

In the Matter of SIMPSON STEEL COMPANY and UNITED STEELWORKERS
OF AMERICA, C. I. O.

Case No. 21-R-2555.—Decided January 22, 1945

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

Mr. Gilbert O. Anaya, of Maywood, Calif., for the CIO.

Mr. Lester O. Wilson, of Los Angeles, Calif., for the Engineers.

Mr. David Sokol, of Los Angeles, Calif., for the Council.

Messrs. H. O. Houtrow and T. A. Kettering, of Los Angeles, Calif.,
for Local 92.

Mr. Herbert C. Kane, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, C. I. O., herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Simpson Steel Company, Los Angeles, California, 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 December 28, 1944. The Company, the CIO, International Union of Operating Engineers, Local Unions Nos. 12 and 63, AFL, herein called the Engineers,¹ Los Angeles Metal Trades Council, AFL, herein called the Council, International Brotherhood of Boilermakers, Iron Ship Builders, Welders and Helpers of America, Local 92, AFL, herein called Local 92, appeared and participated.² 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

¹ At the hearing, the Trial Examiner granted the motion of the Engineers to intervene.

² Although served with Notice of Hearing, International Association of Bridge, Structural and Ornamental Iron Workers, Local Union No 509, herein called Local No. 509 did not appear. However, the Council appeared on behalf of both Local No 509 and Local 92, which, as noted above, also appeared and participated in the hearing.

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

Simpson Steel Company, a partnership consisting of A. F. Simpson, Jr., and R. N. Simpson, is engaged in the manufacture of parts for ships in Los Angeles, California. The only plant involved in this proceeding is the East 26th Street plant. The production of the Company 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 ORGANIZATIONS INVOLVED

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

Los Angeles Metal Trades Council, International Association of Bridge Structural and Ornamental Iron Workers, Local Union No. 509, International Union of Operating Engineers, Local Unions Nos. 12 and 63, and International Brotherhood of Boilermakers, Iron Shipbuilders, Welders and Helpers of America, Local 92, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the CIO as the exclusive bargaining representative of its employees until the CIO 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 CIO represents a substantial number of employees in the unit hereinafter found appropriate.³

³ The Field Examiner reported that the CIO submitted 88 petitions and authorization cards, that the names of 75 persons appearing on the cards were listed on the Company's pay roll of December 3, 1944, which contained the names of 239 employees in the appropriate unit, and that the cards were dated October and November 1944.

The Council submitted 104 authorization cards and dues records. The names of 69 persons appearing on the cards were contained in the aforesaid pay roll. The cards were dated October and December 1944.

The Engineers submitted two dues records. The names of two persons appearing on the cards were contained on the aforesaid pay roll, which contained the names of approximately five in the unit contended for as appropriate. The cards were dated October 1944.

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 CIO contends that a unit of all the production and maintenance employees of the Company at its East 26th Street plant but excluding outside truck drivers, guards, clerical employees and supervisory employees would be appropriate. The Company agrees with this contention. The Council agrees with the above unit, but would further exclude crane operators. The Engineers contends that a unit comprising only crane operators would be appropriate.

The record shows that there is one electric crane, one crawler crane and one rubber tired crane in the yard. There are approximately six crane operators. They are under the supervision of the general foreman who supervises all of the other production employees. We have on several occasions found, and we here find, that crane operators do not form a sufficiently skilled group to constitute a craft, nor are they so skilled or homogeneous as to constitute a separate unit appropriate for collective bargaining.⁴

We find that all production and maintenance employees of the East 26th Street plant of the Company but excluding all plant guards, clerical employees, outside truck drivers 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 requests that the pay roll to be used in determining eligibility be one prior to the hearing. Inasmuch as no valid reason is shown for the use of such pay roll, 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.

⁴ *Matter of Bethlehem-Hingham Shipyard, Inc.*, 54 N. L. R. B. 631, and cases cited therein.

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, as amended, 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 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 they desire to be represented by United Steelworkers of America, C. I. O., or by Los Angeles Metal Trades Council, A. F. L.⁵ for the purposes of collective bargaining, or by neither.

⁵ The Council is placed on the ballot as appearing for Local 92 and Local 509. The Engineers stated that it did not desire a place on the ballot in the event the Board found inappropriate the unit which it here sought.