

IN THE MATTER OF SOUTHERN LUMBER COMPANY and UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, SAWMILL WORKERS LOCAL UNION NO. 2645

Case No. C-200.—Decided August 28, 1937

Lumber Industry—Settlement: agreement to comply with Act—*Order:* entered on stipulation.

Mr. Gerhard Van Arkel and *Mr. Samuel L. Lang* for the Board.
Mr. Aubert Martin, of Warren, Ark., for the respondent.
Mr. Joseph Friedman, of counsel to the Board.

DECISION

STATEMENT OF THE CASE

Upon charges duly filed by the United Brotherhood of Carpenters and Joiners of America, Sawmill Workers Local Union No. 2645, herein called the Union, the National Labor Relations Board, herein called the Board, by Charles H. Logan, Regional Director for the Fifteenth Region (New Orleans, Louisiana), issued and duly served its complaint, dated July 6, 1937, against the Southern Lumber Company, Warren, Arkansas, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8, subdivision (1), and Section 2, subdivisions (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

The complaint in substance alleged (1) that the respondent is an Arkansas corporation, with its principal place of business at Warren, Arkansas, and is engaged in the production, sale, and distribution of lumber in interstate commerce; (2) that the respondent, by its officers, agents, and employees, has distributed literature and made speeches hostile to the membership of its employees in the Union; and (3) that the respondent has employed two detectives to engage in espionage against its employees in regard to their membership and activities in the Union, to make reports of the extent of the labor organization of its employees, and to become active themselves in the Union for the purpose of espionage.

Simultaneously with the filing of the charge, the Union filed a petition alleging that a question affecting commerce had arisen concerning the representation of the production and maintenance employees of the respondent, and requesting an investigation and certifi-

cation of representatives pursuant to Section 9 (c) of the Act. On July 6, 1937, the Board, acting pursuant to Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered the Regional Director to conduct an investigation.

On July 6, 1937, the Board further ordered, pursuant to Article III, Section 10 (c) (2) and Article II, Section 37 (b) of the Rules and Regulations—Series 1, as amended, that the two cases be consolidated for the purpose of hearing. Pursuant to notice, a hearing was held in New Orleans, Louisiana, on July 19, 1937, before D. Lacy McBryde, the Trial Examiner duly designated by the Board. The Board and the respondent were represented at the hearing by counsel. No testimony was taken at the hearing. Counsel for the Board offered in evidence the respondent's answer, termed "Answer and Consent for Election". It commenced with a denial of the substance of the allegations of the complaint, but nevertheless concluded with the statement that the respondent agreed to the following stipulation:

STIPULATION

It is hereby stipulated that the National Labor Relations Board may enter an Order in this case, to the following effect:

The respondent shall:

1. Refrain from in any manner interfering with, restraining or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations; to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed under Section 7 of the Act;

2. Refrain from threatening its employees with discharge or from discriminating as to any term or condition of employment, because of its employees' affiliation or their membership in any labor organization of its employees at its Warren, Arkansas, plant;

3. Refrain from availing itself of the services of any detective agency or any individual for the purpose of obtaining information about the activities of any labor organization of its employees at its Warren, Arkansas, plant or any members of any such labor organization.

4. Take the following affirmative action to effectuate the policies and purposes of the National Labor Relations Act:

- (a) Post a notice in the form hereto attached,¹ for a period of at least sixty days from the date of this stipulation;

¹ This notice is set forth in the Appendix to this decision, which is hereby made a part hereof. The next to the last paragraph appearing in the original notice is immaterial to this decision and is omitted from the notice set forth in the Appendix

(b) That it will inform all of its officials and agents, including superintendents, foremen and other supervisory employees that they shall not in any manner approach employees concerning, or discuss with the employees, the question of their labor affiliation or threaten employees in any manner because of their membership in any labor organization in general, or the United Brotherhood of Carpenters and Joiners of America, Sawmill Workers Local Union No. 2645 in particular.

5. The respondent agrees that within a period of sixty days after the entry of this stipulation, an election as provided in Section 9-A² of the National Labor Relations Act, to determine the representatives of its employees for the purpose of collective bargaining and other mutual aid and protection may be held among the production employees at its Warren, Arkansas, plant, and further agrees to make available to the agents of the National Labor Relations Board its pay roll as of such date or dates as the agent of the National Labor Relations Board may select, and agrees that the National Labor Relations Board will post a notice of such election for a period of ten days, in its plant, prior to the holding of any such election.

6. The respondent will not, in the event an application for enforcement of this Order is made to the Fifth Circuit Court of Appeals, contest the entry of an order by the Board in the form above set out.

The stipulation was accepted by all the parties to the proceedings, including the Union, to serve as a stipulation for both cases and was made part of the record of the consolidated proceedings. Subsequently, counsel for the respondent in a letter to the Board agreed to the substitution of the words "cease and desist" for the word "refrain" wherever the latter word appeared in the stipulation.

By order of the Board, dated August 3, 1937, the proceedings were transferred to and continued before the Board in accordance with Article II, Section 37 of the Rules and Regulations—Series 1, as amended. Thereafter, the representation proceeding was settled by an agreement of the parties for a consent election. The present decision, therefore, concerns only the proceeding under the complaint for unfair labor practices.

ORDER

On the basis of the above stipulation, and pursuant to Section 10, subdivision (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Southern

² Section 9-A appears in the original of the stipulation. This is clearly a typographical error, since 9 (c) is intended.

Lumber Company, and its officers, agents, successors, and assigns shall:

1. Cease and desist from in any manner interfering with, restraining or coercing its employees in the exercise of their right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed under Section 7 of the Act;

2. Cease and desist from threatening its employees with discharge or from discriminating in regard to hire or tenure of employment or any term or condition of employment, because of its employees' affiliation with, or their membership in, any labor organization of its employees at its Warren, Arkansas, plant;

3. Cease and desist from availing itself of the services of any detective agency or any individual for the purpose of obtaining information about the activities of any labor organization of its employees at its Warren, Arkansas, plant or any members of any such labor organization.

4. Take the following affirmative action to effectuate the policies and purposes of the National Labor Relations Act:

a. Post notices in conspicuous places throughout its plant in the form set forth in the Appendix hereto, for a period of at least sixty (60) consecutive days from the date of posting;

b. Inform all of its officials and agents, including superintendents, foremen, and other supervisory employees, that they shall not in any manner approach employees concerning, or discuss with the employees, the question of their labor affiliation or threaten employees in any manner because of their membership in any labor organization in general, or the United Brotherhood of Carpenters and Joiners of America, Sawmill Workers Local Union No. 2645 in particular.

MR. EDWIN S. SMITH took no part in the consideration of the above Decision and Order.

APPENDIX

NOTICE

The Southern Lumber Company, recognizing the right of its employees to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their choosing, and to engage in concerted activities, for the purpose of

collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act, states that it and its officers and agents:

1. Will not in any manner interfere with, restrain or coerce its employees in the exercise of the above rights.

2. Will not discourage membership in any labor organization of its employees by discharging or threatening to discharge any of its employees for joining or assisting any labor organization of its employees.

3. Will not in any other manner discriminate against any of its employees in regard to hire or tenure of employment or any term or condition of employment for joining or assisting any labor organization of its employees.

This notice will remain posted for a period of at least sixty (60) consecutive days from the date of posting.

SOUTHERN LUMBER CO.

by-----
(President) or (Manager)