

In the Matter of D & B DIVISION OF THE EMSCO DERRICK & EQUIPMENT  
COMPANY and UNITED STEELWORKERS OF AMERICA, CIO

*Case No. 16-R-782.—Decided February 16, 1944*

*Mr. B. M. Caldwell*, of Dallas, Tex., for the Company.

*Messrs. W. A. Leigh* and *A. R. Hardesty*, of Dallas, Tex., for the Union.

*Mr. William Strong*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of D & B Division of the Emsco Derrick & Equipment Company, Dallas, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Gustaf B. Erickson, Trial Examiner. Said hearing was held at Dallas, Texas, on January 7, 1944. The Company and the Union appeared and participated. All parties 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 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<sup>1</sup>

Emsco Derrick & Equipment Company is a California corporation operating plants in California and Texas. We are here concerned with its Dallas, Texas, plant, known as the D & B Division, where the

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<sup>1</sup>The findings as to the Company's business are based upon findings of the Board in a prior decision, to which reference was made at the hearing herein. See *Matter of D & B Division of Emsco Derrick & Equipment Co.*, 51 N. L. R. B. 959.

Company produces and sells oil derricks and other related machinery, and various war materials, the latter for the United States Army, Navy, and Maritime Commission. In June 1943, about 70 percent of the Company's production was war materials. Ordinarily about 8 percent of the Company's raw materials, valued at about \$198,000, is brought into Dallas, Texas, from States other than the State of Texas, and about 3 percent of its finished products, valued at about \$212,000, is shipped to points outside that State.

The Company does not deny, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

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

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of the Company's employees, in effect until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</sup>

We find that a question affecting commerce has arisen concerning the 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

We find, in substantial agreement with the concurrence of the parties, that all production and maintenance employees at the Dallas plant, excluding plant guards, clerical and technical employees and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

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<sup>2</sup> The Field Examiner reported that the Union submitted 87 membership application cards, 41 of which bore apparently genuine original signatures signed in the proper space on the cards, and 44 bore apparently genuine original signatures affixed in the space for the name rather than the signature of the applicant; that the names of 82 persons appearing on the cards were listed on the Company's pay roll of November 30, 1943, which contained the names of 135 employees in the alleged appropriate unit.

## V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

## DIRECTION OF ELECTION

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 D & B Division of the Emsco Derrick & Equipment Company, Dallas, Texas, an election 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 in the unit 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 election, to determine whether or not they desire to be represented by United Steelworkers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.