

In the Matter of SWIFT & COMPANY, DOING BUSINESS AS JOHN P. SQUIRE COMPANY and UNITED PACKINGHOUSE WORKERS OF AMERICA; C. I. O., LOCAL 165

Case No. 1-R-1817.—Decided April 25, 1944

Mr. Putnam B. Smith, of Boston, Mass., for the Company.
Grant & Angoff, by *Mr. Harold B. Roitman*, of Boston, Mass., for the C. I. O.

Mr. Aaron Velleman, of Boston, Mass., for the A. F. L.
Mr. David V. Easton, 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, C. I. O.,¹ herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of John P. Squire Company,² Cambridge, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Leo J. Halloran, Trial Examiner. Said hearing was held at Boston, Massachusetts, on March 24, 1944. The Company, the C. I. O., and United Soap, Glycerin & Edible Oil Workers, Local 22050 (A. F. L.), herein called the A. F. L., appeared, participated, and 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.

¹ The record discloses that Local 165 is the organization more particularly concerned herein. All papers in this proceeding are hereby amended to reflect the true name of the petitioner.

² The record discloses that "Swift & Company, doing business as John P. Squire Company," is the correct name of the Company herein. All papers in this proceeding are hereby amended to reflect the true name of the Company.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Swift & Company, a Massachusetts corporation, operates, under the trade name of John P. Squire Company, a plant located in Somerville and Cambridge, Massachusetts, with which we are concerned herein. As part of the manufacturing processes conducted at said plant, the Company operates a soap department, whose employees are the subject of the instant proceeding. During the calendar year 1943, the Company purchased raw materials from points outside the State of Massachusetts valued in excess of \$23,000,000. During the same period the Company made sales of manufactured and finished products to points outside the State of Massachusetts valued at more than \$21,000,000. For the soap department alone, the Company purchased raw materials from points outside the State of Massachusetts valued in excess of \$900,000, and sales of finished products of the department to points outside the State of Massachusetts exceeded \$2,000,000 in value. We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Packinghouse Workers of America, Local 165, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

United Soap, Glycerin & Edible Oil Workers, Local 22050, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On April 7, 1943, the Company and the A. F. L. executed an agreement in which the Company recognized the A. F. L. as the sole collective bargaining agent for all regular production and maintenance employees in its soap department. The agreement further provided that it was to remain in full force and effect until April 7, 1944, and from year-to-year thereafter, in the absence of a desire by either party to terminate, change, or amend the contract. On or about February 1, 1944, the C. I. O. addressed a letter to the Company requesting recognition as the collective bargaining representative of certain of its employees. The Company replied by letter on or about February 28, 1944, stating that it was currently operating under a contract with the A. F. L., and refused to grant recognition to the C. I. O. in the

absence of certification by the Board. In view of the timely presentation of the representation claim of the C. I. O., we find that the contract does not constitute a bar to a present determination of representatives.

A statement of a Board Field Examiner, introduced into evidence at the hearing, indicates that the C. I. O. represents a substantial number of employees in the unit hereinafter found appropriate.³

We find that a question affecting commerce has arisen concerning the representation 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

Substantially in accordance with a stipulation of the parties made at the hearing, we find that all regular soap department production and maintenance employees of the Company at its Cambridge plant, excluding salesmen, office and clerical employees, watchmen, outside truck drivers, executives, 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.

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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁴

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 Swift & Company, doing business as John P. Squire Company, Cambridge, Massachusetts, an election by secret ballot shall be conducted as early as possible, but

³The Field Examiner reported that the C. I. O. submitted 28 membership cards and that the Company employed 65 employees in the unit hereinafter found appropriate. The A. F. L. relies upon its contract of April 7, 1943, for the establishment of its interest.

⁴The C. I. O. requested that it be designated upon the ballot as "United Packinghouse Workers of America (CIO), Local 165." This request is hereby granted.

not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the First 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 they desire to be represented by United Packinghouse Workers of America (CIO), Local 165, or by United Soap, Glycerin & Edible Oil Workers, Local 22050, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.