

In the Matter of NEW YORK BUTCHERS DRESSED MEAT COMPANY,  
DIVISION OF ARMOUR & COMPANY and UNITED PACKINGHOUSE  
WORKERS OF AMERICA, LOCAL 112, C. I. O.

*Case No. 2-R-4507.—Decided May 30, 1944*

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

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

*Mr. Ogden W. Fields*, 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 112, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour & Company, doing business as New York Butchers Dressed Meat Company, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John J. Cuneo, Trial Examiner. Said hearing was held at New York City, on April 12, 1944. The Company and the Union appeared and participated.<sup>1</sup> 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

Armour & Company is an Illinois corporation maintaining its principal office and place of business at Union Stockyards, Chicago,

<sup>1</sup> The Amalgamated Meat Cutters & Butchers Workmen of North America, affiliated with the A. F. of L., was served with notice of the hearing but failed to appear.

Illinois. It operates approximately 30 meat packing plants and approximately 300 wholesale meat distributing houses, commonly known as "branch houses," located throughout the United States. The plant situated at 600 West 40th Street, New York City, owned and operated by Armour & Company under the trade name and style of New York Butchers Dressed Meat Company and herein referred to as the New York plant, is solely involved in this proceeding. At its New York plant the Company is engaged in slaughtering, processing, selling, and distributing beef, cattle, sheep, lambs, and calves. For the annual period ending on or about April 1, 1944, the Company purchased livestock for use at its New York plant, in excess of 100,000,000 pounds, all of which was shipped to this plant from points outside the State of New York. During the same period, the New York plant processed meats in excess of 100,000,000 pounds, of which approximately 20 percent was shipped to places outside the State of New York.

The Company admits that at its New York plant it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

United Packinghouse Workers of America, Local 112, 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 its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board Field Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</sup>

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

The Union and the Company are currently operating under a collective bargaining contract covering, *inter alia*, the production employees of the Company's New York plant, excluding Schochtim,<sup>3</sup> as

<sup>2</sup> The Field Examiner reported that the Union submitted 19 authorization cards; that the names of 19 persons appearing on the cards were listed on the Company's pay roll of January 26, 1944, which contained the names of 29 employees in the appropriate unit; and that the cards were all dated January 1944.

<sup>3</sup> The Hebrew term "Schochtim," as generally used in the industry, includes schochtim, searchers and plumbers who are engaged in slaughtering and preparing animals in conformance with Jewish Orthodox law and tradition.

a result of a prior proceeding before the Board involving the New York plant in which all parties agreed to exclude Schochtim from the unit.<sup>4</sup> In the instant proceeding the Union seeks a unit composed of all schochtim, searchers and plumberers employed at the Company's New York plant, including the ticketman, but excluding supervisory and all other employees. The Company apparently contends that those persons whom the Union would include in its proposed unit are not "employees" within the meaning of the Act. The Company predicates its position on the fact that the procedures followed by these persons in the performance of their functions are prescribed by Jewish Orthodox law and tradition and that the Company consequently does not supervise their work.

The Company is engaged in the sale of kosher meat, meat derived from animals which are slaughtered and prepared in accordance with the Jewish code by schochtim and searchers of the Jewish faith well versed in Jewish laws, rules and regulations pertaining to the koshering of animals. The schochtim slaughter and the searchers examine animals internally and externally. These individuals are examined concerning their knowledge of the Jewish laws by one or more ordained Rabbis and, if successful in passing such examinations, are granted a certificate to perform their respective functions. The plumberers, whose function it is to attach tags or other insignia to the kosher-killed animal to indicate that it is fit for kosher consumption, are not required to have any comprehensive knowledge of the laws; nor are they certified, but they must be approved by a Rabbi as adhering to and living in accordance with the Jewish Orthodox faith. The duties of the ticketman are similar to those of the plumberer and he is sometimes referred to as such. The ticketman makes out the tickets or tags which are attached to the slaughtered animal by the plumberer. The plumberer also assists in preparing the tickets. In the absence of the plumberer the ticketman may substitute in his place. None of the functions performed by any of these categories of workers is analogous to any work performed by any other employees of the Company: The two kosher slaughtering departments, in one of which lambs and calves are slaughtered and, in the other, cattle or beef, are located on floors of the plant building not occupied by the non-kosher departments. Schochtim, searchers, plumberers and the ticketman are immediately supervised by their own foremen who are themselves schochtim, and who, in turn, are supervised by a Rabbinical Board established to assure the Jewish people in the community that animals are killed according to the Jewish code.<sup>5</sup>

<sup>4</sup> *Matter of New York Butchers Dressed Meat Company, Division of Armour & Company of Delaware*, 45 N. L. R. B. 816

<sup>5</sup> Kosher-killed animals are also inspected by Federal meat inspectors.

The record discloses that the Company hires the schochtim, searchers, plumbers, and ticketman,<sup>6</sup> determines and pays them a weekly-guaranteed wage, makes Social Security deductions from their wages, fixes their hours of work and the number of animals to be slaughtered, and decides the number of such individuals to be laid off or rehired. In addition, the schochtim, searchers, plumberer and ticketman enjoy all the privileges extended to the other employees of the Company, including vacations, overtime pay, Social Security benefits, and group insurance. The record also discloses that their hours are similar to those of the "dressing employees"<sup>7</sup> with whom they work side by side, handling and working on the same animals they declare to be kosher, and that they punch a time clock as do other employees.

From the foregoing facts it is clear that the Company controls the working conditions of the schochtim, searchers, plumbers, and ticketman. While it is true that the ritual pursuant to which these individuals perform their duties is necessarily outside the Company's control, it is apparent that the Company stands in the position of their employer. We find, therefore, that the schochtim, searchers, plumbers and ticketman are "employees" of the Company within the meaning of the Act.<sup>8</sup> Moreover, their special training, skills, and common interests impel the conclusion that they constitute an appropriate unit.<sup>9</sup>

We find that the schochtim, searchers, plumbers and ticketman employed by the Company at its New York plant, excluding foremen and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, and all other employees 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 find that the schochtim, searchers, plumbers and ticketmen em-  
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.<sup>10</sup>

<sup>6</sup> Hiring takes place after these employees have been approved by the supervisory schochet and Rabbinical Board.

<sup>7</sup> "Dressing employees" are also referred to as gutters, scribes, and tail pullers. These employees perform certain functions on the kosher animal and work in conjunction with the Schochtim, but are not connected in any way with the Jewish faith. Nor do they perform any religious functions in respect to their work. These employees are covered by the current contract between the Union and the Company covering production employees.

<sup>8</sup> See *N. L. R. B. v. Hearst Publications*, 322 U. S. 111, reversing 136 F. (2d) 608 (C. C. A. 9), setting aside 39 N. L. R. B. 1245 and 1256.

<sup>9</sup> See *Matter of Swift & Company*, 11 N. L. R. B. 951.

<sup>10</sup> The Union requested that it be designated on the ballot as its name appears in the 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, 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 New York Butchers Dressed Meat Company, Division of Armour & Company, and election by secret ballot shall be conducted as early as possible, but not later than (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, C. I. O., for the purposes of collective bargaining.