

In the Matter of WEST VIRGINIA PULP AND PAPER COMPANY and
INTERNATIONAL BROTHERHOOD OF PULP, SULPHITE AND PAPER MILL
WORKERS, LOCAL NO. 36, LUKE, MARYLAND

Case No. R-380.—Decided December 1, 1937

Paper Manufacturing Industry—Investigation of Representatives: agreement for election—Election Ordered—Certification of Representatives.

Mr. Reeves R. Hilton, for the Board.

Gleason, McLanahan, Merritt & Ingraham, by Mr. Henry Clifton, Jr., of New York City, for the Company.

Mr. Milton M. Bever, of Keyser, W. Va., for the Union.

Mr. Charles Z. Heskett, of Cumberland, Md., for the Association.

Mr. Henry W. Lehmann, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On October 2, 1937, International Brotherhood of Pulp, Sulphite and Paper Mill Workers, Local No. 36, Luke, Maryland, herein called the Union, filed with the Regional Director for the Fifth Region (Baltimore, Maryland) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of West Virginia Pulp and Paper Company, herein called the Company, at its plant in Luke, Maryland, 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 October 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, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On November 3, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, both at Luke, Maryland, and in New York City, and upon the Union. The Regional Director also issued to the Employees' Protective Association, herein called the Association, which had been named in

the petition as claiming to represent employees of the Company, and to the Committee for Industrial Organization notices advising both such organizations of their right to intervene in this proceeding. On November 5, 1937, the Association filed with the Regional Director a motion to intervene in which it claimed that its membership included a majority of the respondent's employees, exclusive of salaried, clerical, or supervisory employees, and in which it requested the Board to conduct an election among the employees of the Company to determine the agency entitled to act as the exclusive representative of such employees for the purposes of collective bargaining. The Regional Director notified the counsel of the Association of its right to intervene.

Contrary to the notices but with the consent of all parties to the proceeding, the hearing was in fact held in Baltimore, Maryland, on November 11, 1937, before Mapes Davidson, the Trial Examiner duly designated by the Board. The Company and the Association were both represented by counsel, and the Union by the president of International Brotherhood of Pulp, Sulphite and Paper Mill Workers.

At the hearing, there was offered in evidence and made a part of the record without objection, a stipulation¹ entered into by all parties which reads in part as follows:

I.

For the sole purpose of providing an agreed statement of such facts, and thereby avoiding the time and expense involved in testimony on the facts, the undersigned agree that the following facts are true:

A. The West Virginia Pulp and Paper Company is a corporation duly incorporated under the laws of the State of Delaware, incorporated in 1899. The said company is capitalized at \$25,000,000 preferred and 1,000,000 shares common of no par value, and the stock thereof distributed among approximately 2,000 stockholders.

The company is engaged in the business of manufacturing and distributing pulp and paper products and chemical by-products. Approximately 70 per cent of the raw materials used by the company are obtained from States other than the State of Maryland, principally pulpwood from West Virginia, Pennsylvania, and Virginia, coal from West Virginia, clay from Georgia, and sulphur from Texas. These raw materials are shipped to the company's mill in Luke, Maryland, by railroad and auto truck.

¹ The omitted portions of the stipulation are not material to this Decision.

Process used in the manufacture of products consists of soda and sulphate pulp preparation and paper manufacturing by the Fourdrinier and coating machine processes. Approximately 1,700 to 1,800 employees are engaged in the above operations. About 95 per cent of the finished product is shipped by railroad out of the State of Maryland to other States, principally New York, Illinois, New Jersey, and Pennsylvania. The volume of production for the last peak month, May, 1937, was about 6,100 tons and the pay roll for the same period was \$181,706. The gross value of the company's products at Luke for the past fiscal year ending October 31, 1937, was approximately \$7,000,000. The product is sold directly by salesmen and through agents to printers, publishers, and paper converters. The following machinery is used by the company in the manufacture of its products: Fourdrinier and coating paper machines, rewinders, calenders, cutters, trimmers, pulp digesters, chippers, kilns, rotary furnaces, power plant and boiler equipment, etc., and was purchased principally in Massachusetts, Delaware, Ohio, New York, Connecticut, Pennsylvania, Virginia, Wisconsin, Illinois, and Missouri. Replacement and repair parts are purchased mostly in same States and shipped by railroad to the plant. The company is considered a major factor in the industry . . .

The company agrees that it is engaged in interstate commerce within the meaning of the decisions of the United States Supreme Court interpreting the National Labor Relations Act.

B. Luke Local 36, International Brotherhood of Pulp, Sulphite, and Paper Mill Workers, affiliated with the American Federation of Labor, claims a substantial number of members among the employees of the "company".

C. The Employees' Protective Association, Luke Mill, claims a substantial number of members among the employees of the "company".

