

ONTARIO LABOUR RELATIONS BOARD

Between:

The Ontario Erectors Association,

Applicant,

- and -

The International Association of Bridge,
Structural and Ornamental Ironworkers,
Local Union 736,

Respondent,

- and -

Electrical Power Systems Construction
Association,

Intervener #1,

- and -

Hydro-Electric Power Commission of Ontario,

Intervener #2,

- and -

Labourers' International Union of North
America, Ontario Provincial District Council
et al,

Intervener #3,

- and -

Erectors Division, Ontario Precast Concrete
Manufacturers' Association,

Intervener #4.

BEFORE: D.E. Franks, Vice-Chairman, and Board Members
H.J.F. Ade and E. Boyer.

APPEARANCES AT THE HEARING: Robin B. Cumine and W. Jemison
for the applicant; Aubrey E. Golden and Maurice A. Green
for the respondent; H.A. Beresford and G.A. Pickell for
intervener #1 and #2; no one appearing for intervener
#3; B.W. Binning, R. Werry and R.V. Bradley for intervener
#4.

DECISION OF THE BOARD:

1. This is an application for accreditation. The applicant and the respondent Local Union are parties to an agreement dated May 1, 1971, and in effect until April 30, 1973. That agreement is an agreement between the applicant and five Locals, one of which is the respondent Local in the present application. This agreement was in effect at the time when this application was made and the Board therefore finds that it has the jurisdiction under section 113 of the Act to entertain this application.

2. The applicant employers' organization is an association whose constitution was revised in September 1971. Prior to 1971 the applicant association had been known as The Structural Steel Erection Contractors Association of Ontario and under that name had engaged in collective bargaining for a number of years. The revision of the constitution in 1971 gave the applicant association the specific objects of:

(b) To act as bargaining agent for its members in negotiating and entering into collective bargaining agreements with The International Association of Bridge, Structural and Ornamental Ironworkers and the International Union of Operating Engineers (Hoisting Division) or any Local Union of either, covering those employees of the members of the Association who are engaged in work at construction sites in Ontario.

(c) To become an accredited employers' organization under The Labour Relations Act and to regulate the relations between employer members and employees in the construction industry and to represent such employer members in collective bargaining within any sector of the construction industry in any geographical area, as defined in The Labour Relations Act.

On the basis of the evidence before it the Board finds that the applicant is an employers' organization within the meaning of section 106(d) of the Act, and further that it is a properly constituted organization for the purposes of section 115(3) of the Act.

3. The applicant filed with the Board documentary evidence of representation on behalf of 181 employers. The evidence of representation is in two forms. For a number of employers the applicant has filed the documents by which an individual employer applies for membership in an applicant. The applicant also filed evidence of representation in the Form of Power of Attorney in which the individual employer appoints the applicant association as agent and representative for collective bargaining. The applicant also filed a duly completed Form 62, Declaration Concerning Representation Documents. The Board therefore further finds that the applicant has submitted acceptable documentary evidence of representation on behalf of 181 employers.

4. The collective agreement referred to in paragraph 1 provides in Article 3 for a number of territorial boundaries for the 6 Locals of The International Association of Bridge, Structural and Ornamental Ironworkers in the Province of Ontario. With respect to the respondent Local 736 the geographical area set out in Article 3.1 of the agreement is:

"All of the counties of Brant, Bruce, Gray, Haldimand, Huron, Lincoln, Norfolk, Oxford, Perth, Waterloo, Welland, Wellington, and Westworth, and all of the county of Halton - except for the premises of the Ford Motor Company."

The applicant has applied for a unit of employers which relates to the geographic area set out in the collective agreement pertaining to the respondent Local and in the industrial, commercial and institutional sector and in the heavy engineering sector. The various parties to the application have agreed that these two sectors are the appropriate sectors for accreditation in the present case. Accordingly, the Board further finds that all employers of ironworkers for whom the respondent has bargaining rights in the Counties of Brant, Bruce, Gray, Haldimand, Huron, Lincoln, Norfolk, Oxford, Perth, Waterloo, Welland, Wellington, and Westworth, and all of the County of Halton - except for the premises of the Ford Motor Company in the industrial, commercial and institutional and heavy engineering sector of the construction industry, constitute a unit of employers appropriate for collective bargaining.

5. For the purposes of clarity the Board further notes that the term ironworkers does not include rodmen.

6. After the hearing in this matter the Board appointed an Examiner to consult with the parties and receive their filings with respect to various individual

employers. The Examiner has reported to the Board and the parties have made no statement of objections and desire to make representations on the Report of the Examiner. The Examiner's Report contains the representations of the parties with respect to certain individual employers and it also refers to two exhibits in the form of letters filed with the Examiner. As a result of the Report of the Examiner the Board is now in a position to deal with all of the employers on the list of employers.

