

In the Matter of JOHN F. KAENEL AND GEORGE VON KAENEL D/B/A
ACME CORRUGATED BOX COMPANY AND JOHN F. KAENEL COOPERAGE
COMPANY, EMPLOYER *and* INDUSTRIAL LAMP AND LEATHER WORKERS
UNION, INDEPENDENT, PETITIONER

Case No. 13-RC-823.—Decided January 13, 1950

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before John P. Von Rohr, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Houston, Reynolds, and Murdock].

Upon the entire record in this case, the Board finds:

1. The business of the Employers

John F. Kaenel and George Von Kaenel¹ d/b/a Acme Corrugated Box Company, herein called Acme, is a partnership which is engaged in the manufacture and sale of corrugated boxes and shipping containers. John F. Kaenel Cooperage Company, herein called Cooperage, is an Illinois corporation engaged in the manufacture and sale of wooden barrels. Acme and Cooperage each conduct their activities in separate buildings which are about 2 miles apart.² Although John and George Kaenel each have a one-half interest in Acme, only George takes an active part in the business. John Kaenel owns the majority of the stock in Cooperage and is the dominant figure in the management of this business. George Kaenel does not own any stock in Cooperage or otherwise have an interest in its affairs. Acme and Cooperage each maintain separate accounts and records including

¹ John F. and George Von Kaenel are brothers.

² This evidence appears in a stipulation entered into by the parties after the close of the hearing.

payroll lists and there is no commingling of personnel between the two companies.

The commerce facts with respect to Acme are these: During the year 1948, Acme purchased raw materials valued at \$142,624 of which \$1,800 worth was obtained from sources outside the State of Illinois. During the same period, Acme produced finished products valued at approximately \$200,000, of which approximately \$11,000 worth or about 5 percent was shipped to customers outside the State of Illinois, and about 3 or 4 percent was shipped to the Crane Company, a business concern which the Board has found to be engaged in interstate commerce.³ The balance of Acme's finished products are sold to local concerns.

Acme contends that its operations do not affect commerce within the meaning of the Act. Without resolving that issue, we do not believe that it would effectuate the policies of the Act to assert jurisdiction in the case of Acme.⁴

Cooperage, on the other hand, admits that it is subject to the Board's jurisdiction. During the year 1948, Cooperage purchased approximately \$164,000 worth of raw materials of which approximately 35 percent was obtained from points outside the State of Illinois. During the same period, Cooperage produced finished products valued at approximately \$238,000, of which approximately 2 percent was shipped to out-of-State customers and a considerable portion to customers who are engaged in interstate commerce.

Under these facts, we find that Cooperage is engaged in commerce within the meaning of the National Labor Relations Act.

2. We find that the Petitioner is a labor organization claiming to represent employees of Cooperage.

3. We find that a question affecting commerce exists concerning the representation of employees of Cooperage within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. We find that all the production and maintenance employees of Cooperage, excluding office and clerical employees, guards, professional employees, outside drivers, and all supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.⁵

³ *Crane Co., Chicago Works Plant*, 74 NLRB 1035.

⁴ *Monroe Moody Martin and Wesley Matthew Martin d/b/a Martin Brothers*, 84 NLRB 21; *C. A. Braukman and Lucile A. Braukman, d/b/a Screw Machine Products Company*, 85 NLRB 129.

⁵ This is the only appropriate unit for the employees of Cooperage, notwithstanding the Petitioner's claim that these employees should be combined in a single unit with the production and maintenance employees of Acme. As set forth under paragraph numbered 1, Cooperage is a separate business entity whose operations are in no way integrated with that of Acme. *Consolidated Electrical Products*, 71 NLRB 360; *Manchester Knitted Fashions*,

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with John F. Kaenel Cooperage Company, Chicago, Illinois, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed during the payroll period immediately preceding the date of this Direction of Election, including employees who did not work during said payroll period because they were ill or on vacation or temporarily laid off, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for purposes of collective bargaining, by Industrial Lamp and Leather Workers Union, Independent.

Inc., 73 NLRB 471. As the Board's records show that the Petitioner has a representative interest in the employees of Cooperage, we shall order an election to be held among them. However, if the Petitioner does not desire to participate in the election herein directed it may, upon its request to and approval thereof by, the Regional Director, withdraw its petition.