

In the Matter of McDONALD COOPERATIVE DAIRY CO. and UNITED
DAIRY WORKERS, LOCAL 383, C. I. O.

Case No. 7-R-1745.—Decided September 26, 1944

Mr. G. F. Killeen, of Lansing, Mich., and *Mr. Howard Cline*, of Flint, Mich., for the Company.

Mr. Nicholas J. Rothe, of Detroit, Mich., for the CIO.

Messrs. Padway and Goldberg, by *Mr. I. A. Goldberg*, of Milwaukee, Wis., for the A. F. L.

Mr. Philip Licari, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by United Dairy Workers, Local 383, C. I. O., herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of McDonald Cooperative Dairy Co., Flint, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Cecil Pearl, Trial Examiner. Said hearing was held at Flint, Michigan, on August 8, 1944. The Company, the CIO, and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 332, A. F. L., herein called the A. F. L., 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 petition on the grounds that (1) the Company is not engaged in commerce within the meaning of the Act; and (2) an existing contract between the Company and the A. F. L. is a bar to the instant proceeding. The motion was referred to the Board by the Trial Examiner. For reasons stated in Section I, *infra*, the motion is granted. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an oppor-

tunity to file briefs with the Board. The Company's request for oral argument is hereby denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

McDonald Cooperative Dairy Co., a Michigan corporation, is engaged in the processing sale, and distribution of dairy products at Flint, Michigan. It also maintains a sales branch at Detroit, Michigan. The Company purchases all its needed milk from farmers located in the State of Michigan. In 1943, the Company bought gelatin, chocolate, sugar, butter color, orange concentrate, eggs, and Vitamin D concentrates totaling in dollar value \$24,461.34, all of which was shipped from points outside the State of Michigan, as well as bottles valued at \$14,560.46, all of which was manufactured by companies located outside the State of Michigan. During this period the Company's total purchases amounted to \$1,815,866.51. Also in 1943, the Company sold powdered milk and butter valued at \$29,983.62 to agents of the United States Government located in the State of Michigan, and in addition, it sold and shipped to points outside the State of Michigan 20,000 pounds of powdered milk. In the year 1943, the Company's gross sale amounted to \$2,576,072.17.

While we do not find that the operations of the Company are wholly unrelated to commerce, in view of the essentially local character of the Company's business, we do not believe that the policies of the Act will be effectuated by asserting jurisdiction in this case. Accordingly, we shall dismiss the petition.

ORDER

Upon the basis of the foregoing findings of fact and pursuant to Section 9 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of McDonald Cooperative Dairy Co., Flint, Michigan, filed by United Dairy Workers, Local No. 383, C. I. O., be, and the same hereby is, dismissed.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Order.