ground that the employees allegedly represented by that union are not involved in the instant proceeding.

bargaining unit. The CIO strenuously contends that the proposed units are inappropriate, while the Company takes no position on the matter.

On August 23, 1941, pursuant to petitions filed by the International Brotherhood of Electrical Workers, International Association of Machinists, United Association of Journeymen Plumbers & Steam Fitters of United States and Canada, Boilermakers Local No. 362,² and the CIO, the Board conducted an investigation, including the conduct of self-determination elections, and thereafter found 'appropriate bargaining units which can be described generally as follows: all powerhouse employees and electricians; all machinists; all pipe fitters, steam fitters, and plumbers; all boilermakers and welders in the boiler shop; and all the remaining production and maintenance employees.³ The afore-mentioned petitioning craft unions won the elections in their respective groups and were duly certified by the Board. An American Federation of Labor industrial union competed with the CIO in the election in the residual production and maintenance unit and was defeated. Thereafter, the Company bargained collectively with the CIO in said residual unit. On July 16, 1942, a contract for a 1-year period, with an automatic renewal clause was executed by the Company and the CIO. In 1943, pursuant to timely notice by the CIO of desire to modify the contract, the parties negotiated certain modifications and referred certain specific disagreements to the National War Labor Board. The new contract was negotiated and agreed upon in July 1943, and it was not until the following month that the Carpenters and Boilermakers filed their petitions. The carpenters and riggers have thus been part of the residual production and maintenance unit since 1941, throughout the existence of one contract and the negotiation of another. The record indicates that the representative of the Carpenters and Boilermakers is general representative of all AFL unions in the area and that he also represented the several AFL craft unions which were involved in the earlier proceeding. There can be no question but that the various craft unions, including the petitioners in the instant proceeding, were fully aware of the original proceeding in 1941 in which the existing bargaining units were established, and of the bargaining history since that time.⁴ At no time either before or since the earlier proceeding have the carpenters or the riggers displayed any dissatisfaction with or nonacceptance of representation in the residual production and maintenance unit from which they are now seeking

² The petitioner in the instant case is Local 639

³ 34 N. L. R. B. 846 and 36 N. L. R. B. 657

⁴ The Carpenters' local here involved has represented the Company's carpenters at its Mines Division, Bisbee, Arizona, approximately 25 miles from the operations here involved, since 1941, but made no effort to organize at the smelter until May 1943. The Boilermakers did not begin its organizational activity until July 1943. See *Matter of Phelps Dodge Corporation, Copper Queen Branch, Smelter Division*, 41 N. L. R. B. 140.

to secede.⁵ Under these circumstances, we see no reason for altering the established bargaining units.⁶ The petitions in the instant proceeding will be dismissed.

ORDER

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the National Labor Relations Board hereby orders that the petitions for investigation and certification of representatives filed by United Brotherhood of Carpenters and Joiners, Local 2302, AFL, and by International Brotherhood of Boilermakers, Local #639, AFL, be, and they hereby are, dismissed.

⁵ Cf. *Matter of Bendix Aviation Corp.*, 39 N. L. R. B. 81; *Matter of Indianapolis Drop Forging Company*, 40 N. L. R. B. 1294; *Matter of Aluminum Company of America*, 42 N. L. R. B. 772.

⁶ *Matter of Inland Steel Company*, 34 N. L. R. B. 1294; *Matter of The White Motor Company*, 23 N. L. R. B. 924.