

In the Matter of WILLIAM C. MEREDITH COMPANY, INC., EMPLOYER
and UNITED CHEMICAL WORKERS (CIO), PETITIONER

Case No. 10-R-2642.—Decided August 14, 1947

Messrs. Albert C. Maynard and W. C. Meredith, Jr., both of Atlanta, Ga., for the Employer.

Mr. W. R. Thrasher and Miss Helen McClurg, both of Atlanta, Ga., for the Petitioner.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

Upon a petition duly filed, the National Labor Relations Board on April 25, 1947, conducted a prehearing election among the employees of the Employer in the alleged appropriate unit, to determine whether or not they desired to be represented by the Petitioner for the purposes of collective bargaining.

At the close of the election, a Tally of Ballots was furnished the parties. The Tally shows that, of the approximately 75 eligible voters, 48 cast votes for, and 10 against the Petitioner; in addition, 14 ballots were challenged.

Thereafter, hearing in this case was held at Atlanta, Georgia, on May 6 and 7, 1947, before Oscar Geltman, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

William C. Meredith Company, Inc., a Georgia corporation, is engaged in the manufacture and application of pressure preservative treatment to various types and sizes of poles, cross arms, timber, conduits, and other wood items. The Employer's principal place of business and sole plant is located at East Point, Georgia. In the year

1946, the Employer made purchases consisting chiefly of preservative chemicals and lumber valued in excess of \$250,000, of which approximately 50 percent was shipped from points outside the State of Georgia. During the same period, the Employer produced finished products valued in excess of \$250,000, of which approximately 66 percent represented shipments to points outside the State.

The Employer admits, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive bargaining representative of employees of the Employer until the Petitioner 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 Employer within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Employer and the Petitioner agree that the appropriate unit should comprise all the Employer's production and maintenance workers,¹ excluding office employees, plant clerical employees, lumber buyers, the assistant foreman of the planing mill,² and all other supervisory personnel. The parties are in dispute, however, with respect to certain job categories which the Employer alleges are in fact supervisory, whereas the Petitioner takes a contrary position. The disputed categories are those of the foreman and the assistant foreman in the lumber yard,³ the lumber inspectors,⁴ the day crane operator,⁵ the treating engineers,⁶ and the locomotive engineer.⁷

It is the Employer's contention that the disputed job categories have always been considered to be part of its supervisory hierarchy and of

¹ Including pole checkers.

² J. F. Thompson.

³ William R. Brock and John W. Brock, respectively.

⁴ J. S. Bagwell, Rufus Leon Payne, R. I. Harrison, and J. E. Page.

⁵ Luther J. Turner. The position of night crane operator was discontinued about 1 month before the hearing, and the Employer apparently does not know when it will be restored. Therefore, it is not now necessary to consider this job category.

⁶ G. T. Hornsby, J. W. Hollis, and E. C. Carroll.

⁷ J. C. Fincher.

management, and that it circulated and posted a notice on April 12, 1947 (after the Petitioner had filed its petition herein, but prior to the election), informing those individuals assigned to these categories that they were "supervisory employees and part of management." The stated purpose of this notice, which was introduced in evidence, was to warn the alleged supervisors not to solicit union membership among the rank-and-file employees, since such solicitation might expose the Employer to a charge of violating the National Labor Relations Act. However, standing alone, such a notice cannot be said to confer supervisory status upon any particular job category or employee; whether or not supervisory authority exists must be determined by an examination of the duties and responsibilities attached to the particular job or its incumbent.⁸ We shall, therefore, consider each disputed job category separately.

Foreman (lumber yard): This employee who is in charge of 14 or 15 workers in the lumber yard, was informed when he became foreman on March 1, 1947, that he had the authority to hire, discharge, and recommend changes in employee status. He has actually hired a few workers, although he has had no occasion to discharge or recommend any employee's discharge. In light of this supervisory authority, and also in view of the foreman's high position in the Employer's supervisory hierarchy,⁹ we shall exclude him from the appropriate unit as a supervisory employee.