7. As a result of the filings of the applicant and the respondent the Board prepared a list of employers who might be affected by this application. The list consists of one hundred and eighty-nine (189) employers. In accordance with the Board's Rules of Procedure, each of these employers was served with notice of this application and under the Board's Rules of Procedure was required to file Form 68, Employer Filing, together with its Schedule "H".

8. It would appear that the Board has been unable to effect service on three employers at the address given by the applicant or the respondent. For instance, the registered letters sent by the Board to the employers were returned marked by the post office "moved" or "unknown". Accordingly, Employer No. 2 - ABC Steel Bldgs. Ltd., No. 45 - Crittall Fenestra Ltd. and No. 107 - Medway Metalwork Ltd., are removed from the list of employers in the unit of employers.

9. It would appear also that certain employers on the list of employers are duplications of other employers on the list. Thus, No. 32 - Calorific Construction is removed as a duplication of No. 40-4, Calorific Construction Limited; No. 40-13 - Grightmire Steel Construction Ltd. is removed as a duplication of No. 72, Grightmire Steel Ltd.; No. 40-22 - Naidanac Mechanical Ltd. is removed as a duplication of No. 115, Naidanac Mech. Ltd.

10. At the Examiner's meeting the parties agreed that Employer No. 98 - W.A. McDougall Ltd. is bankrupt and should be removed from the list of employers. Also, Employer No. 84 - Jensen Steel Ltd. should be removed from the list of employers not being in the construction industry.

11. However, the parties did challenge the filings of the remaining employers who claimed in their filings that the respondent does not have bargaining rights for their employees. In this regard exhibits were filed with the Examiner by the parties to show that the respondent has bargaining rights for the employees of the challenged employers. Thus, they are placed on Final Schedule "F":

No. 5 - Acme Welding
No. 16 - Barnett-McQueen Company Limited
No. 26 - Burke's Welding Limited

- No. 32 - Calorific Construction Limited
- No. 48 - R.J. Cyr Co. Limited
- No. 59 - Finch Metal Fab. Ltd.
- No. 68 - Gerard Construction (Ontario) Limited
- No. 95 - Loaring Construction Company Limited
- No. 103 - Manfin Steel Company Limited
- No. 109 - Metro Welding
- No. 112 - T. Moore Mechanical Contractors Ltd.
- No. 122 - Northwestern Structural Steel Limited
- No. 126 - The Ralph M. Parsons Company
- No. 141 - Roxson Contractors Ltd.
- No. 145 - Sky-Hook Construction Limited
- No. 149 - Specialty Welding & Machine Company Limited
- No. 159 - J.M. Takacs Co. Ltd.
- 40-11 - Falcon Fabricators Limited

12. The parties did not challenge the representation of three employers who claimed in their filings that the respondent does not have bargaining rights for their employees. Thus, No. 4 - Acadia Engineering & Fabricators, No. 88 - Kahkonen Construction Limited and No. 40-33 - Shokbeton Quebec Inc. are removed from the list.

13. A number of employers failed to file returns. In these circumstances the parties have agreed that the disposition of these employers for the purpose of section 115 of the Act is as follows:

- No. 3 - Abicon Limited - will appear on Final Schedule "E" with 7 employees
- No. 9 - Allied Ind. Piping Co. - will appear on Final Schedule "F"
- No. 12 - Art Wire & Iron Co. Ltd. - will appear on Final Schedule "E" with 4 employees
- No. 21 - Bond Structural Steel (1965) Ltd. - will appear on Final Schedule "F"
- No. 25 - Brocklesby Transport Ltd. - will appear on Final Schedule "E" with 4 employees
- No. 27 - Canadian Erectors Ltd. - will appear on Final Schedule "E" with 2 employees
- No. 28 - Canadian Installation Co. Ltd. - will appear on Final Schedule "F"
- No. 36 - Cem-Al Erectors Limited - will appear on Final Schedule "F"
- No. 37 - Central Que. Steel Ltd. - will appear on Final Schedule "F"

