

In the Matter of **STONE LOGGING & CONTRACTING CO. INC. and INTERNATIONAL WOODWORKERS OF AMERICA, LOCAL UNION 5-238, AFFILIATED WITH THE CIO**

*Case No. 19-R-1148.—Decided October 30, 1943*

*Mr. C. F. Stone*, of Tillamook, Oreg., for the Company.

*Mr. A. F. Hartung*, of Portland, Oreg., for the C. I. O.

*Mr. C. A. Paddock*, of McMinnville, Oreg., for the A. F. of L.

*Miss Muriel J. Levor*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon amended petition duly filed by International Woodworkers of America, Local Union 5-238, affiliated with the CIO, herein called the C. I. O.,<sup>1</sup> alleging that a question affecting commerce had arisen concerning the representation of employees of Stone Logging & Contracting Co. Inc., Tillamook, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph D. Holmes, Trial Examiner. Said hearing was held at Tillamook, Oregon, on September 14, 1943. The Company, the C. I. O., and Lumber & Sawmill Workers Union, Local 2609, affiliated with the A. F. of L., herein called the A. F. of L.,<sup>2</sup> appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing on the issues, and to file briefs with the Board. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Stone Logging & Contracting Co. Inc. is a corporation with its principal office at Tillamook, Oregon. The Company is engaged in log-

<sup>1</sup> The petition and other formal documents are hereby amended to set forth the C. I. O.'s name as above, in accordance with a stipulation of the parties.

<sup>2</sup> The petition and other formal documents are hereby amended to set forth the A. F. of L.'s name as above, in accordance with a stipulation of the parties.

ging operations in the vicinity of Tillamook. The output from these operations averages 14,000,000 or 15,000,000 board feet annually, although production has recently dropped to the rate of from 7,000,000 to 8,000,000 board feet. All the fir logged by the Company, which varies from 10 to 90 percent of its production, is shipped to points outside the State of Oregon. The Company's witness testified that he did not know the ultimate destination of the Company's other products.

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

## II. THE ORGANIZATIONS INVOLVED

International Woodworkers of America, Local Union 5-238, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Lumber & Sawmill Workers Union, Local 2609, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

On or about May 30, 1943, the C. I. O., by letter, requested the Company to recognize it as the exclusive bargaining representative of the Company's employees. The Company refused such recognition, unless and until the C. I. O. is duly certified by the Board, stating that it had a contract with the A. F. of L.

The contract to which the Company thus adverted was executed April 1, 1940, and contains a loosely drawn clause which may be interpreted as providing that the contract shall be in effect indefinitely after the first year, in the absence of thirty (30) days' notice of a desire to amend. It appears that the Company and the A. F. of L. have been negotiating changes in this contract for a period of 18 months although no new contract has been executed. Under these circumstances we find the contract to be no bar to a present determination of representatives.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the C. I. O. and the A. F. of L. each represents a substantial number of employees in the unit hereinafter found appropriate.<sup>3</sup>

<sup>3</sup> The Field Examiner reported that the C. I. O. submitted 21 dues records of members in good standing whose first dues were paid in May or June 1943, and whose names correspond with names on the Company's pay roll of July 31, 1943, containing 31 names.

The Field Examiner also reported that the A. F. of L. submitted 16 dues records of members in good standing, corresponding with names on the aforesaid pay roll.

All 16 members of the A. F. of L. are among those who are reported as paying dues to the C. I. O.

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 C. I. O. claims as appropriate a unit composed of all production, maintenance, and transportation employees of the Company's logging camp near Tillamook, Oregon, including the reloading men at Tillamook, and "excluding full-time supervisors and clerical employees." The A. F. of L. desires to include in the unit all employees represented under its contract with which position the Company is in accord. The unit covered by the contract, which includes all employees of the Company except office workers and those employed in a "supervisory capacity," is substantially the same as that desired by the C. I. O. The differences between the parties concern only the bull buck and the head of the road crew, whom the C. I. O. asserts, and the A. F. of L. and the Company deny, should be excluded from the unit as supervisory.<sup>4</sup> Both of these employees have the authority to hire and discharge. Upon this record, we find that the bull buck and the head of the loading crew are supervisory employees. Accordingly, we shall exclude them from the unit.<sup>5</sup>

We find that all production, maintenance and transportation employees of the Company's logging camp near Tillamook, Oregon, including the reloading men at Tillamook, but excluding the bull buck, the head of the loading crew, and any other 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

We shall direct that the question concerning representation which has arisen be resolved by means of 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 our Direction of Election herein, subject to the limitations and additions set forth in the Direction.

<sup>4</sup> The parties agreed at the hearing as to the exclusion of certain specified persons as supervisory, C. F. Stone, M. M. Castle, H. V. Stone, R. W. Stone, and Emil Wooley, one of whom appears to be the hook tender.

<sup>5</sup> *Matter of Willamette Valley Lumber Co*, 51 N L R B. 973.

## 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

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with the Stone Logging & Contracting Co. Inc., Tillamook, Oregon, 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 Nineteenth 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 International Woodworkers of America, Local Union 5-238, affiliated with the Congress of Industrial Organizations, or by Lumber & Sawmill Workers Union, Local 2609, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.