D. The "company" has bargained collectively under a working agreement with the Employees' Protective Association, Luke Mill, since December 1, 1933; has authorization to deduct dues from over eleven hundred members in the Employees' Protective Association, Luke Mill, but has no other knowledge of which organization represents the majority of the employees and questions whether Luke Local 36, International Brotherhood of Pulp, Sulphite, and Paper Mill Workers, affiliated with the American Federation of Labor, represents a majority of the employees.

E. The Luke Local No. 36, International Brotherhood of Pulp, Sulphite, and Paper Mill Workers, affiliated with the

American Federation of Labor, is a labor organization within the meaning of the National Labor Relations Act.

F. Employees' Protective Association, Luke Mill, is a labor organization within the meaning of the National Labor Relations Act.

II.

It is hereby agreed among the parties hereto :

A. That an election pursuant to an order of the National Labor Relations Board is desired by the parties hereto to be held in accordance with the rules and regulations of the National Labor Relations Board.

All employees of the company except those paid on a salary basis, on the pay roll the week of September 1, 1937, is agreeable to the parties hereto as the proper unit for the purpose of collective bargaining.

III.

The parties hereby agree that if it is determined by the National Labor Relations Board that either of the above-mentioned labor organizations represents a majority of the employees herein described in accordance with the above procedure, then the said company agrees to proceed to bargain collectively with said organization, as certified by the National Labor Relations Board, as the sole bargaining agency for all the employees of the particular unit.

Without objection, it was then stated for the record that employees who had been furloughed were part of the appropriate unit as defined in the stipulation.

On the basis of the stipulation 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 National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

DIRECTED that, as part of the investigation directed by the Board to ascertain representatives for the purposes of collective bargaining with West Virginia Pulp and Paper Company, an election by secret ballot shall be conducted within fifteen (15) days from the date of this Direction, under the direction and supervision of the Regional Director for the Fifth 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, among all employees of the Company at its Luke, Maryland, plant on its pay roll during the week of September 1, 1937, including employees furloughed since September 1, 1937, whose names have been retained on the pay roll, but excluding employees compensated on a salary basis, to determine whether they desire to be represented by International Brotherhood of Pulp, Sulphite and Paper Mill Workers, Local No. 36, or by Employees' Protective Association for the purposes of collective bargaining, or by neither.

[SAME TITLE]

CERTIFICATION OF REPRESENTATIVES

January 10, 1938

On October 2, 1937, International Brotherhood of Pulp, Sulphite and Paper Mill Workers, Local No. 36, Luke, Maryland, herein called the Union, filed with the Regional Director for the Fifth Region (Baltimore, Maryland) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of West Virginia Pulp and Paper Company, herein called the Company, at its plant in Luke, Maryland, 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 November 3, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, both at Luke, Maryland, and in New York City, and upon the Union. The Regional Director also issued to the Employees' Protective Association, herein called the Association, which had been named in the petition as claiming to represent employees of the Company, and to the Committee for Industrial Organization notices advising both such organizations of their right to intervene in this proceeding.

Contrary to the notices but with the consent of all parties to the proceeding, the hearing was in fact held in Baltimore, Maryland, on November 11, 1937, before Mapes Davidson, the Trial Examiner duly designated by the Board. The Company and the Association were both represented by counsel, and the Union by the President of the International Brotherhood of Pulp, Sulphite and Paper Mill Workers. On the basis of the record and a stipulation entered into at the hearing by all parties, the Board issued a Decision and a Direction of Election on December 1, 1937. The Direction of Election provided that an election by secret ballot be held within 15 days from the date of the Direction among all employees of the Company at its Luke, Maryland, plant on its pay roll during the

week of September 1, 1937, including employees furloughed since September 1, 1937, whose names have been retained on the pay roll, but excluding employees compensated on a salary basis, to determine whether they desired to be represented by International Brotherhood of Pulp, Sulphite and Paper Mill Workers, Local No. 36; or by Employees' Protective Association for the purposes of collective bargaining, or by neither.

Pursuant to the Direction balloting was conducted on December 14, 1937. Full opportunity was accorded to all of the parties to this investigation to participate in the conduct of the secret ballot and to make challenges.

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 balloting and its results the Regional Director reported as follows:

Total number of eligibles.....	1,713
Total number of ballots cast.....	1,352
Total number of blank ballots.....	0
Total number of void ballots.....	0
Total number of challenged votes.....	0
Total number of votes for International Brotherhood of Pulp, Sulphite and Paper Mill Workers.....	607
Total number of votes cast for Employees' Protective Asso- ciation.....	698
Total number of votes cast for neither organization.....	47

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 Employees' Protective Association has been designated and selected by a majority of the employees of the Company at its Luke, Maryland, plant on its pay roll during the week of September 1, 1937, including employees furloughed since September 1, 1937, whose names have been retained on the pay roll, but excluding employees compensated on a salary basis, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the National Labor Relations Act, Employees' Protective 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.

MR. DONALD WAKEFIELD SMITH took no part in the consideration of the above Certification of Representatives.