

In the Matter of UNION LUMBER COMPANY and LOCAL 2610, UNITED  
BROTHERHOOD OF CARPENTERS & JOINERS OF AMERICA, AFL

*Case No. 20-R-1022.—Decided March 20, 1944*

*Newmark & Strong*, by *Mr. Charles A. Strong* and *Mr. Gregory A. Harrison*, of San Francisco, Calif., for the Company.

*Mr. H. H. Williams*, of Sacramento, Calif., and *Mr. Otto Kothgassner*, of Fort Bragg, 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 Local 2610, United Brotherhood of Carpenters & Joiners of America, AFL,<sup>1</sup> herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Union Lumber Company, Fort Bragg, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis S. Penfield, Trial Examiner. Said hearing was held at San Francisco, California, on February 16, 1944. The Company and the Union appeared and participated.<sup>2</sup> 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. At the hearing the Company moved for dismissal of the petition on the grounds that the National Labor Relations Act is unconstitutional, that the respondent is not engaged in commerce within the meaning of the Act, that the allegations in the petition are insufficient to constitute a basis for the Board's proceeding, and that no question concerning representation within the meaning of the Act has arisen. The motions, which were referred by the Trial Examiner to the Board for ruling, are hereby denied. All parties were afforded an opportunity to file briefs with the Board.

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<sup>1</sup> The name of the Union is incorrectly shown in some parts of the record.

<sup>2</sup> Prior to the hearing the Company filed an "Answer" to the petition, containing certain denials and allegations

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

The Company, a California corporation, is engaged in and near Fort Bragg, California, in cutting timber and manufacturing lumber and lumber products. The average annual output of the Company at its Fort Bragg plant is in excess of 100,000,000 board feet of lumber, valued at more than \$5,000,000. Over 90 percent of the Company's products is sold directly to the armed forces.<sup>3</sup>

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

#### II. THE ORGANIZATION INVOLVED

Local 2610, United Brotherhood of Carpenters & Joiners of America, 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 until the Union 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 Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>4</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 at the Company's Fort Bragg mills, excluding supervisory, clerical, and store employees. It would also include in the unit employees at the shingle mill at Fort Bragg and non-operating employees on the railroad which transports the lumber. The Company contends that its employees, with certain exceptions, at both the Fort Bragg mills and at its logging operations constitute an appropriate unit. In addition, the Company would exclude the shingle mill and

<sup>3</sup> See *Matter of Union Lumber Company*, 53 N. L. R. B., No 103.

<sup>4</sup> The Field Examiner reported that the Union submitted 325 membership application cards and that there are approximately 500 employees in the alleged appropriate unit.

the railroad employees, on the ground that they are not employees of the Company, and would exclude the subforemen.

The Company's plant at Fort Bragg consists of an office building, a sawmill, a planing mill, storage sheds, a machine shop building, a tank mill, a roundhouse, and a store or commissary. Its logging operations are conducted in two timber tracts situated 15 to 20 miles from Fort Bragg. The logs are brought to Fort Bragg by railroad from one of the tracts and by truck from the other. The Company maintains separate pay rolls for the plant and for the logging operations. There is some interchange of employees on the less skilled work between the plant and the logging operations, the transfer from the plant to the logging operations being on a permanent basis, while that in the other direction is temporary and due to inclement weather. The nature of the work performed by the employees at the logging operations differs substantially from that performed by the plant employees. The two groups of employees possess different skills and work under markedly different conditions.

We have heretofore held in *Matter of Union Lumber Company*, 53 N. L. R. B., No. 103, that the Company's employees engaged in logging operations constitute a unit appropriate for purposes of collective bargaining. As stated in that decision, we have frequently held that employees in the logging operations of a company engaged in felling, logging, and milling timber may properly constitute a bargaining unit separate and distinct from the lumber mill employees where, as here, the two groups of employees are engaged in different types of work and the sawmill and logging camps are geographically separated by several miles. We now conclude that the employees of the Company at its plant may likewise comprise a separate appropriate bargaining unit, and we shall so find.

The precise composition of the plant employees unit is in question inasmuch as the Union would include the shingle mill employees, the non-operating railroad employees, and the subforemen.

The railroad used to connect the Company's plant and its logging operations is owned by the Company. Non-operating work on this line, as well as work in the Company's roundhouse, is performed in part by employees of the Company and in part by employees of the California Western Railroad Navigation Company, which is principally owned by the Company. The Union would include all non-operating railroad employees in the unit. We shall include only the employees of the Company.

The shingle mill is owned by the Company, but is operated by an independent contractor, who has about eight employees. These are not employees of the Company. We shall exclude them from the unit.

The Company has about 40 foremen at its Fort Bragg plant, and about 500 non-supervisory production and maintenance employees. The number of employees under each foreman varies. Under the foreman in the larger departments are subforemen or straw bosses, who have the power to recommend the discharge of ordinary employees. During the absence of foremen, the subforemen exercise all authority possessed by foremen. Inasmuch as the evidence concerning the duties and authority of these subforemen indicates that they exercise sufficient supervisory authority to effect changes in the status of employees of the Company, we shall exclude them from the appropriate unit.

We find that all production and maintenance employees of the Company at its Fort Bragg mills, excluding clerical, store, 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

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 Union Lumber Company, Fort Bragg, 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 Twentieth 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 Local 2610, United Brotherhood of Carpenters & Joiners of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.