In the Matter of LONG-BELL LUMBER COMPANY—WEED DIVISION *and* INTERNATIONAL WOODWORKERS OF AMERICA, CIO

Case No. 20-R-1640.—Decided July 9, 1946

Mr. John Mantle, of Weed, Calif., for the Company.

Mr. George Brown, of Portland, Oreg., *Mr. Tim Sullivan*, of Weed, Calif., and *Mr. Joe Huber*, of Klamath Falls, Oreg., for the CIO.

Mr. W. A. Davis, of Weed, Calif., and *Messrs. William Wedel*, *Harlan W. Collins*, and *Hugh R. Haddock*, all of Klamath Falls, Oreg., for the AFL.

Mr. Warren H. Leland, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Woodworkers of America, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Long-Bell Lumber Company—Weed Division, Weed, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas J. Davis, Jr., Trial Examiner. The hearing was held at Weed, California, on May 21, 1946. The Company, the CIO, and Lumber and Sawmill Workers Union, Local 2907, AFL, herein called the AFL, 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 paties 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

Long-Bell Lumber Company, a Missouri corporation engaged in the manufacture of lumber and lumber products, operates plants, works,

retail lumber yards, and offices in various States in the United States. This proceeding is concerned solely with the Company's sawmill, lumber yard, box factory, sash and door factory, planing mill, treating plant and veneer plant, all located at Weed, California. During the fiscal year ending December 31, 1945, the Weed Division manufactured in excess of 55,000,000 board feet of rough and finished lumber, of which more than 50 percent was sold and transported to points outside the State of California.

The Company admits 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 Union, Local 2907, 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 has refused to grant recognition to the CIO as the exclusive bargaining representative of certain of its employees until the CIO has been certified by the Board in an appropriate unit.

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 Company, the CIO, and the AFL agree that a unit of production and maintenance employees of the Company's Weed Division lumber operations, excluding office and clerical workers and supervisory personnel, is appropriate. Although the parties also agree to the exclusion of subforemen as supervisory employees, the CIO and the AFL would include the employee in charge of the Special Order Department in the Door Department, the employee in charge of the Green Chain Gang, and the Checker in the Treating Plant, contending that their duties differ from those of subforemen to the extent that they do not possess supervisory authority, whereas the Company would exclude them on the ground that they are in fact sub-foremen with the same supervisory duties as subforemen.[1]

[1] Since 1941 the Company and the AFL have bargained pursuant to collective contracts covering the unit upon which all parties are in agreement. There is no evidence to indicate definitely whether or not the disputed categories were encompassed by these contracts Neither the Company nor the AFL has raised its existing agreement as a bar to this proceeding.

Employee in charge of Special Order Department in the Door Department, and Employee in charge of the Green Chain Gang: While these employees spend some time performing manual labor, they devote the major part of their time supervising the activities of their subordinates. They possess the same authority effectively to recommend discharge as sub-foremen. Accordingly, we shall exclude them from the unit hereinafter found appropriate.

Checker in the Treating Plant: This employee supervises the work of approximately 15 men, who load and unload lumber from cars to trams and trams to cars. The only manual work he performs is to mark the lumber as he counts it when it is pulled off the conveyor chain. Apparently, the Checker, unlike subforemen, does not have authority effectively to recommend discharge, and the Company itself has stated that, because of the small number of employees in his department, it has not insisted that the Checker accept a "supervisory rating." Accordingly, we shall include the Checker in the Treating Plant in the unit hereinafter found appropriate.

We find that all production and maintenance employees of the Company's Weed Division lumber operations, including the Checker in the Treating Plant, but excluding office and clerical employees, the employee in charge of the Special Order Department in the Door Department, the employee in charge of the Green Chain Gang, foremen, subforemen, and all 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.

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 employees 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.

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 Long-Bell Lumber Company—Weed Division, Weed, 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 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 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, to determine whether they desire to be represented by International Woodworkers of America, CIO, or by Lumber and Sawmill Workers Union, Local 2907, AFL, for the purposes of collective bargaining, or by neither.

Mr. Gerard D. Reilly took no part in the consideration of the above Decision and Direction of Election.

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