

In the Matter of T. M. CATHEY, C. C. CATHEY, NOREEN CATHEY MAL-
LORY, J. W. WILLIFORD, J. W. McCLURE, ALLINE C. McCLURE, RUTH
M. CURD, J. W. McCLURE, JR., AND DONALD McCLURE, D/B/A BELL-
GRADE LUMBER COMPANY and INTERNATIONAL WOODWORKERS OF
AMERICA, C. I. O.

Case No. 15-R-1486.—Decided February 26, 1946

Mr. R. L. McKnight, of Memphis, Tenn., for the Company.

Mr. Doyle Dorsey, of Memphis, Tenn., for the Union.

Mr. Seymour M. Alpert, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Woodworkers of Amer-
ica, C. I. O., herein called the Union, alleging that a question affecting
commerce had arisen concerning the representation of employees of
Bellgrade Lumber Company, Cary, Mississippi, herein called the
Company, the National Labor Relations Board provided for an appro-
priate hearing upon due notice before Lewis Moore, Trial Examiner.
The hearing was held at Memphis, Tennessee, on November 27, 1945.
The Company and the Union 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 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

Bellgrade Lumber Company, a partnership, maintains its principal
office in Memphis, Tennessee, and its plant at Cary, Mississippi. The
Company is engaged in the manufacture of hardwood lumber. Dur-

ing the period from March 7, 1945, to September 25, 1945, the Company purchased raw materials valued at approximately \$130,000, of which 5 percent came from sources outside the State of Mississippi. During the same period, it sold approximately \$315,000 worth of hardwood lumber, of which 50 percent represented shipments to points outside the State.

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

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its production and maintenance employees until the Union has been certified by the Board in an appropriate unit.

At the hearing, the Company contended in effect that an inconclusive election held in the alleged appropriate unit less than a year before the date of the hearing,¹ constitutes a bar to an election. This issue, however, has become moot in that more than a year has now elapsed since the last election. In view of the foregoing and because the Union has presented evidence of a substantial interest among the employees in the unit petitioned for,² and because all of its cards are dated subsequent to the last election, we believe that the purposes of the Act will best be effectuated by directing an election on the present petition.³

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

In accordance with the agreement of the parties at the hearing, we find that all production and maintenance employees at the Cary, Mis-

¹ On January 6, 1945, pursuant to a consent election agreement in *Matter of Bellgrade Lumber Company*, 15-R-1060, an election was conducted which resulted in the dismissal of the petition because the Union, the only labor organization on the ballot, failed to secure a majority of the votes cast.

² A statement of the Regional Director, introduced in evidence, indicates that the Union submitted 45 membership application cards; that, of these cards, 23 bore names of persons appearing on the Company's pay roll of August 25, 1945, which listed 57 employees in the alleged appropriate unit; and that all cards were dated between July 2, 1945, and August 2, 1945.

³ See *Matter of Gunitite Foundries Corporation*, 65 N. L. R. B. 43.

Mississippi, plant of the Company excluding clerical employees, commissary employees, watchmen, temporary employees, executives, supervisors, and all or 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.

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 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 Bellgrade Lumber Company, Cary, 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 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 or not they desire to be represented by International Woodworkers of America, C. I. O., for the purposes of collective bargaining.