

IN THE MATTER OF ARMOUR AND COMPANY *and* UNITED PACKINGHOUSE  
WORKERS OF AMERICA, LOCAL 49-A, CIO

*Case No. 2-R-4392.—Decided March 16, 1944*

*Mr. Peter F. Curran*, of New York City, for the Company.

*Mr. Ray Hobbs*, of New York City, for the Union.

*Mr. William Strong*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Packinghouse Workers of America, Local 49-A, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour and Company, North Bergen, New Jersey, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Jack Davis, Trial Examiner. Said hearing was held at New York City on February 17, 1944. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

All parties were afforded an opportunity to file briefs with the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company, an Illinois corporation, is engaged in the general packinghouse business, and in the manufacture of soap and auxiliary products in numerous States. We are here concerned with the Company's North Bergen, New Jersey, plant, where the Company manufactures soap and auxiliary products. During its 1943 fiscal year, the

Company purchased for its North Bergen plant about 59,000,000 pounds of raw materials, of which 90 percent originated outside the State of New Jersey, and manufactured an equal quantity of finished products, of which 85 percent was shipped to points outside that State.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

United Packinghouse Workers of America, Local 49-A, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of the Company's employees until the Union has been certified by the Board in an appropriate unit.

A statement of the Trial Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

We find that a question affecting commerce has arisen concerning the representative of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

## IV. THE APPROPRIATE UNIT

The Union seeks a unit composed of all watchmen, guards, and "box-pullers" at the North Bergen plant, exclusive of all production, maintenance, clerical, and supervisory employees. The Company asserts that such a unit is inappropriate because the watchmen, guards, and "box-pullers," all of whom are classified by the Company as, and perform the duties of watchmen, are management representatives and are not "employees" within the meaning of the Act.<sup>2</sup> We find no merit in these contentions. We have heretofore held that guards and watchmen are "employees" within the meaning of the Act and are not to be denied the right to collective bargaining.<sup>3</sup> Nothing in the record before us calls for any deviation from our conclusions in that respect.

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<sup>1</sup> The Trial Examiner reported that the Union submitted six membership application cards five of which bore apparently genuine original signatures of persons appearing on the Company's pay roll as of February 16, 1943, which contained the names of nine employees in the alleged appropriate unit.

<sup>2</sup> These watchmen were previously militarized but are not at the present time.

<sup>3</sup> See *Matter of Phelps Dodge Copper Products Corp.*, 41 N. L. R. B. 973; *Matter of Dravo Corporation*, 52 N. L. R. B. 322; *Matter of Pacific Pump Works*, 54 N. L. R. B. 1458.

We find that all watchmen, guards, and "box-pullers" at the North Bergen, New Jersey, plant of the Company, excluding all production, maintenance, and clerical employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.<sup>4</sup>

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

#### 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 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Armour and Company, North Bergen, New Jersey, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Second Region, acting in this matter as agent for the National Labor Relations Board and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by United Packinghouse Workers of America, Local 49-A, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

<sup>4</sup> We have found heretofore that all production and maintenance employees of the Company excluding all supervisory and clerical employees, truck drivers, watchmen, special guards, laboratory employees, time-study men and timekeepers, constitute a unit appropriate for the purposes of collective bargaining. *Matter of Armour and Company of Delaware*, 47 N. L. R. B. 1285.