

In the Matter of STIMSON LUMBER COMPANY and LUMBER AND
SAWMILL WORKERS, GLENWOOD LOCAL NO. 2540

Case No. R-114.—Decided February 16, 1937

Lumber Industry—Strike—Boycott—Interference, Restraint or Coercion: refusal to bargain with union; distributing anti-union statements among employees; discrediting union; compelling employees to disclose union membership; by citizen vigilante committees—*Election Ordered:* controversy concerning representation of employees—refusal by employer to bargain with union—question affecting commerce: current strike caused by employer's refusal to bargain with union; confusion and unrest among employees—*Unit Appropriate for Collective Bargaining:* production employees; no controversy as to—*Certification of Representatives:* petition for denied.

Mr. E. J. Eagen for the Board.

Mr. Thomas H. Tongue, Jr., of Hillsboro, Ore., and *Mr. A. P. Kelley* and *Mr. William C. McCulloch*, of Portland, Ore., for the Company.

Green, Tanner & Boesen, by *Mr. Chris Boesen*, of Portland, Ore., for the Union.

Mr. Joseph Rosenfarb, of counsel to the Board.

DECISION

STATEMENT OF CASE

On August 12, 1936, Lumber and Sawmill Workers, Glenwood Local No. 2540, hereinafter called the Union, filed with the Regional Director for the Nineteenth Region a petition for an investigation and certification of representatives of production employees at the mill and in the logging camp of the Stimson Lumber Company, Forest Grove, Washington County, Oregon, hereinafter called the Company. On November 28, 1936, a notice of hearing was issued and duly served. After two postponements, a hearing was held on December 21 and 22, 1936, before Harry Hazel, the Trial Examiner duly designated by the National Labor Relations Board, hereinafter called the Board. On December 10, 1936, the Company filed an answer to the petition, denying that the Board has jurisdiction in the matter and alleging that the National Labor Relations Act, hereinafter called the Act, is unconstitutional and void. Both the Union and the Company appeared at the hearing and were represented by counsel. Although counsel for the Company stipulated that the appearance of the Com-

pany was in the nature of a special appearance, the Company called witnesses in its behalf and introduced evidence. At the end of the Board's case the Company moved for the dismissal of the proceedings on the ground that the Board had no jurisdiction in the matter and that the Act was unconstitutional. The motion was denied. This denial is hereby affirmed.

Upon the record of the case, the stenographic report of the hearing, and all the evidence, including all the testimony, documentary and other evidence offered and received at the hearing, the Board makes the following:

FINDINGS OF FACT

I. THE COMPANY AND ITS BUSINESS

The Stimson Lumber Company is a corporation duly organized and existing under the laws of the State of Oregon with its principal office and place of business in Forest Grove, Washington County, Oregon. The Company is engaged in the production of general forest products, in the general logging and sawmill business, in the cutting of timber into logs, in the sawing and milling of logs into lumber, and in the sale and distribution of such products. The Company has 50 million feet of timber holdings in Washington County, Oregon. The logs cut by the Company's employees in its woods are transported from the place of felling to the mill of the Company by a logging railroad entirely owned and operated by the Company. The logging railroad consists of two locomotives, 35 skeleton flat cars, two donkey engines, and other cars. There is a sidetrack owned by the Company, leading from the tracks of the Southern Pacific Company to the mill of the Company. Loaded cars are transported by the Company's engines over the sidetracks to the tracks of the Southern Pacific Company where they are picked up by the latter's trains and where the empties are returned by the Company's engines for reloading. The Company's mill consists of a logging camp, sawmill, dry kiln, dry kiln sheds, cooling sheds, shipping sheds, planing building, storage sheds for lumber, and office building.

The Company's mill has an eight hour capacity of 100,000 to 140,000 feet. It is one of the largest sawmills in the Northwest. In all of its operations the Company employs on the average of about 219 men. In some of its various operations it employs the following number of men: logging camp, 50; sawmill, 25; pond, 3; planer mill, 20; dry kiln, 1; wood department, 7; yard, 40; loading platform, 10 to 15; workers from other departments are also used for the purpose of loading cars.

About 20 per cent of the business of the Company is carried on through filling orders previously received from customers. Over 50 per cent of the Company's lumber is shipped to destinations outside of the State of Oregon. Most of its sales are made through brokers.

The foregoing operations of the Company constitute a continuous flow of trade, traffic and commerce among the several States.