Assistant foreman (lumber yard): This individual¹⁰ checks, stacks, and hauls lumber. Under the direction of the foreman, he oversees the work of some 11 employees; occasionally he is in charge of the entire lumber yard when the foreman is absent. He does not have the power to hire or discharge, but he believes he possesses, and the facts indicate that he may possess, the authority to make recommendations to the foreman regarding the status of employees. However, there was no showing that such recommendations, if made, would be effective, and the assistant foreman testified that there had been no occasion to make any recommendations. Moreover, he conceded that he very seldom offered suggestions to the foreman as to how to direct the work or the men under the latter's supervision. Under all these circum-

⁸ We note that, although pole checkers were included in the Employer's list of alleged supervisory employees, the Employer agreed at the hearing that pole checkers were in fact production and maintenance workers and should be included within the appropriate unit.

⁹ There are but 4 foremen in the Employer's plant. Although the lumber yard foreman testified that he was responsible to a lumber buyer, one Richardson, it appears that the plant superintendent supervises the operations of the entire plant employing some 75 workers and, in general, directs the work of the 4 foremen.

¹⁰ On the April 12 notice, discussed, *supra*, this employee was listed as a lumber inspector. However, the record indicates that he was an assistant foreman on March 1 preceding, and that his duties have continued substantially the same as prior to the release of the notice.

stances, we are of the opinion that the assistant foreman does not in fact enjoy supervisory authority, and we shall, therefore, include him within the appropriate unit.

*Lumber inspectors:*¹¹ In the Employer's plant there are approximately three or four so-called lumber inspectors, who during the course of their work, must give routine orders to a small group of assistants. The inspector piles the lumber and grades each piece, while his assistants follow him and stack or remove the lumber. Each inspector is assigned a crew of assistants borrowed from other operations of the plant, and this crew is changed frequently, usually about once a week. The Employer's contention that these inspectors are supervisory employees is based upon their alleged right to hire, fire, and make effective recommendations as to the status of their assistants. However, one lumber inspector testified that he had made no such recommendations, did not consider himself a foreman, and in fact did not know what a supervisor was; another inspector "assumed" that he had the authority to make recommendations but never had exercised it. No evidence was offered to indicate that any of the Employer's present lumber inspectors ever exercised the right to recommend disciplinary action. A former incumbent of one inspector position apparently did hire and discharge members of his crew, and had some responsibility for looking after the lumberyard, but at that time this employee received a higher wage than do the present incumbents and apparently was vested with more authority than are the latter. The wage rates of the lumber inspectors are currently on a level comparable with those paid the production employees. In view of the entire record, and particularly the facts enumerated above, we find that the lumber inspectors do not exercise true supervisory authority. We shall, therefore, include them within the appropriate unit.

Day crane operator: At the time of the election, the Employer was utilizing the services of one day crane operator in the pole and piling department. This operator directed the work of a crew usually comprising a pole checker and three ground men. On March 30, 1947, the Employer informed the operator that he was to confine his work to the inside of the crane, and conceded at the hearing that this order deprived the operator of any supervisory authority he allegedly possessed up to that time. It is the Employer's contention, however, that the position of day crane operator should be classed as supervisory and therefore excluded from the appropriate unit, although its present incumbent admittedly has no supervisory authority and

¹¹ These employees are sometimes referred to as lumber checkers or lumber graders

has continued his work on the crane since March 30 without change in title or job specifications. The day operator himself testified that he had never been informed, even prior to March 30, of his alleged authority to hire, discharge, or effectively recommend such action. While it is true that he has apparently effectively recommended the transfer of his helpers from the crane operation because of the unsatisfactory nature of their work, we are of the opinion that such action is comparable to that which a skilled craftsman takes concerning an assistant whom he considers undesirable—action which we have held not to indicate supervisory status.¹² In view of all these facts, we find that the position of day crane operator is not of a supervisory nature, and shall include it within the appropriate unit.

Treating engineers: The job of the Employer's three treating engineers requires them to treat charges, seeing that the proper type and amount of preservatives are introduced into the material to be treated; to see that the fireman in the treating room maintains steam in the boiler at the required pressure for treating charges; to carry out related duties in connection with the treating process; and also to perform any necessary maintenance work on pumps, valve lines, and other equipment at the dry kiln. The three engineers operate on consecutive shifts, one being present in the plant at all times. During his treating work, each engineer is usually assisted by a fireman and sometimes also by a doorman who operates the door of the treating cylinders or pumps; during his occasional switching operations, he is assisted by a switchman and perhaps also by a brakeman. As a matter of fact, these assistants spend only part of their own time helping the engineers, and perform duties elsewhere in the plant. During the night shifts and during week ends, when most employees are not present, the treating engineer is nominally in charge of the entire plant and of any employees that may be working at that time. However, it does not appear that a treating engineer at any time exercises authority over other employees to the extent of hiring, discharging, or effectively recommending disciplinary measures. Rather, any authority which may be asserted is merely incidental to the maintenance of operations for which the engineer is responsible, and is of a routine nature. Two of the Employer's treating engineers testified that they were unaware of any alleged supervisory authority attached to their jobs. Under all the circumstances, we find that the treating engineers are not in fact supervisory personnel. We shall include them within the appropriate unit.

