

In the Matter of SIMPSON STEEL COMPANY *and* INTERNATIONAL ASSOCIATION OF BRIDGE STRUCTURAL AND ORNAMENTAL IRON WORKERS, LOCAL UNION No. 509, A. F. L.

*Case No. 21-R-2227.—Decided March 30, 1944*

*Mr. A. F. Simpson, Jr.*, of Los Angeles, Calif., for the Company.

*Mr. G. J. Sliney*, of Los Angeles, Calif., and *Mr. Oliver C. King*, of Los Angeles, Calif., 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 International Association of Bridge, Structural and Ornamental Iron Workers, Local Union No. 509, A. F. L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Simpson Steel Company, Los Angeles, California,<sup>1</sup> herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Charles M. Ryan, Trial Examiner. Said hearing was held at Los Angeles, California, on February 28, 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

The Company, a partnership consisting of A. F. Simpson, Jr., and R. N. Simpson, is engaged at two locations in Los Angeles in the pro-

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<sup>1</sup> Prior to November 1943 the Company was known as the Commercial Piping & Engineering Company.

55 N. L. R. B., No. 159.

duction of parts for ships. Its production is valued at more than \$250,000 annually. All parts produced by the Company are used on ships manufactured for the United States Government, and which sail the high seas.

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

## II. THE ORGANIZATION INVOLVED

International Association of Bridge, Structural and Ornamental Iron Workers, Local Union No. 509, affiliated with the American Federation of Labor, 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 certain of the Company's employees.

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 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 Union seeks a unit composed of all production and maintenance employees of the Company at its East 26th Street plant,<sup>3</sup> excluding clerical and supervisory employees. The Company disagrees with the Union's contentions and would exclude electricians, machinists, and hoisting engineers. The Company asserts that it has had inquiries as to its organizational set-up from other labor organizations which represent employees in these categories. However, no other labor organization has made any demands upon the Company,<sup>4</sup> and there is no history of collective bargaining at the plant on a craft basis. We shall include all production and maintenance employees in the unit.

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<sup>2</sup> The Field Examiner reported that the Union submitted 54 membership application cards, all of which bore apparently genuine original signatures; that the names of 43 persons appearing on the cards were listed on the Company's pay roll of December 5, 1943, which contained the names of 65 employees in the alleged appropriate unit.

<sup>3</sup> The Company has plants at East 26th Street and East 51st Street, in Los Angeles.

<sup>4</sup> Upon inquiry by these organizations, the Company stated that it "planned to keep our shop an open shop . . ."

We find that all production and maintenance employees of the Company at its East 26th Street plant, excluding clerical 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.

#### V. THE DETERMINATION OF REPRESENTATIVES

The Company objects to any determination of representatives at present on the ground that it plans to consolidate all the enterprises controlled by it at the East 26th Street location, and for the further reason that the Navy Department "may decide to take over our plant or select us as a unit to perform work for them" requiring a substantial increase in the number of employees. In addition, the Company asserts that its personnel "will probably double" within the next 6 months, "with the permission of the War Manpower Commission." The consolidation will not occur within the next 12 to 18 months, at the earliest. The other considerations urged by the Company are merely speculative. Also, the Company already has in its employ 50 percent of the employees it would have were all the factors which may cause an increase in its employment rolls resolved in its favor. None of the reasons advanced persuade us that the election should not be held at this time.

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 Simpson Steel Company, Los Angeles, California, 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 Twenty-first 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 the 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 International Association of Bridge, Structural and Ornamental Iron Workers, Local Union No. 509, affiliated with the American Federation of Labor, for the purposes of collective bargaining.