- No. 40 - Cleland Metal Prod. Ltd. - will appear on Final Schedule "E" with 5 employees
- No. 49 - Dependable Erectors - will appear on Final Schedule "F"
- No. 54 - Earl's Welding - will appear on Final Schedule "F"
- No. 55 - F & W Steel Fab. Ltd. - will appear on Final Schedule "F"
- No. 57 - Ferguson Glass Limited - will appear on Final Schedule "F"
- No. 61 - Foresteel Ind. Ltd. - will appear on Final Schedule "E" with 3 employees
- No. 63 - E. S. Fox Limited - will appear on Final Schedule "E" with 15 employees
- No. 69 - A. J. Goodale Ltd. - will appear on Final Schedule "E" with 3 employees
- No. 70 - Great Lakes Fabricating - will appear on Final Schedule "F"
- No. 73 - Gross Ornamental Iron - will appear on Final Schedule "F"
- No. 80 - Hodgson Steel and Ironworkers - will appear on Final Schedule "E" with 40 employees
- No. 82 - G.I. Installations Ltd. - will appear on Final Schedule "E" with 3 employees
- No. 86 - Joggast Steel Company - will appear on Final Schedule "F"
- No. 90 - Kel-Gor Fab. Ltd. - will appear on Final Schedule "F"
- No. 92 - Klimack Const. Ltd. - will appear on Final Schedule "F"
- No. 94 - Lalonde Welding Ltd. - will appear on Final Schedule "F"
- No. 96 - Lord and Cie Limited - will appear on Final Schedule "F"
- No. 110 - Midland Ross - will appear on Final Schedule "E" with 1 employee

- No. 114 - Nadrofsky Steel Erect. Ltd. - will appear on Final Schedule "E" with 30 employees
- No. 115 - Naidanac Mech. Ltd. - will appear on Final Schedule "E" with 50 employees
- No. 117 - Nevis Steel Const. Ltd. - will appear on Final Schedule "F"
- No. 129 - Petro-Chemical Fab. - will appear on Final Schedule "F"
- No. 130 - Phoenix Steel Prod. Ltd. - will appear on Final Schedule "F"
- No. 135 - R. & F. Metal Fabricators Ltd. - will appear on Final Schedule "F"
- No. 136 - Ranto Ent. (Amherstburg) Ltd. - will appear on Final Schedule "E" with 1 employee
- No. 140 - Ross Enterprises - will appear on Final Schedule "F"
- No. 146 - Sky Metal Co. Ltd. - will appear on Final Schedule "F"
- No. 150 - Sombra Welding Ltd. - will appear on Final Schedule "F"
- No. 154 - Steele's Erect & Hoist Ltd. - will appear on Final Schedule "E" with 5 employees
- No. 157 - Sudbury Mech. & Elect. - will appear on Final Schedule "F"
- No. 160 - Thornby Metals Ltd. - will appear on Final Schedule "F"
- No. 161 - Travers Const. & Eng. Ltd. - will appear on Final Schedule "F"
- No. 164 - Vancan Metal Erectors Limited - will appear on Final Schedule "F"
- No. 170 - Wilson Engineering - will appear on Final Schedule "E" with 4 employees
- No. 171 - Windsor Metal Masters Ltd. - will appear on Final Schedule "F"
- 40-2 - Bob's Welding - will appear on Final Schedule "F"

- 40-9 - Durall Construction Limited - will appear on Final Schedule "E" with 6 employees
- 40-15 - Hildebrandt Iron Works - will appear on Final Schedule "E" with 4 employees
- 40-16 - Jeffscott Mechanical Ltd. - will appear on Final Schedule "E" with 4 employees
- 40-19 - Modern Steel Iron Works Ltd. - will appear on Final Schedule "E" with 4 employees
- 40-27 - Salem Industries Canada Ltd. - will appear on Final Schedule "E" with 4 employees
- 40-28 - Secord Industrial Sales Ltd. - will appear on Final Schedule "E" with 6 employees
- 40-29 - Stoney Creek Mechanical Limited - will appear on Final Schedule "E" with 30 employees
- 40-31 - Whitley Bros. - will appear on Final Schedule "E" with 10 employees
- 40-34 - Pre Bec Inc. - will appear on Final Schedule "F"

14. On the basis of the foregoing considerations and the filing by individual employers the Board has drawn up the following lists of employers. These employers listed on Final Schedule "E" are those who have indicated that they had employees affected by the application in the year preceding June 15, 1972, the date of the making of its application. Those on Final Schedule "F" have indicated that they have not had such employees.

