In the Matter of ASH GROVE LIME AND PORTLAND CEMENT COMPANY *and* INTERNATIONAL HOD CARRIERS AND GENERAL LABORERS, LOCAL UNION 676, AFFILIATED WITH THE A. F. OF L.

In the Matter of ASH GROVE LIME AND PORTLAND CEMENT COMPANY *and* INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL UNION No. 1616B, AFFILIATED WITH THE A. F. OF L.

Cases Nos. 17–R–885 and 17–R–891, respectively.—Decided July 7, 1944

Mr. Myron K. Ellison, of Kansas City, Mo., for the Company.
Mr. Otto Bowles, of Springfield, Mo., for the Hod Carriers.
Mr. J. Frank Cline, of Springfield, Mo., for the Engineers.
Mr. Joseph E. Gubbins, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions separately and duly filed by International Hod Carriers and General Laborers, Local Union 676, affiliated with the A. F. of L., herein called the Hod Carriers, and International Union of Operating Engineers, Local Union No. 1616B, affiliated with the A. F. of L., herein called the Engineers, each alleging that a question affecting commerce had arisen concerning the representation of employees of Ash Grove Lime and Portland Cement Company, Springfield, Missouri, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before Elmer L. Hunt, Trial Examiner. Said hearing was held at Springfield, Missouri, on May 19, 1944. The Company, the Hod Carriers, and the Engineers 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 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

Ash Grove Lime and Portland Cement Company, a Maine corporation, is engaged at Springfield, Missouri, in the manufacture of lime. For the year ending January 1, 1944, the Company purchased materials and supplies valued in excess of $50,000 for use at its Springfield plant, of which 50 percent was shipped from points outside the State of Missouri. During the same period, the Company's sales of finished products amounted to more than $100,000, of which 80 percent was shipped from its Springfield plant to points outside the State of Missouri.

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

II. THE ORGANIZATIONS INVOLVED

International Hod Carriers and General Laborers, Local Union 676, and International Union of Operating Engineers, Local Union No. 1616B, are labor organizations affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Hod Carriers and the Engineers requested recognition as the exclusive bargaining representatives of certain employees of the Company. The Company refused to grant the request of either union until such union has been certified by the Board in an appropriate unit.

A statement prepared by an agent of the Board, introduced into evidence at the hearing, indicates that the Hod Carriers and the Engineers represent a substantial number of employees in the unit each alleges to be appropriate.[1]

We find that questions affecting commerce have 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.

[1] The agent's statement shows that the Hod Carriers submitted 41 authorization cards bearing names of persons whose names are listed on the Company's pay roll of May 15, 1944. The statement also shows that the Engineers submitted 2 authorization cards bearing names of persons whose names are listed on the afore-mentioned pay roll The record shows there are 46 employees in the unit alleged by the Hod Carriers to be appropriate, and 8 employees in the unit alleged by the Engineers to be appropriate

IV. THE APPROPRIATE UNITS

A unit comprised of all production and maintenance employees of the Company's Springfield plant, excluding operating engineers and their helpers, and clerical and supervisory employees, is sought by the Hod Carriers. The Engineers request a unit comprised of all operating engineers and their helpers, excluding all other employees. The Company, however, urges that all its production and maintenance employees constitute a single appropriate unit. Thus, the sole dispute between the parties relates to the establishment of a separate unit of operating engineers and their helpers.

In support of its position that all production and maintenance employees constitute a single appropriate unit, the Company contends that all its operations are integrated, that all employees enjoy the same conditions of employment, that their wage rates, in general, are equal, and that, for the most part, they possess the same degree of skill. However, the record discloses that the employees sought to be represented by the Engineers are primarily engaged in the operation and maintenance of the various machines used by the Company. It further discloses that a certain degree of skill, not possessed by ordinary production and maintenance employees, is needed to operate these machines, and that the rates paid the employees who operate and maintain these machines are, in the main, higher than those received by average production and maintenance employees. Consequently, we are of the opinion that operating engineers and their helpers form an indentifiable and homogeneous group and that they constitute an appropriate bargaining unit, and that all production and maintenance employees, excluding operating engineers and their helpers, comprise another.

We find that the following groups of employees constitute units appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act:

1. All operating engineers and their helpers [2] engaged at the Company's Springfield plant, excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, and all other employees; and

2. All production and maintenance employees [3] engaged at the Company's Springfield plant, excluding operating engineers and their

[2] These include the following classifications of employees: hydration machine operator, veri-fat mill operators, crusher operators, rock hoist machine operator, crane or clam shell operator, and John Shockley

[3] These include the following classifications of employees: rock breakers, horse driver, quarry laborers, blacksmith, jackhammer driller, tunnel drillers, kiln firemen, lime wheelers, lime checkers, hydrate sackers, loaders—limefloor, kiln repairman, lime inspector, night watchmen, powderman, truck driver, and carpenter-helpers (excluding John Shockley).

helpers, clerical employees, 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.

V. THE DETERMINATION OF REPRESENTATIVES

Although both unions request otherwise, no special reason appears to warrant a departure from our customary practice of determining eligibility to vote, and we shall direct that the questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 Ash Grove Lime and Portland Cement Company, Springfield, Missouri, elections 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 Seventeenth 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 units 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 any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the elections: (1) to determine, with respect to the employees in the unit described in paragraph 1 of Section IV, whether or not they desire to be represented by International Union of Operating Engineers, Local Union No. 1616B, affiliated with the A. F. of L., for the purposes of collective bargaining; and (2) to determine, with respect to the employees in the unit described in paragraph 2 of Section IV, whether or not they desire to be represented by International Hod Carriers and General Laborers, Local Union 676, affiliated with the A. F. of L., for the purposes of collective bargaining.