

In the Matter of GROVETON PAPERS Co. and UNITED MINE WORKERS OF  
AMERICA, DISTRICT 50

*Case No. 1-R-1549.—Decided October 8, 1943*

*Mr. James C. Wemyss*, of Groveton, N. H., for the Company.

*Mr. Samuel E. Angoff*, of Boston, Mass., for District 50.

*Mr. George Broomfield*, of Boston, Mass., for the AFL.

*Miss Frances Lopinsky*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Mine Workers of America, District 50, herein called District 50, alleging that a question affecting commerce had arisen concerning the representation of employees of Groveton Papers Co., Groveton, New Hampshire, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Samuel G. Zack, Trial Examiner. Said hearing was held at Groveton, New Hampshire, on September 7, 1943. The Company, District 50, and International Brotherhood of Pulp, Sulphite and Paper Mill Workers (AFL) and International Brotherhood of Paper Makers (AFL) herein collectively called the AFL, appeared, participated, and 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 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

Groveton Papers Co. is a corporation engaged in the manufacture of wood pulp and bond, writing, butcher and printing papers. Raw

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materials used in the business consist primarily of pulpwood, coal, and sulphur. The value of said raw material amounts annually to more than a million dollars. Part of the pulpwood and all of the coal and sulphur comes to the Groveton plant from points outside the State of New Hampshire. The Company produces 22,000 tons of its product per year; its sales amount to approximately \$3,500,000. A considerable quantity of its products are bought and used by the United States Government in States other than New Hampshire.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

United Mine Workers of America, District 50, is a labor organization admitting to membership employees of the Company.

International Brotherhood of Pulp, Sulphite and Paper Mill Workers and International Brotherhood of Paper Makers are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company and the AFL executed a modified union-shop agreement,<sup>1</sup> for the period "from September 1, 1942 to September 1, 1943, and from year to year thereafter unless terminated by either party's serving written notice upon the other 30 days prior to September 1st of any given year." On July 26, 1943, District 50, by letter requested recognition as exclusive bargaining representative of the Company's employees. The Company did not reply to this letter. It contends that before it received the letter,<sup>2</sup> the parties to the above-mentioned contract had made known to each other their intention of allowing the contract to renew itself automatically and that the said contract was, therefore, renewed prior to notice and is a bar to this proceeding. We find no merit in this contention. A new contract executed prior to the automatic renewal date of an existing contract, extending the termination date of the existing contract, is no bar.<sup>3</sup> An understand-

<sup>1</sup>"All those who are now members or who after this date become or are reinstated as members shall, as a condition of employment, maintain membership in good standing in their respective Unions. All new employees who after 30 days are acceptable to the Company, shall join the Union and maintain membership in good standing therein." AFL contract, Article 2.

<sup>2</sup>The Company admitted that it received the letter but none of its witnesses could place the date of receipt. A copy of the letter was received by the Regional Director in Boston, July 27, 1943, and presumably by the Company on the same date. On July 29, 1943, the Regional Director discussed with an officer of the Company the probability of an immediate filing of a petition by District 50, and on July 31, 1943, the Regional Director informed the Company that the petition had been filed.

<sup>3</sup> See *Matter of Wichita Union Stockyards Company*, 40 N. L. R. B. 369.

ing in advance of the renewal date that the contract will be allowed to renew itself for another year can have no greater effect.<sup>4</sup> Since the Company received notice of District 50's claims prior to the renewal date of the contract, we find that the contract is no bar to a present determination of representatives.<sup>5</sup>

A statement of the Regional Director, introduced into evidence, indicates that District 50 represents a substantial number of the employees of the Company in the unit herein found appropriate.<sup>6</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

In substantial accord with the stipulation of the parties, we find that all employees of the Company, including working foremen and boss machine tenders, but excluding office workers, salesmen, administrative employees, guards, superintendents, assistant superintendents, foremen and all other supervisory employees having authority to hire, promote, discharge, discipline or otherwise effect changes in the status of employees or effectively recommend such action,<sup>7</sup> 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

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 2, as amended, it is hereby

<sup>4</sup> Cf. *Matter of Mill B*, 40 N. L. R. B. 346.

<sup>5</sup> See *Matter of Russell Heel Co.*, 41 N. L. R. B. 45.

<sup>6</sup> The Regional Director reported that District 50 submitted to him 235 application for membership cards, bearing apparently genuine original signatures, 150 of which correspond with names of persons listed on the Company's pay roll of August 4, 1943, which contains 570 names in the appropriate unit. District 50 proffered 52 additional cards to the Trial Examiner who refused them on the ground that in the face of a modified union-shop contract, the showing theretofore made by District 50 was sufficient. We hereby affirm this ruling.

<sup>7</sup> This is substantially the unit described in the AFL contract.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Groveton Papers Co., Groveton, New Hampshire, 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 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, to determine whether they desire to be represented by United Mine Workers of America, District 50, or by International Brotherhood of Pulp, Sulphite and Paper Mill Workers and International Brotherhood of Paper Makers (AFL), for the purposes of collective bargaining, or by neither.