

In the Matter of D. P. WELCH and INTERNATIONAL BROTHERHOOD OF
PAPER MAKERS, A. F. OF L.

Case No. 1-R-2050.—Decided October 27, 1944

- Mr. Irwin S. Kendall*, of Brattleboro, Vt., for the Company.
- Mr. Edward M. Moore*, of Holyoke, Mass., for the Paper Makers.
- Mr. Emile Plaisance*, of Manchester, N. H., for the Teamsters.
- Mr. Erwin A. Peterson*, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Paper Makers, A. F. of L., herein called the Paper Makers, alleging that a question affecting commerce had arisen concerning the representation of employees of D. P. Welch, Hinsdale, 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 Brattleboro, Vermont, on September 29, 1944. The Company, the Paper Makers, and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 633, affiliated with the A. F. of L., herein called the Teamsters, appeared and participated.¹ 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

D. P. Welch, an individual, is engaged in the business of handling, hauling, trucking, and delivering freight in and near Hinsdale, New

¹ The Teamsters intervened at the hearing but during the course of the hearing it withdrew and claimed no interest in the matter.

Hampshire. Welch operates a fleet of eight trucks. All of the trucks are registered with the Interstate Commerce Commission. His trucks are engaged in hauling for the Hinsdale Paper Company, Hinsdale, New Hampshire, and White-Washburne Company, Hinsdale, New Hampshire. The Hinsdale Paper Company manufactures paper in rolls weighing from 400 to 700 pounds, and White-Washburne takes those rolls and converts them into smaller sizes for domestic use, such as tissue paper and paper towels. Raw materials used in connection with the manufacture of those products generally are purchased by the paper companies in various parts of the United States and are shipped to them by rail to Hinsdale, New Hampshire. Welch's trucks are engaged in taking raw materials from the freight cars at the depot to the paper companies. They also, in reverse order, pick up the finished products and transport them to the freight yards where the materials are placed in the freight cars for shipment to points outside the State of New Hampshire. In addition to trucking between the plants and the depot for the paper companies, Welch hauls materials by truck over the road, from the Hinsdale Paper Company plant to Holyoke, Massachusetts, and also picks up raw materials in Holyoke, Massachusetts, which on the return trip, are delivered to the Hinsdale Paper Company in Hinsdale, New Hampshire.

During the period from January 1944 to July 1944, Welch hauled approximately 42,000,000 pounds of raw materials between the depot and the plants and approximately 6,400,000 pounds over the road from Hinsdale, New Hampshire, to Holyoke, Massachusetts.

In view of the foregoing facts, we find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.²

II. THE ORGANIZATION INVOLVED

International Brotherhood of Paper Makers, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Paper Makers requested the Company to recognize it as the statutory bargaining agent for the Company's employees, and the Company declined to recognize the Paper Makers unless and until it is certified by the Board.

A statement of Field Examiner introduced into evidence at the hearing, indicates that the Paper Makers represents a substantial number of employees in the unit hereinafter found appropriate.³

² See *Matter of Carrol Transfer Company*, 56 N. L. R. B. 935.

³ The Field Examiner reported that the Paper Makers submitted 9 application-for-membership cards, 8 of which were dated in August 1944, and 1 was undated, all of which bore apparently genuine original signatures. The Company's pay roll for August 19, 1944, contained 10 names.

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 Paper Makers contends that all truck drivers and helpers employed by D. P. Welch, except for supervisors, constitute an appropriate bargaining unit.

The Company contends that the truck drivers and the helpers, respectively, constitute separate units. The record reveals that the helpers always work on the trucks along with the truck drivers. They both load and unload freight cars as well as the trucks. The drivers and helpers travel together, they report at the same time to the garage, their hours and working conditions are identical, and they are both under the same supervision.

We find that all truck drivers and helpers of D. P. Welch, Hinsdale, New Hampshire, excluding 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 payroll 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with D. P. Welch, Hinsdale, 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, of this Direction, who were employed during the pay-roll period immediately preceding the date of this Direction, including employées 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 have 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 International Brotherhood of Paper Makers, A. F. of L., for the purposes of collective bargaining.