

In the Matter of BRADLEY LUMBER COMPANY OF ARKANSAS and
UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,
LUMBER AND SAWMILL WORKERS, LOCAL UNION No. 2645

Case No. R-259.—Decided September 25, 1937

Lumber Industry—Investigation of Representatives: agreement as to holding of election—Election Ordered—Certification of Representatives.

Mr. Gerhard Van Arkel and Mr. Samuel Lang for the Board.

Mr. R. H. Kelly and Mr. W. M. Streetman, of Houston, Texas, for the Company.

Williamson & Williamson, by Mr. Lamar Williamson, of Monticello, Ark., for the Association.

Mr. Abraham L. Kaminstein, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On July 10, 1937, the United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers, Local Union No. 2645, herein called the Union, filed with the Regional Director for the Fifteenth Region (New Orleans, Louisiana), a petition alleging that a question affecting commerce had arisen concerning the representation of employees in the Warren, Arkansas, plant of the Bradley Lumber Company of Arkansas, Warren, Arkansas, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On July 13, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, as amended, authorized the Regional Director to conduct an investigation and provide for an appropriate hearing.

On July 20, 1937, the Company filed its plea to the jurisdiction of the Board, and subject thereto, its answer, denying that there was any dispute whatever with respect to the organization selected for collective bargaining purposes by the production employees, and alleging that about 85 per cent of all production employees were members of the Bradley County Employees Association, herein called the Association, a labor organization within the meaning of Section 2, subdivision (5) of the Act.

By order of the Board dated August 12, 1937, pursuant to Article III, Section 10 (c) (2) of National Labor Relations Board Rules and Regulations—Series 1, as amended, this case was consolidated for the purpose of hearing with another case based upon a complaint against the Company issued on charges filed by the Union. Pursuant to notice, and to notice of postponement of hearing, a hearing on the petition and complaint was held at New Orleans, Louisiana, on August 16, 17, and 18, 1937, before Frank Bloom, the Trial Examiner duly designated by the Board. The Board, the Company, and the Association, which was permitted to intervene in so far as its interests appeared, were represented by counsel. The Union was not represented by counsel, but its president appeared and testified as a witness.

On September 2, 1937, the Board, in accordance with Article II, Section 37 of its Rules and Regulations, Series 1—as amended, ordered the proceeding transferred to and continued before the Board.

On August 18, 1937, during the hearing, stipulations were agreed upon by all parties to the proceedings, in part as follows,¹

It is hereby stipulated and agreed by and between the BRADLEY LUMBER COMPANY OF ARKANSAS, BRADLEY LUMBER SALES COMPANY, the BRADLEY COUNTY EMPLOYEES ASSOCIATION and the UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA, LUMBER AND SAWMILL WORKERS, LOCAL UNION NO. 2645, as follows:

I.

The Bradley Lumber Company of Arkansas and the Bradley Lumber Sales Company, and each of them, by pleas filed herein, have contended and still contend that the Board has no jurisdiction over them or either of them, or any of the matters set forth in the charges and complaints made herein. However, for the purposes of these proceedings and this stipulation, and the order herein provided for, but for no other purpose, the said respondents, and each of them, hereby waive their respective pleas to the jurisdiction of the Board, heretofore filed herein, but expressly reserve the right, in case any subsequent proceedings of any kind should be instituted against them, or either of them, by or before the Board, to file and present pleas to the jurisdiction of the Board without any prejudice whatever arising from this waiver.

¹ The omitted portions of the stipulations are not material to the case based upon the petition.

II.

All the above named parties to this proceeding stipulate and agree that the NATIONAL LABOR RELATIONS BOARD, as of the date of this agreement, shall enter the following order in the above-entitled proceedings:

“(1). That the Bradley Lumber Company of Arkansas shall take the following affirmative action in order to effectuate the purposes and policies of the National Labor Relations Act:

* * * * *

“(d). Furnish to the National Labor Relations Board, the Bradley County Employees Association, and the United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers, Local Union No. 2645, at least seven (7) days prior to the election herein agreed upon, identical certified payroll lists as of a pay roll date to be selected by the Regional Director of the National Labor Relations Board for the Fifteenth Region, subsequent to the date of this agreement.

“(2). That the National Labor Relations Board does hereby order an election to be held among the employees of the respondent Bradley Lumber Company of Arkansas paid by the hour, day, week, month or piece, not including foremen or other officers or employees of higher rank, office and store employees, such election to be held within thirty days from the date of this order, or as soon thereafter as practicable, and, in any event, within forty-five days from the date of this order.

“(a). The form of the ballot shall be substantially in the form attached hereto and marked ‘Exhibit A.’²

“(b). The respondent, Bradley Lumber Company of Arkansas, shall post a form of election notice to be furnished by the National Labor Relations Board substantially in the form attached hereto, marked ‘Exhibit B’,³ and shall post the same in conspicuous places about its plant for a period of at least seven (7) days prior to the holding of the election herein ordered.

“(c). The date of the election, the hours of balloting, and the place or places of balloting shall be fixed by the Regional Director of the National Labor Relations Board for the Fifteenth

²“Exhibit A” is part of Exhibit No. 8 introduced into evidence at the hearing. It is a sample ballot allowing spaces in which the voter may mark his choice for the Bradley County Employees Association, or the United Brotherhood of Carpenters & Joiners of America, Local 2645, in order to determine the representatives for collective bargaining purposes

³“Exhibit B” is also part of Exhibit No. 8 introduced into evidence at the hearing. It is a copy of the notice of election and sample ballot used in the Mathieson Alkali Works, Inc., Lake Charles, Louisiana, case in order to determine exclusive representatives for purposes of collective bargaining.

