

In the Matter of W. VA. PULP AND PAPER COMPANY and UNITED  
TIMBER & SAWMILL WORKERS LOCAL UNION 149

*Case No. R-421—Decided December 4, 1937*

*Lumber Industry—Investigation of Representatives: agreement for election—  
Election Ordered—Certification of Representatives.*

*Mr. Robert H. Kleeb*, for the Board.

*Mr. James W. Townsen*, of New York City, for the Company.

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

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

United Timber & Sawmill Workers Local Union No. 149, herein called the Union, filed a petition on August 27, 1937, and an amended petition on September 27, 1937, with the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania), alleging that a question affecting commerce had arisen concerning the representation of employees of West Virginia Pulp and Paper Company, Cass, West Virginia, 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 November 1, 1937, the National Labor Relations Board, herein called the 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, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On November 8, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, both in Cass, West Virginia, and in New York City, and upon the Union. Pursuant to the notice, a hearing was held on November 15, 1937, at Pittsburgh, Pennsylvania, before J. Raymond Walsh, the Trial Examiner duly designated by the Board. The Board and the Company were represented at the hearing.

At the commencement of the hearing, there was entered into the record by counsel for the Board a written stipulation signed by the

manager of the Company's plant at Cass, West Virginia, on behalf of the Company and by the president of the Union on behalf of the Union.

The stipulation reads in part as follows:<sup>1</sup>

### I.

For the sole purpose of providing an agreed statement of such facts, and thereby avoiding the time and expense of all concerned involved in testimony on the facts, the undersigned parties 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.

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The West Virginia Pulp & Paper Company at its Cass mill is engaged in the business of manufacturing and distributing lumber, flooring, and other forest products. Approximately none of the raw materials used by the said company at its Cass mill are obtained from states other than the State of West Virginia. Process used in the manufacture of products consist of cutting and transportation of logs to the mill and their manufacture into sawed lumber and other forest products. Approximately 425 employees are engaged in the above operations. About 95% of the finished product of its Cass mill is shipped by railroad out of the State of West Virginia to other states, principally New York, New Jersey and Pennsylvania and New England States. The volume of production for the last peak month of operation, May, 1937, was about 1,575,000 feet and the pay roll for the same period was \$37,727.80. The gross value of the said company's products at Cass mill for the past year amounted to \$607,718.40. The product is sold directly by salesmen to Lumber wholesalers and dealers and directly to consumers. The following machinery is used by the Cass mill in the manufacture of its products: Skidders, locomotives, mill machinery consisting of band saws, trimmers, edgers, planers, power equipment, kilns, etc., and was purchased principally in Ohio, Pennsylvania, New Jersey, and New York. Replacement and repair parts are purchased mostly in same states, and shipped by railroad to the plant. The said company is considered a minor factor in the

<sup>1</sup> The omitted portions of the stipulation are not material to this Decision

industry, advertises its products in trade publications and by association advertising. It belongs to the Appalachian Hardwood Manufacturers Association, National Oak Flooring Association and New York Lumber Trade Association.

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

B. United Timber & Sawmill Workers, Industrial Union #149, claims a substantial number of members among the employees of the Cass mill.

C. The West Virginia Pulp & Paper Company at its Cass mill has no definite knowledge as to whether United Timber & Sawmill Workers, Industrial Union #149, represents the majority of the employees and questions whether or not said organization does represent the majority.

D. The United Timber & Sawmill Workers, Industrial Union #149, 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 at the Cass mill of the said Company on the pay roll on October 10, 1937, which pay roll list covers the working period from September 16, 1937 to September 30, 1937, inclusive, in the Sawmill, Planing Mill, Lumber Yard, Machine Shop & Railroad, (Cass terminal only), except employees per list attached hereto, are 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 the above mentioned Labor Organization 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.

## LIST OF INELIGIBLES AND EXCLUSIONS

<i>Foreman</i>	W. F. Anderson	<i>Temporary Foreman and Kiln Operator</i>
	N. M. Ervine	A. N. Smith
	S. E. Keyser	<i>Warehouse Foreman</i>
	J. E. Nethken	Warren Shiflett
	C. P. Gillespie	<i>Inspector—Lumber Grader</i>
	J. C. Graves	G. L. Eddy
	E. J. Shaffer	L. B. Jones
	Carl Summerfield	I. J. Poling
<i>Assistant Foreman</i>		Joe Urbanic
	G. L. Dahmer	<i>Shipping Clerk</i>
	C. E. Fuhrman	Harlan Gillespie
	T. L. Chestnut	E. L. Duncan
	Jacob Mauzy	<i>Sub-Foreman</i>
	J. H. Rose	H. H. Halterman
	C. D. Ryder	<i>Conductor</i>
		W. M. Irvine

On the basis of the stipulation set forth 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 authorized by the Board to ascertain representatives for 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 Sixth 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 at the Cass mill of West Virginia Pulp and Paper Company on its pay roll of October 10, 1937, except employees excluded pursuant to the list attached to the stipulation agreed to by the parties, to determine whether or not they desire to be represented by United Timber & Sawmill Workers Local Union No. 149, for the purposes of collective bargaining.

[SAME TITLE]

## CERTIFICATION OF REPRESENTATIVES

*January 10, 1938*

United Timber & Sawmill Workers Local Union No. 149, herein called the Union, filed a petition on August 27, 1937, and an amended petition on September 27, 1937, with the Regional Director for the Sixth Region (Pittsburgh, Pennsylvania), alleging that a question affecting commerce had arisen concerning the representation of employees of West Virginia Pulp and Paper Company, Cass, West Virginia, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, herein called the Act.

Pursuant to notice duly served upon the Company and upon the Union, a hearing was held on November 15, 1937, at Pittsburgh, Pennsylvania, before J. Raymond Walsh, the Trial Examiner duly designated by the National Labor Relations Board, herein called the Board. On the basis of the record and a stipulation entered into by all parties, the Board issued a Decision and a Direction of Election on December 4, 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 at the Cass mill of West Virginia Pulp and Paper Company on its pay roll of October 10, 1937, except certain employees excluded pursuant to a list attached to the stipulation agreed to by the parties, to determine whether or not they desired to be represented by United Timber & Sawmill Workers Local Union No. 149, for the purposes of collective bargaining.

Pursuant to the Direction, balloting was conducted on December 17, 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 ballots counted.....	193
Total number of void ballots.....	1
Total number of votes for United Timber & Sawmill Workers Local Union No 149.....	129
Total number of ballots against United Timber & Sawmill Workers Local Union No. 149.....	63

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, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that United Timber & Sawmill Workers Local Union No. 149 has been designated and selected by a majority of the employees at the Cass mill of West Virginia Pulp and Paper Company on its pay roll of October 10, 1937, except employees excluded pursuant to a list attached to the stipulation agreed to by the parties, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the National Labor Relations Act, United Timber & Sawmill Workers Local Union No. 149 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.