

In the Matter of ZAMBONI-CASTELLI and INTERNATIONAL WOODWORKERS  
OF AMERICA, CIO

*Case No. 20-R-1137.—Decided May 14, 1945*

*Carlton & Shadwell*, by *Mr. Ira M. Shadwell*, of Redding, Calif., for the Company.

*Mr. H. H. Watson*, of Greenville, Calif., *Mr. Virgil Burtz*, of Portland, Oreg., and *Mr. J. F. Clark* of Susanville, Calif., for the I. W. A.

*Mr. Earl Miller* of Westwood, Calif., *Mr. Charles Langdon*, of Dinsmuir, Calif., and *Mr. D. H. Riggs*, of Sacramento, Calif., for the A. F. of L.

*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, CIO, herein called the I. W. A., alleging that a question affecting commerce had arisen concerning the representation of employees of Zamboni-Castelli, Round Mountain, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert E. Tillman, Trial Examiner. Said hearing was held at Redding, California, on April 10, 1945. At the commencement of the hearing, the Trial Examiner granted a motion of Lumber and Sawmill Workers, Local No. 3083, A. F. of L., herein called the A. F. of L., to intervene. The Company, the I. W. A., and the A. F. of L. 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, counsel for the Company moved to dismiss the petition on the ground that the Company is not subject to the jurisdiction of the National Labor Relations Act. The Trial Examiner reserved ruling thereon. The motion is hereby denied. 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

Zamboni-Castelli is a partnership engaged in the operation of a sawmill at Round Mountain, California. All logs used by the Company are obtained by it within the State of California. During the 1944 cutting season, the Company manufactured about 10,500,000 board feet of lumber, approximately 15 percent of which was shipped by it to points outside the State of California. During the same period, the Company sold between 35 to 40 percent of its total output to Pacific Box Company at Oakland, California. The latter company is engaged in commerce within the meaning of the Act.<sup>1</sup>

We find, contrary to the contention of the Company, that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

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

Lumber and Sawmill Workers, Local No. 3083, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

The Company took the position at the hearing that it would not recognize the I. W. A. as the exclusive collective bargaining representative of its employees because of an existing agreement between the Company and the A. F. of L.

On July 1, 1944, the Company entered into an exclusive collective bargaining contract with the A. F. of L. Said contract provides that it shall remain in effect until July 1, 1945, and from year to year thereafter unless notice of a desire to terminate is given by either party thereto not less than thirty (30) days prior to any annual expiration date. Inasmuch as the I. W. A. made its claim to representation in a timely fashion and inasmuch the contract between the Company and the A. F. of L. will expire within less than 2 months, we

<sup>1</sup> See *Matter of Pacific Box Company*, 50 N. L. R. B. 720.

find that the contract does not constitute a bar to a determination of representatives at this time.

A statement of the Trial Examiner, introduced into evidence at the hearing, indicates that the I. W. A. represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>2</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 Act.

#### IV. THE APPROPRIATE UNIT

The I. W. A. urges that all production and maintenance employees of the Company, including the timekeeper, but excluding the bookkeeper and mill foreman, constitute an appropriate unit. The only controversy with respect to the unit concerns the timekeeper.

The Company employs one person in its office who is classified as a timekeeper. This employee is engaged principally in figuring tally sheets, making out invoices, and posting time cards. He is under the supervision of the bookkeeper. We find that he is an office clerical employee, and as such we shall exclude him from the unit.

We find that all production and maintenance employees of the Company, excluding all office clerical employees, the mill hand foreman, and any other 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.<sup>3</sup>

#### 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 I. W. A. requests that the pay roll immediately preceding the date of the election be used to determine eligibility to vote. Inasmuch as no persuasive reason for departing from our usual practice appears, 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.

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<sup>2</sup> The Trial Examiner reported that I. W. A. presented 26 membership application cards bearing the names of persons who appear on the Company's pay roll of March 31, 1945. There are approximately 36 employees in the appropriate unit. No check was made of the A. F. of L's cards against the March 31, 1945 pay roll. However, the A. F. of L's contract with the Company, alluded to above, is sufficient evidence of its interest among the employees of the Company involved herein.

<sup>3</sup> This is the same unit that is provided for in the contract between the A. F. of L. and the Company, alluded to above.

The A. F. of L. requests that it appear on the ballot as "Lumber and Sawmill Workers, Local No. 3083, under the jurisdiction of the Northern California District Council of Lumber and Sawmill workers, chartered by the United Brotherhood of Carpenters and Joiners of America, an American Federation of Labor affiliate." The request is hereby granted.

#### 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 Zamboni-Castelli, Round Mountain, California, 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 Twentieth 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 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 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 they desire to be represented by International Woodworkers of America, CIO, or by Lumber and Sawmill Workers, Local No. 3083, under the jurisdiction of the Northern California District Council of Lumber and Sawmill Workers, chartered by the United Brotherhood of Carpenters and Joiners of America, an American Federation of Labor affiliate, for the purposes of collective bargaining, or by neither.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.