Region, subject to the provisions of this order, and announced in the notice provided for in paragraph (b) above.

“(d). The Bradley Lumber Company of Arkansas, the Bradley County Employees Association, and the United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers, Local Union No. 2645, shall each have the right to designate two observers for each polling place, who shall be present throughout the hours of balloting, shall have the right to challenge any voter, and may assist in the counting of ballots, with the right to protest any ballot.

“(e). At the request of any qualified voter, the agent of the Board conducting the election shall, with or without observation by the observers of the two labor organizations hereinbefore provided for, as determined by such voter, mark the ballot of such voter in accordance with the wishes of such voter.

“(f). Such election shall be conducted in accordance with the terms and provisions of the National Labor Relations Act, the rules and regulations of the Board thereunder, and the decisions of the National Labor Relations Board governing elections.

“(3). The Bradley Lumber Company of Arkansas shall recognize the representative of the majority of its employees chosen at such election as the exclusive representative of the employees eligible to participate in such election for the purpose of collective bargaining concerning wages, hours and working conditions.”

* * * * *

III.

The parties to this proceeding hereby stipulate and agree that the representative chosen by a majority of the employees in the election herein above provided for shall be eligible to represent all of the employees eligible to participate in such election as the exclusive representative of all such employees, for collective bargaining purposes, under the National Labor Relations Act.

On the basis of the stipulations quoted above, the Board will issue a Direction of Election.

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, 49 Stat. 449, and pursuant to Article III, Section 8 of the National Labor Relations Board Rules and Regulations—Series 1, as amended, it is

DIRECTED that, as part of the investigation directed by the Board to ascertain representatives for the purposes of collective bargaining

with Bradley Lumber Company of Arkansas, an election by secret ballot shall be conducted within 10 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, Section 9 of said Rules and Regulations, and in accordance with the stipulations entered into in this case, among the employees of the Bradley Lumber Company of Arkansas at its Warren, Arkansas, plant whose names appear on the pay roll of the Company as of a date to be selected by the Regional Director, who are paid by the hour, day, week, month or piece, exclusive of foremen or other officers or employees of higher rank, office and store employees, to determine whether they desire to be represented by the Bradley County Employees Association, or by the United Brotherhood of Carpenters and Joiners of America, Local No. 2645, for the purposes of collective bargaining.

[SAME TITLE]

CERTIFICATION OF REPRESENTATIVES

October 30, 1937

On July 10, 1937, United Brotherhood of Carpenters and Joiners of America, Lumber and Sawmill Workers, Local Union No. 2645, herein called the Union, filed with the Regional Director for the Fifteenth Region (New Orleans, Louisiana) a petition alleging that a question affecting commerce had arisen concerning the representation of employees in the Warren, Arkansas, plant of Bradley Lumber Company of Arkansas, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

Pursuant to notice duly served upon the Company, the Union, and Bradley County Employees Association, herein called the Association, which was allowed to intervene in so far as its interests appeared, a hearing was held at New Orleans, Louisiana, on August 16, 17, and 18, 1937, before Frank Bloom, the Trial Examiner duly designated by the National Labor Relations Board, herein called the Board. On September 25, 1937, the Board issued a Decision and Direction of Election based upon stipulations entered into by the parties at the hearing. The Direction of Election provided that an election by secret ballot should be held among all employees of the Company employed at its Warren, Arkansas, plant whose names appeared on a pay roll of the Company as of a date to be selected by the Regional Director,¹ and who were paid by the hour, day,

¹The date selected was August 25, 1937.

week, month, or piece, exclusive of foremen or other officers or employees of higher rank, office and store employees, to determine whether they wished to be represented by the Bradley County Employees Association, or by the United Brotherhood of Carpenters and Joiners of America, Local No. 2645, for the purposes of collective bargaining.

Pursuant to the Direction, balloting was conducted on September 27, 1937. Full opportunity was accorded to all the parties to this investigation to participate in the conduct of the secret ballot and to make challenges.

Thereafter, the Regional Director, acting pursuant to Article III, Section 9 of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued and duly served upon the parties to the proceeding his Intermediate Report on the ballot. No exceptions to the Intermediate Report have been filed by any of the parties.

As to the results of the secret ballot the Regional Director reported as follows:

Total eligible voters.....	1, 004
Total ballots cast.....	967
Total ballots protested.....	3
Total protests allowed.....	0
Ballots void by agreement.....	0
Total spoiled ballots.....	21
Total ballots officially counted.....	943
Total vote United Brotherhood of Carpenters and Joiners of America, Local 2645.....	244
Total vote Bradley County Employees Association.....	699

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,

IT IS HEREBY CERTIFIED that Bradley County Employees Association has been designated and selected by a majority of all the employees of the Bradley Lumber Company of Arkansas, at its Warren, Arkansas, plant, who are paid by the hour, day, week, month or piece, exclusive of foremen or other officers or employees of higher rank, office and store employees, as their representative for the purposes of collective bargaining, and that, pursuant to the provisions of Section 9 (a) of the National Labor Relations Act, Bradley County Employees Association is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.