FINAL SCHEDULE "E"

A-1 Steel Works (Div. of Alvan Fabricators Ltd.)
Abicon Limited
Aldershot Industrial Installations Limited
Arc-Way Welding (1972) Limited
Art Wire & Iron Co. Ltd.
August Equipment Ltd.
Wm. Batten Structural Erectors Ltd.
Beamer & Lathrop (Quebec) Limited

Bomac Steel Co. Ltd.
Bridge & Tank Company of Canada Limited
Brocklesby Transport Ltd.
Canadian Erectors Ltd.
Comstock International Ltd.
Cdn. Mech. Handl. Systems Ltd.
Cannon Limited, Eastern Structural Division
Central Rigging & Contracting Ltd.
Adam Clark Company Ltd.
Cleland Metal Prod. Ltd.
Art Currie Ltd.
Dewcon Structures Limited
Dominion Bridge Co. Ltd.
A. Faustin Co. Ltd.
Roger Forest Inc.
Foresteel Ind. Ltd.
The Foundation Company of Canada Limited
E. S. Fox Limited
Frankel Structural Steel Limited
Fraser-Brace Engineering Company Limited
A. J. Goodale Ltd.
Grightmire Steel Ltd.
H.E. Erection Company
John T. Hepburn Limited
Hilkron Steel Construction Limited
Hodgson Steel and Ironworks
G. I. Installations Ltd.
Jervis B. Webb Company of Canada
Joy Manufacturing Company (Canada) Limited
Lackie Bros. Limited
McInnis Mechanical (Eastern) Limited
Mesley Mach Movers
Midland Ross
Morrison Engineering Limited
Nadrofsky Steel Erect Ltd.
Naidanac Mech Ltd.
Newman Structural Steel Limited
Niagara Structural Steel Co. Ltd.
Norak Steel Construction Ltd.
Ontario Millwrights Ltd.
Peel Steel (Northern) Limited
Pengelly Iron Works Limited
Prepost Company Limited
Ranto Ent (Amherstburg) Ltd.
Rassaun Steel & Mfg. Co. Ltd.
Robertson-Irwin Limited
Sentinel Reliance Products Ltd.
Sheafer-Townsend Limited
P.A. Sherwood Windows Ltd.
Spencer Steel Limited
Steel Building Sales
Steele's Erect & Hoist Ltd.
Steen Mechanical Contractors Limited

Stone & Webster Canada Limited
Sutherland-Schultz Limited
The Toronto Iron Works Limited
Westeel-Rosco Limited
John Wheelwright Ltd.
Whitby Welding Ltd.
Wilson Engineering
York Steel Construction Limited
Barlow's Cartage Limited
Bradshaw Iron Works Limited
Canadian Machinery Movers Limited
Chris-Steel Fabricating Limited
Colbey Custom Fabricating Co. Ltd.
Durall Construction Limited
Essex Machine Installation Company
Andy Hamilton Crane Service Limited
Hildebrandt Iron Works
Jeffscott Mechanical Ltd.
Mesley Welding
Milrig Industries Limited
Modern Steel Iron Works Ltd.
Ralph M. Moore Industrial Installations Limited
Mountain Ironworks Ltd.
Paling Installations
Risidor & Company
Salem Industries Canada Ltd.
Secord Industrial Sales Ltd.
Stoney Creek Mechanical Limited
Ward Ironworks Limited
Whitley Bros.
Lee Wilson Engineering Company of Canada Limited

FINAL SCHEDULE "F"

Acme Welding
S. D. Adams Welded Products Limited
Allied Conveyors Limited
Allied Ind. Piping Co.
Anstey & Gray Ltd.
Assinck Bros. Limited
Bagwell Coatings Canada Ltd.
Barnett-McQueen Company Limited
Bingley Steel Works Limited
Bond Structural Steel (1965) Ltd.
Border Cities Wire & Iron Limited
Brayshaw's Steel Ltd.
Burke's Welding Limited
Canadian Installation Co. Ltd.
Calorific Construction Limited
Cape Installations Ltd.
Casey Mechanical Limited
Cecchetto & Sons Limited
Cem-Al Erectors Limited
Central Que. Steel Ltd.