II. THE QUESTION OF REPRESENTATION

The official name of the Union, according to its charter from the United Brotherhood of Carpenters and Joiners, affiliated with the American Federation of Labor, is Lumber and Sawmill Workers Union, Carpenters' Local 2540. However, it is generally referred to as Lumber and Sawmill Workers, Glenwood Local No. 2540, the name appearing on the petition.

On May 4, 1935, the employees of the Company went out on strike, an occurrence which was part of the general Pacific Coast lumber strike of 1935. Failure of the Company to deal with the Union was one of the reasons for the strike. Within a few days after the commencement of the strike, 150 of the former employees of the Company returned to work. The strike is still going on. However, many of the union men went back to work, with the acquiescence, if not express approval, of the Union. The campaign to unionize the workers of the Company has not abated. There was testimony to show that in August, 1936, the membership of the Union was 156, and that at the time of the hearing it was 184, a majority of whom are now actually employed by the Company. The Company has continually refused to bargain collectively with the Union, and this refusal has precluded a settlement of the strike.

After an agent of the Board had suggested to the Company in August, 1936, that it should consent to an election under the Act to determine whom the employees wished to represent them, the Company distributed among its employees a strongly worded anti-union statement.¹ Two days later the foremen of the Company called its employees together in the yard in full view of the office, and a so-called election by standing vote was taken to determine

¹ Bd. Exh. 13-9.

"STATEMENT BY STIMSON LUMBER TO ITS EMPLOYEES

AUGUST 10, 1936

"In May, 1935, this mill was started by a petition from our employees asking us to start operations. Since that time we have been running under conditions well known to you all.

"Recently we have been asked by Mr. Howard, Federal Representative under the Wagner Labor Law, to agree to an election giving you the right to decide whether you wish the Glenwood Local No. 2540 to act as your agent to conduct negotiations with us,

whether the employees wished to join the Union. Those who were for the Union went over to one side and the remainder to the other side. It was testified in behalf of the Company that the Union lost the election by about two to one. There is no need to dilate on the obvious fact that this is not a type of election calculated to ascertain the sentiment of the employees without fear of reprisal by a hostile employer.

We feel that a question concerning the representation of the employees of the company has arisen.

III. THE EFFECT OF THE QUESTION OF REPRESENTATION ON COMMERCE

The record is replete with evidence of the direct and detrimental effect which the labor dispute with the Company has had on the interstate commerce of the Company. There is evidence of violence, activities of citizen vigilante committees operating under the guidance and with the participation of officials of the Company,

or whether you prefer a Committee of your own choosing to do this Without any Union domination.

"As we started up under a petition from you and have received no other, we do not feel that we have any right to consent to any such election. These negotiations have ceased, and so far as we are concerned there will be no election.

"If you wish to change present conditions we will consider any petitions for any changes you desire.

"At present a considerable number of our men have made application to join the Glenwood Local No. 2540. If you join up, we fully expect said Local to claim the right to represent you. IF this is what you want do *nothing*. IF THIS IS NOT WHAT YOU WANT file a petition and let us know what you do want. You can elect your own committee if you wish.

"Up to the present time there has been harmony in this organization, and we dislike to see that condition changed. We do not wish to deal with the Glenwood Local and we do not consider it to your best interests for the following reasons:

"First: While you can elect your own Committee, their word is NOT final with the Union. A Union Committee's actions must be approved by the Union. You number about 235 men and the local has about 1400 members. Better think this over.

"Second: Union hours would without doubt go into effect. This you all know means less hours per month than you now put in. This is especially true in the woods.

"Third: The Company does not think it necessary for you to pay to join the Union or pay dues to it to get reasonable justice, which we think you have had in the past. If you do not agree with this statement you should join the Union.

"Fourth: It is not necessary for you to join the Union to have a Committee of your own to deal with the Company. If this is what you want, elect one. We will meet with it. We think you will be better satisfied that way than with a Union Committee. At least, if you like what your own Committee does, outsiders cannot upset their deals. If you do not like what they do, you can elect another committee, without advice from men NOT in our employ.

"Fifth: Wages, hours and working conditions can be handled as well by your own Committee as by a Union Committee. Maybe better. ALL THE BRAINS ARE NOT IN THE UNION.

"Sixth: Unions may call strikes in which case you might be compelled to go out. Do not forget that in the past year and a half our mill employees have had work for about three months and the loggers for about five months while *Union operations were on strike*.

"The principal disadvantage if you do not join the Union is that if you leave our employ you might be fined if you went elsewhere.

