

In the Matter of BLAKE, MOFFITT & TOWNE and INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION No. 134

*Case No. R-423.—Decided January 17, 1938*

*Paper and Paper Products Distribution—Investigation of Representatives:* controversy concerning representation of employees: rival organizations; recognition of one of rival organizations as bargaining agent of its employees simultaneous with notice to Board that it desired to be impartial and would negotiate with any bargaining representative which the Board might designate—*Unit Appropriate for Collective Bargaining:* warehouse employees; no controversy as to—*Election Ordered*

*Mr. David Sokol*, for the Board.

*Cushing & Cushing*, by *Mr. Erwin E. Richter* of San Francisco, Calif., for the Company.

*Mr. Carey McWilliams*, of Los Angeles, Calif., for the Longshoremen.

*Rosecrans & Emme*, by *Mr. Joseph R. McGuire* and *Mr. Otto J. Emme*, of Los Angeles, Calif., for the Teamsters.

*Mr. Daniel J. Harrington*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On September 16, 1937, International Longshoremen's and Warehousemen's Union, No. 126,<sup>1</sup> herein called the Longshoremen, filed with the Regional Director for the Twenty-first Region (Los Angeles, California) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Blake, Moffitt & Towne, herein called the Company, at its Los Angeles, California, plant 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 4, 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

<sup>1</sup>The pleadings incorrectly designated the Union as International Longshoremen's & Warehousemen's Union, No. 134.

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 October 9, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the Longshoremen, and upon the Central Labor Councils at Bakersfield, San Diego, Los Angeles, and Santa Barbara, California. On October 18, 1937, the hearing was postponed. On October 29, 1937, the Regional Director issued an amended notice of hearing, copies of which were duly served upon the Company, upon the Longshoremen, upon the International Brotherhood of Teamsters, Chauffeurs, Stablemen, and Helpers of America, herein called the Teamsters, a labor organization claiming to represent employees directly affected by the investigation, upon the Central Labor Council, Los Angeles, California, and upon the Los Angeles Industrial Union Council, Los Angeles, California. Pursuant to the amended notice, a hearing was held on November 4 and 10, 1937, at Los Angeles, California, before George Rochester, the Trial Examiner duly designated by the Board. The Board, the Company, the Longshoremen, and the Teamsters were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE COMPANY

The Company, a California corporation, having its office in San Francisco, California, and branch offices in Los Angeles, San Diego, Fresno, Stockton, Sacramento, San Jose, and Oakland, California, is engaged in the distribution of paper and paper products. It owns and holds a majority of the capital stock of the following corporations: Blake, Moffitt & Towne, Seattle, Washington; Blake, Moffitt & Towne, Portland, Oregon; Blake, Moffitt & Towne, Phoenix and Tucson, Arizona; Blake, Moffitt & Towne, Boise, Idaho; Tacoma Paper & Stationery Co., Tacoma, Washington. The several corporations, all engaged in the distribution of paper and paper products, operate to a considerable extent under the supervision of the directors

and officers of the Company. Merchandise, which is purchased by the companies from mills located in Washington, Oregon, Wisconsin, Ohio, Massachusetts, and other States, is shipped to points within and without the State of California. We are here concerned only with the Los Angeles branch of the Company.

The Los Angeles branch, which consists of a branch office and a warehouse, obtains merchandise from and makes shipments to points both within and without California. Its operations are interrelated with those of the companies mentioned above in that the Los Angeles branch at times receives shipments of merchandise from the companies for reshipment to customers of the companies inside and outside of California. During the period from January 1, 1937 to October 1, 1937, in excess of 73 per cent of all products purchased by the Company, through the California branches of the Company, including the Los Angeles branch, were obtained from points outside of California, and in excess of 28 per cent of all products sold by the Company, through such branches, were shipped to points outside of California.<sup>2</sup>

## II. THE ORGANIZATIONS INVOLVED

The International Longshoremen's & Warehousemen's Union, No. 126, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all warehouse employees of the Company, excluding office workers, supervisory employees, and cutters. Most of the members of Local No. 126 were formerly members of International Longshoremen's Association, Local No. 134. However, the members of the latter union decided about June 1937, by referendum vote to affiliate with the Committee for Industrial Organization and about September 1937, a charter was issued by the Committee for Industrial Organization to International Longshoremen's & Warehousemen's Union, No. 126.