¹² See *Matter of Rodgers-Wade Manufacturing Company*, 69 N. L. R. B. 264, 266; *Matter of Victor Chemical Works*, 52 N. L. R. B. 194, 199.

Locomotive engineer: This employee is responsible for the care of the engine and the boiler in the dry kiln, and also for the switching of cars, as well as performing other jobs around the plant as required. In his primary job, he is assisted by a switchman and perhaps also by a brakeman, whose work he directs. There was no showing that the locomotive engineer has ever exercised supervisory authority, or that he knew he possessed such authority. The relationship between the locomotive engineer and his helpers appears to be similar to that found to prevail between the treating engineers and their assistants. We, therefore, find that the locomotive engineer is not a supervisory employee and shall include him in the appropriate unit.

We find that all production and maintenance employees of the Employer, including pole checkers, the assistant foreman of the lumberyard, lumber inspectors, day crane operator, treating engineers, and the locomotive engineer, but excluding office employees, plant clerical employees, lumber buyers, the foreman of the lumberyard, the assistant foreman of the planing mill, and all other supervisory employees, 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

At the election, 14 ballots were challenged—2 by the Board and 12 by the Employer. The Employer challenged the latter 12 votes on the ground that the employees casting such votes were in fact supervisory personnel and hence ineligible to vote.

The Employer and the Petitioner subsequently agreed to count the ballots of the two voters challenged by the Board, Eddie Jones and Roosevelt Johnson. They also agreed that three employees challenged by the Employer—C. I. Hollis, formerly the assistant foreman of the crossarm department; Luther J. Turner, the day crane operator; and Lee H. Turner, formerly the night crane operator—were at the time of the election engaged in production and maintenance work without any supervisory authority whatsoever. The parties further stipulated that J. F. Thompson, the assistant foreman of the planing mill, was in fact a supervisory employee. In view of these agreements, we find that Eddie Jones, Roosevelt Johnson, C. I. Hollis, Luther J. Turner, and Lee H. Turner were eligible to vote and that their ballots are valid; and we further find that J. F. Thompson was not eligible to vote and that his ballot is invalid.

The parties are in disagreement regarding the votes of the remaining eight employees who are challenged as supervisory personnel. Inasmuch as we have excluded from the unit found appropriate in Section IV, above, the foreman of the lumberyard, we find that

William R. Brock, who occupies this position, was an ineligible voter and that his ballot is invalid. Since we have included in that unit lumber inspectors (or checkers or graders), treating engineers, and the locomotive engineer, we further find that J. S. Bagwell, Rufus Leon Payne, and R. I. Harrison, lumber inspectors;¹³ G. T. Hornsby,¹⁴ J. W. Hollis, and E. C. Carroll, treating engineers; and J. C. Fincher, locomotive engineer, were all eligible voters and that their ballots are valid.

As the 12 challenged ballots of eligible voters will not affect the outcome of the election, we find it unnecessary to direct that they be opened and counted, and we shall now certify the Petitioner as the bargaining representative of the employees in the appropriate unit.

CERTIFICATION OF REPRESENTATIVES

IT IS HEREBY CERTIFIED that United Chemical Workers (CIO) has been designated and selected by a majority of all production and maintenance employees of William C. Meredith Company, Inc., at its East Point, Georgia, plant, including pole checkers, the assistant foreman of the lumber yard, lumber inspectors, day crane operator, treating engineers, and the locomotive engineer, but excluding office employees, plant clerical employees, lumber buyers, the foreman of the lumberyard, the assistant foreman of the planing mill, and all other supervisory employees as their representative for the purposes of collective bargaining and that, pursuant to Section 9 (a) of the Act, the said organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

¹³ J E Page, a fourth lumber inspector, did not vote at the election

¹⁴ On the envelope containing the challenged ballot of this employee, his name appears as J T Hornsby.