

In the Matter of HILLS CREEK LUMBER COMPANY and INTERNATIONAL
WOODWORKERS OF AMERICA, C. I. O.

Case No. 19-R-1321.—Decided October 27, 1944

Mr. Grover T. Kelsay, of Jasper, Oreg., for the Company.

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

Messrs. Reese Wingard and C. B. Richard of Eugene, Oreg., for the
A. F. L.

Mr. Herbert C. Kane, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by International Woodworkers of America, C. I. O. herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees for Hills Creek Lumber Company, Jasper, Oregon, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William E. Spencer, Trial Examiner. Said hearing was held at Eugene, Oregon, on September 18, 1944. The Company, the C. I. O., and Lumber and Sawmill Workers, Local Union 2717, United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, herein called the A. F. L.,¹ appeared and participated. 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. 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

Frank A. Graham, Mildred J. Graham, John H. Lebo, Raymond F. Hills, F. A. Hills, and Grover C. Kelsay, co-partners doing business as

¹ The Trial Examiner granted a motion of the A F L to intervene.

Hills Creek Lumber Company, are engaged in the business of logging, producing, and selling lumber and lumber products at Jasper, Oregon. Maintenance material for machinery, valued at about \$5,000 is purchased annually by the Company and transported to its operations from points outside the State of Oregon. The Company processes annually about 16,000,000 feet of lumber of an approximate value of \$600,000. Approximately 90 percent of the lumber and lumber products manufactured and processed by the Company is sold and shipped to points outside the State of Oregon.

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

II. THE ORGANIZATIONS INVOLVED

The International Woodworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

The Lumber and Sawmill Workers, Local Union 2717, United Brotherhood of Carpenters and 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

On June 2, 1941, the A. F. L. and the Company entered into a contract. This contract was one of indefinite duration and provided for amendment or termination by either party upon thirty (30) days written notice to the other. On January 12, 1942, the A. F. L. and the Company entered into a supplemental agreement making this contract a closed-shop contract. On February 18, 1944,² the Company and the A. F. L. entered into a supplemental agreement dated February 14, 1944, which provided for termination of the contract on April 1, 1945. There was also a provision that negotiations on changes in the Hours of Labor clause would continue. Without prior formal demand upon the Company for recognition, the C. I. O. filed its petition on March 30, 1944. The A. F. L. contends that the contract constitutes a bar to the instant proceeding.

Since, as appears above, the 1941 contract between the Company and the A. F. L. was terminable at will, and since on February 18, 1944, the Company had not been notified of the C. I. O.'s claim to representation, it follows that the parties to the contract were free to fix a definite date for its termination.³ In so holding, however, we

² The contention of the C. I. O. that the contract was not entered into until sometime subsequent to the date of the filing of the petition is not supported by the evidence.

³ See *Matter of Magnolia Petroleum Company*, 57 N. L. R. B. 1714.

do not imply that in all cases would the Board necessarily hold that a contract, defective under Board principles because of its indefinite duration, may be remedied by the parties prior to the presentation of a rival representation claim. It might well be that the expression of the employees' desire to change bargaining representatives would be attended by circumstances which would warrant rendering ineffective any attempt by the Company and the contracting union thus to foreclose a representation proceeding before the Board. However, since no such circumstances surround the filing of the C. I. O.'s petition, and since the A. F. L.'s contract does not expire until April 1, 1945, we find that the contract constitutes a bar to the present determination of representatives.

In view of our finding above, we conclude that no question concerning representation has arisen concerning the representation of the employees of the Company within the meaning of Section 9 (c) of the National Labor Relations Act.

ORDER

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Hills Creek Lumber Company, Jasper, Oregon, filed by the International Woodworkers of America, C. I. O., be, and it hereby is, dismissed.