The International Brotherhood of Teamsters, Chauffeurs, Stablemen, and Helpers of America, Local No. 208, is a labor organization affiliated with the American Federation of Labor. It admits to its membership all warehouse employees of the Company, excluding office workers, supervisory employees, and cutters.

## III. THE QUESTION CONCERNING REPRESENTATION

The Longshoremen and the Teamsters each claim to represent a majority of the warehouse employees of the Company at its Los Angeles, California, plant, and each notified the Company of its

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<sup>2</sup>The above facts relative to the business of the Company were stipulated to by the Company and counsel for the Board.

claim. By a letter dated September 22, 1937, the Company recognized the Teamsters as the bargaining agent of the employees of the Company at the Los Angeles plant. On the same date, the Company notified the Regional Director for the Twenty-first Region that the Company desired to be impartial in the matter and that it would negotiate with any bargaining representative which the Board might designate.

We find that a question has arisen concerning representation of employees of the Company.

#### IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section 1 above, has a close, intimate, and substantial relation to trade, traffic and commerce among the several States, and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### V. THE APPROPRIATE UNIT

In its petition the Longshoremen allege that all warehousemen and drivers of the Company employed at the Los Angeles plant constitute an appropriate unit for the purposes of collective bargaining. At the hearing, all parties were in agreement that the term "warehouse employees" should include receiving clerks, truck drivers, swamper, warehousemen, and building maintenance employees, but should exclude clerical employees, supervisory employees, and cutters. The term is so used herein. Neither the Company nor the Teamsters raised objection to the unit which the Longshoremen claimed was the appropriate one. It appeared that exclusion of the cutters from the appropriate unit was sought for the reason that all cutters at the Los Angeles plant of the Company are members of the Bookbinder's Union.

We find that the warehouse employees of the Company at its Los Angeles, California, plant, excluding clerical employees, supervisory employees, and cutters, constitute a unit appropriate for the purpose of collective bargaining and that said unit will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

#### VI. THE DETERMINATION OF REPRESENTATIVES

The Company employs approximately 60 warehouse employees at its Los Angeles plant. The Longshoremen submitted in evidence

membership application cards signed during July 1937, by 49 employees. It also submitted in evidence a paper, signed between November 3 and 10, 1937, by 29 employees, stating that the signers were members of the Longshoremen. The Teamsters introduced in evidence a paper, signed about November 3, 1937, by 43 employees, stating that the signers were members of the Teamsters. Thirty-four employees, 11 of whom signed Longshoremen membership application cards, signed both membership lists.

We believe that, under these circumstances, the question concerning representation can best be resolved by the holding of an election by secret ballot to determine whether the employees in question desire to be represented by the Longshoremen, or by the Teamsters, for the purposes of collective bargaining, or by neither.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

#### CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of Blake, Moffitt & Towne at its Los Angeles, California, plant, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The warehouse employees of the Company at its Los Angeles, California, plant, excluding clerical employees, supervisory employees, and cutters, 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

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

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Blake, Moffitt & Towne, an election by secret ballot shall be conducted within twenty (20) days from the date of this Direction, under the direction and supervision of the Regional Director for the Twenty-first 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 the warehouse employees of Blake, Moffitt & Towne employed at its Los Angeles, California, plant, during the pay-roll period next preceding the date of the filing of the petition

in this case, excluding clerical employees, supervisory employees, and cutters, and those who have since quit or been discharged for cause, to determine whether they desire to be represented by International Longshoremen's & Warehousemen's Union, No. 126, or International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local No. 208, for the purposes of collective bargaining, or by neither.

MR. DONALD WAKEFIELD SMITH took no part in the consideration of the above Decision and Direction of Election.