

In the Matter of SWIFT AND COMPANY and UNITED PACKINGHOUSE  
WORKERS OF AMERICA, LOCAL NO. 47, CIO

Case No. 17-R-927.—Decided September 8, 1944

Mr. E. L. Crain, of Chicago, Ill., for the Company.

Mr. Patrick Ratigan, of Omaha, Nebr., for the Union.

Miss Ruth Rusch, 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 No. 47, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Swift and Company, Omaha, Nebraska, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Margaret L. Fassig, Trial Examiner. Said hearing was held at Omaha, Nebraska, on August 1, 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. At the hearing, the Company moved to dismiss the Union's petition on the grounds that the unit of plant-protection employees sought by the Union is inappropriate, and that the Union, currently representing the Company's production and maintenance employees, cannot also represent a separate unit of plant-protection employees. The Trial Examiner reserved ruling on the motion for the Board's determination. For reasons stated in Section IV, *infra*, the motion is denied. 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.

58 N. L. R. B., No. 22.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Swift and Company is an Illinois corporation. We are here concerned with one of its meat-packing plants located in Omaha, Nebraska, where it is engaged in the business of slaughtering livestock, processing meat, and manufacturing meat byproducts. During the past year, the Company purchased for processing at its Omaha plant livestock valued at approximately \$68,000,000, of which 50 percent came from sources outside the State of Nebraska. During the same period, the Company's sales of products of the Omaha plant amounted to \$80,000,000 in value, of which 93 percent was shipped to points outside the State of Nebraska.

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 No. 47, is a labor organization affiliated with the Congress of Industrial Organizations, 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 its plant-protection employees until the Union has been certified by the Board in an appropriate unit.

A statement of a 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>1</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

At present the Union represents the Company's production and maintenance employees, excluding, *inter alia*, plant-protection em-

<sup>1</sup> The Field Examiner reported that the Union submitted 21 membership cards, 17 of which bore the names of persons listed on the Company's pay roll of June 28, 1944, which contained the names of 29 employees in the alleged appropriate unit. The cards were dated in June 1944.

ployees. In the instant proceeding, the Union seeks to represent in a separate unit all plant-protection employees at the Omaha plant. These employees include policemen and box pullers, all of whom are engaged in performing functions customarily associated with those of plant-protection employees. Except for two newly hired box pullers, the Company's plant-protection force is completely militarized. Almost all of these employees have also been sworn in as deputy sheriffs with authority to make arrests. All policemen and box pullers carry arms. Each policeman wears a uniform and a substantial number of the box pullers also wear uniforms.

The Company contends that its plant-protection employees are identified with management and consequently cannot constitute an appropriate unit. It also contends that the Union is unable to represent these employees inasmuch as this organization already represents the production and maintenance workers. We have previously considered and rejected similar contentions,<sup>2</sup> and we find no facts in this proceeding which warrant a contrary disposition of such contentions.

The Company and the Union agree that the chief,<sup>3</sup> the assistant chief,<sup>4</sup> the night superintendent,<sup>5</sup> and the night shift officer<sup>6</sup> in charge in the absence of the night superintendent, are supervisory employees and thus should be excluded from the unit.<sup>7</sup> However, they disagree with respect to the inclusion of three policemen named Andrew Rockedal, Fred Moore, and Robert Noble, and two elevator operators named William Carpenter and Sam Police. The Union would include all of these employees, whereas the Company would exclude them.

Rockedal, who works in the police office, maintains the time book for the day shift policemen, and keeps other records of the plant-protection department, covering identification badges lost and found, visitors coming into the plant who desire identification badges, incoming and outgoing trucks, and meat passes. It is evident that all the records kept by Rockedal are maintained as an incident to the functioning of the plant-protection department. We shall, therefore, include him in the unit as the plant-protection clerk. Fred Moore works on the night shift in the time office where he handles sales, delivers pay checks to employees, and records time in and out of the production employees. His position is considered by the Company

<sup>2</sup> *Matter of Chrysler Corporation, Highland Park Plant*, 44 N. L. R. B. 881 and *Matter of Bohn Aluminum and Brass Corporation*, 53 N. L. R. B. 231.

<sup>3</sup> W. L. Pearson now occupies this position.

<sup>4</sup> L. L. Lukowski now occupies this position.

<sup>5</sup> Charlie Moore now occupies this position.

<sup>6</sup> G. C. McCurry now occupies this position.

<sup>7</sup> In addition, the Union desires to exclude one George Ahrendts on the ground that he, too, is a supervisory employee. The record does not disclose the Company's position with respect to Ahrendts, nor does it reveal his duties. In the event that his functions are such as to bring him within the meaning of our customary definition of supervisory employees set forth below in our determination of the appropriate unit, he shall be excluded from the unit; otherwise, he shall be included.

as that of a night timekeeper. Noble's duties are similar to Moore's, but he is on the afternoon shift. Since Moore and Noble spend almost all of their time in the time office and are apparently considered as timekeepers by the Company, we shall exclude them from the unit as timekeepers.<sup>8</sup>

William Carpenter and Sam Police are elevator operators. Both have been militarized, like the policemen and the box pullers, and they receive instructions from the chief of the plant-protection employees. However, they do not have authority to make arrests. They are unarmed and wear elevator operator uniforms. While they act as box pullers on Sunday, this is the only day they are not exclusively engaged in operating the elevators. Furthermore, the Company considers them as part of the unit of production and maintenance employees. We shall exclude the elevator operators from the unit.

We find that all plant-protection employees of the Company's Omaha, Nebraska, plant, including policemen, box pullers, and the plant-protection clerk,<sup>9</sup> but excluding elevator operators, timekeepers,<sup>10</sup> the night superintendent, the officer in charge in the absence of the night superintendent, the chief of police, the assistant chief, 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, 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 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, as amended, it is hereby

**DIRECTED** that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Swift and Company, Omaha, Nebraska, an election by secret ballot shall be conducted

<sup>8</sup> See *Matter of Phelps Dodge Refining Corporation*, 55 N. L. R. B. 761.

<sup>9</sup> Andrew Rockedal now occupies this position.

<sup>10</sup> Robert Noble and Fred Moore now occupy these positions.

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 Seventeenth 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 the 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 any 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 No. 47, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.