

In the Matter of PORT GIBSON VENEER AND BOX COMPANY and INTERNATIONAL WOODWORKERS OF AMERICA, C. I. O.

Case No. 15-R-1241.—Decided November 14, 1944

Mr. R. L. Dent, of Vicksburg, Miss., and Mr. W. S. Henley, of Hazlehurst, Miss., for the Company.

Jackson, Young & Phillips, by Mr. O. W. Phillips, of Jackson, Miss., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Woodworkers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Port Gibson Veneer and Box Company, Port Gibson, Mississippi, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Laurence H. Whitlow, Trial Examiner. Said hearing was held at Port Gibson, Mississippi, on October 27, 1944. The Company and the Union appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the course of the hearing the Company moved that all its employees who are in the armed forces be permitted to vote. The motion is granted as qualified in Section V, *infra*. The Union moved to hold the election in abeyance until disposition had been made of certain allegations against the Company. The Trial Examiner reserved ruling thereon. The motion is hereby denied for the reasons stated in Section V, *infra*. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded 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

Port Gibson Veneer and Box Company is a Mississippi corporation with its principal place of business at Port Gibson, Mississippi, where it is engaged in the manufacture of wood products. The Company produces goods valued in excess of \$100,000 annually, 75 percent of which is shipped to points outside the State of Mississippi. All materials used by the Company are shipped to it from points within the State of Mississippi.

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

#### II. THE ORGANIZATION INVOLVED

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

#### III. THE QUESTION CONCERNING REPRESENTATION

On September 25, 1944, the Union requested the Company to recognize it as the exclusive collective bargaining representative of its employees. The Company refused this request until such time as the Union could prove its claim to a majority.

A statement of the Trial Examiner, read into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>1</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 National Labor Relations Act.

#### IV. THE APPROPRIATE UNIT

The Union urges that all production and maintenance employees of the Company, including firemen, but excluding watchmen and clerical and supervisory employees, constitute an appropriate unit. The only controversy with respect to the unit concerns firemen.

The Company employs 18 to 20 persons classified as firemen. They all work in the boilerroom on an hourly rate and are under the super-

<sup>1</sup> The Trial Examiner reported that the Union presented 128 membership application cards bearing apparently genuine signatures of persons whose names appear on the Company's pay roll ending October 21, 1944. There are approximately 293 employees in the appropriate unit.

vision of the plant superintendent. In case of emergencies such as fire, the firemen have the right to call upon other employees to assist them. However, normally they have no authority to recommend changes in the status of any other employees. We shall include them in the unit.

We find that all production and maintenance employees of the Company, including firemen, but excluding watchmen, 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, 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 find that the question concerning representation which has arisen can best be resolved by means of an election by secret ballot. The Union requests that no election be held in the immediate future because of a recent sharp reduction in the Company's personnel. It appears that on October 21, 1944, the Company employed 299 persons. On October 26, 1944, it had but 49 persons in its employ. However, the record indicates that on October 30, 1944, the employees not working since October 21, 1944, would return to their employment. Under the circumstances we conclude that an election in the immediate future is appropriate. We shall direct that the employees eligible to vote shall be those 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.

The Company contends that its employees presently in the armed forces of the United States should be afforded an opportunity to vote. We are not unmindful of the fact that employees on military leave retain their status as employees and, therefore, have a real interest in the choice of a bargaining representative. For this reason our Direction of Election will provide, as has been the case in the past, that these employees who appear at the polls in the election shall be allowed to vote if otherwise eligible. The Company urges, however, that to assure an opportunity for all employees in the armed forces to vote, a provision should be included in the Direction of Election requiring the Regional Director to mail ballots to each such employee. We find such a suggestion to be unfeasible for the reasons stated in *Matter of Mine Safety Appliances Co.*, 55 N. L. R. B. 1190. When it is determined that servicemen have returned to their employment in sufficient number so that they comprise a substantial percentage of the employees in

an appropriate unit in which we have certified a collective bargaining representative, a new petition for the investigation and certification of a bargaining agent may be filed with this Board. In this manner, employees in the armed forces, who were unable to cast a vote, will be afforded an opportunity to affirm or change the bargaining agent selected in their absence.

### 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 Port Gibson Veneer and Box Company, Port Gibson, Mississippi, 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 Fifteenth 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 any 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 International Woodworkers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.