Costal Steel Construction Limited
Conaquip Limited
Cooper's Crane Rental Limited
Cripps Welding Service Ltd.
Curran & Herridge Construction Co. Ltd.
R. J. Cyr Co. Limited
Dependable Erectors
Dome Metal Erectors Limited
Dundas Iron & Steel Ltd.
Earl's Welding
F & W Steel Fab. Ltd.
Ferguson Glass Limited
Ferro Erectors (Toronto) Limited
Finch Metal Fab. Ltd.
Norm Gander Installations
General Erectors & Mechanical Company Limited
Gerard Construction (Ontario) Limited
Great Lakes Fabricating
Great Lakes Steel Products
Gross Ornamental Iron
Guardian Glass Limited
Francis Hankin & Company Limited
Hawker Industries Limited, Canadian Bridge
Division
Industrial Machinery Movers
Iona Erectors Limited
Joggast Steel Company
Kawneer Company Canada Limited
Kel-Gor Fab Ltd.
Kingston Mechanical Limited
Klimack Const. Ltd.
Lalonde Welding Ltd.
Loaring Construction Company Limited
Lord and Cie Limited
Luxfer Prism Company Ltd.
McKay-Cocker Construction Limited
R. W. McKay Construction Company Limited
MacKenzie Black Fabricating Co. Ltd.
Manfin Steel Company Limited
Marshall Steel Company Limited
Mathews Conveyor Company Ltd.
Mead-Morrison Industrial Equipment Limited
Metro Welding
Moir Cartage Limited
T. Moore Mechanical Contractors Ltd.
National Construction Corp. Ltd.
Nevis Steel Const. Ltd.
Noront Steel Limited
Northwestern Structural Steel Limited
Norris Iron Works Limited
Overhead Crane Service and Supply Co. Ltd.
The Ralph M. Parsons Company
Petro-Chemical Fab.
Phoenix Steel Prod. Ltd.
Plibrico (Canada) Ltd.

Power Installations (Sarnia) Limited
Process Mechanical Contractors Limited
R. & F. Metal Fabricators Ltd.
Raymond (1973) Limited
Ross Enterprises
Roxson Contractors Ltd.
Sky-Hook Construction Limited
Sky Metal Co. Ltd.
N. L. Smith Mechanical Limited
Specialty Welding & Machine Company Limited
Sombra Welding Ltd.
Standard Structural Steel Ltd.
Ste-Alco Limited
Sudbury Mech. & Elect.
J. M. Takacs Co. Ltd.
Thornby Metals Ltd.
Travers Const. & Eng. Ltd.
Treblex Limited
Vancan Metal Erectors Limited
Victoria Steel Prod. Ltd.
Weston Steel Products Limited
Windsor Metal Masters Ltd.
M. Zagerman & Co. Ltd.
Bob's Welding
Canada Millwright Ltd.
Falcon Fabricators Limited
Follick's Welding Service
Polymer Corporation Limited Building
Systems Division
Robertson-Yates Corporation Limited
Pre Bec Inc.

The Board finds that the number of employers on Final Schedule "E" totalling ninety-three (93) is the number of employers to be ascertained by the Board under section 115(1)(a) of the Act.

15. On the basis of all the evidence before us the Board finds that on the date of the making of the application the applicant represented seventy (70) employers of the ninety-three (93) employers ascertained as the number of employers under section 115(1)(a) of the Act. The seventy (70) employers so represented is the number of employers to be ascertained by the Board under section 115(1)(b) of the Act. Accordingly, the Board is satisfied that a majority of the employers in the unit of employers are represented by the applicant.

16. The entitlement of an employers' organization to accreditation is based on a "double" majority. We have now dealt with the first of the majorities that an applicant must obtain, a majority of employers in the unit of employers. We now turn to determine whether those employers employed a majority of the employees affected

by this application. The Schedule "H" which accompanied the Form 68, Employer Filing, filed by the individual employers sets out the number of employees that the employer has at each job site with details of the location and the type of construction involved. By section 115(1)(c) of the Act the relevant payroll period is the weekly payroll period immediately preceding the making of the application, in this case the weekly payroll period immediately preceding June 15, 1972. The Board is satisfied that such a payroll period is the satisfactory payroll period for the determination in section 115(1)(c) of the Act.

17. On the basis of all the evidence before us and in accordance with the foregoing considerations the Board finds that there were eight hundred and eighty-seven (887) employees affected by the application during the weekly payroll period immediately preceding June 15, 1972. The eight hundred and eighty-seven (887) employees is the number of employees to be ascertained by the Board under section 115(1)(c) of the Act.

18. The Board further finds that the seventy (70) employers represented by the applicant employed eight hundred and one (801) of these eight hundred and eighty-seven (887) employees. The Board is therefore satisfied that the majority of the employers represented by the applicant employed a majority of employees as ascertained in accordance with the provisions of section 115(1)(c) of the Act.

19. Having regard to all of the above findings a Certificate of Accreditation will issue to the applicant for the unit of employers found to be an appropriate unit of employers in paragraph 5 and in accordance with the provisions of section 115(2) of the Act and for such other employers for whose employees the respondent may after June 15, 1972, obtain bargaining rights through certification or voluntary recognition in the geographic area and sector set out in the unit of employers.

May 29, 1974

"D. E. Franks"
for the Board