"The Company is willing to continue to operate as we are doing and see no reason why we cannot continue to do so indefinitely.

"YOU DO NOT HAVE TO JOIN THE UNION TO HOLD YOUR JOB.

"THIS WILL BE AN OPEN SHOP FOR SOME TIME YET."

physical obstruction to the shipment of the Company's products, and boycotting of the Company's products by workers in all parts of the country.

During the strike, the longshoremen refused to handle the products of the Company. "Unfair" placards were placed on the lumber of the Company. Although prior to May, 1935, 50 per cent of the Company's shipments were by water, since then this has been greatly reduced.² The record contains evidence of numerous refusals by customers to continue to patronize the Company any longer. Several shipments of lumber were returned to the Company. Likewise, carpenters' unions all over the country have refused to work on and handle the products of the Company. It is obvious that the damage to the interstate business of the Company caused by this labor dispute was considerable. Indeed, all this is admitted by counsel for the Company.

The question of representation which has arisen has caused confusion, uneasiness and unrest among the employees of the Company, and has led and tends to lead to labor disputes burdening commerce and the free flow of commerce.

IV. THE APPROPRIATE UNIT

The employees of the Company engaged in the logging camp and in the lumber mill of the Company constitute a single unit appropriate for the purpose of collective bargaining. There is no conflict of evidence on this point.

CONCLUSIONS OF LAW

Upon the basis of the above findings, the following conclusions of law are made by the Board:

1. A question affecting commerce has arisen concerning the representation of the employees of the Stimson Lumber Company, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7), of the National Labor Relations Act.
2. The employees in the logging camp and lumber mill of the Company constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

DIRECTION OF ELECTION

The National Labor Relations Board having found that a question affecting commerce has arisen concerning the representation of

² Bd. Exh. 4.

the employees in the lumber mill and logging camp of Stimson Lumber Company, Forest Grove, Washington County, Oregon, and that the said employees constitute a single unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act, and acting pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of said Act, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, hereby

DIRECTS that as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with the Stimson Lumber Company, elections by secret ballot shall be conducted within a period of 20 days after the date of this Direction of Election, under the direction and supervision of the Regional Director for the Nineteenth Region, acting in this matter as the agent of the National Labor Relations Board and subject to Article III, Section 9 of said Rules and Regulations—Series 1, as amended, among the production employees in the lumber mill and logging camp of the Stimson Lumber Company on the payroll, on the date of the last payment of wages prior to the hearing in the case, excepting office help, foremen, and others engaged in a supervisory capacity, to determine whether or not they desire to be represented by Lumber and Sawmill Workers, Glenwood Local No. 2540.

[SAME TITLE]

DENIAL OF PETITION TO CERTIFY REPRESENTATIVES

April 27, 1937

On August 12, 1936, Lumber and Sawmill Workers, Glenwood Local No. 2540, filed with the Regional Director for the Nineteenth Region (Seattle, Washington) a petition for an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, said petition alleging that a question affecting commerce had arisen concerning the representation of the production employees at the mill and in the logging camp of the Stimson Lumber Company, Forest Grove, Washington County, Oregon. Subsequently, the National Labor Relations Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director for the Nineteenth Region to conduct an investigation and to provide for an appropriate hearing upon due notice. Pursuant to such authorization, notice of hearing was duly issued and served by the

Regional Director, and on December 21 and 22, 1936, a hearing was held before Harry Hazel, sitting as Trial Examiner.

After said hearing and upon the full record in the case, the National Labor Relations Board issued its Decision and Direction of Election dated February 16, 1937. Pursuant to the Direction, an election by secret ballot was conducted by the Regional Director on March 4, 1937, among the production employees employed as of December 10, 1936, in the lumber mill and logging camp of the Stimson Lumber Company at Forest Grove, Washington County, Oregon, said election being held in accordance with Article III, Section 9 of said Rules and Regulations—Series 1, as amended. Thereafter the Regional Director prepared and served upon the parties to the proceeding his Intermediate Report, in which he found that 170 persons were eligible to vote in the election, that 160 ballots were cast, and that 46 of such ballots were cast for the Lumber and Sawmill Workers, Glenwood Local No. 2540, 109 against Lumber and Sawmill Workers, Glenwood Local No. 2540, and five ballots were contested.

Now THEREFORE, 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 8 of National Labor Relations Board Rules and Regulations—Series 1, as amended, the petition to certify representatives is hereby denied.