

In the Matter of UPCHURCH PACKING COMPANY, DIVISION OF ARMOUR  
AND COMPANY *and* UNITED PACKINGHOUSE WORKERS OF AMERICA,  
(C. I. O.)

*Case No. 10-R-1269.—Decided October 21, 1944*

*Mr. J. C. Moore*, of Chicago, Ill., and *Mr. Von Kimsey*, of Atlanta, Ga., for the Company.

*Mr. G. R. Hathaway*, of Atlanta, Ga., for the U. P. W. A.

*Messrs. Wilson W. Rowland* and *I. P. Reagan*, of Atlanta, Ga., for the A. F. L.

*Mr. Philip Licari*, 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, herein called the U. P. W. A., alleging that a question affecting commerce had arisen concerning the representation of employees of Upchurch Packing Company, Division of Armour and Company,<sup>1</sup> Atlanta, Georgia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before T. Lowry Whittaker, Trial Examiner. Said hearing was held at Atlanta, Georgia, on September 18, 1944. The Company, the U. P. W. A., Amalgamated Meatcutters and Butcher Workmen of North America, Local 442, 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. 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.

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<sup>1</sup> At the hearing, the parties agreed to amend the petition and all other formal papers in this proceeding so that the name of the Company would read "Upchurch Packing Company, Division of Armour and Company"

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Armour and Company, an Illinois corporation, is engaged in various parts of the United States in the processing and packing of meats. Under the trade name of Upchurch Packing Company, Division of Armour and Company, it operates a meat packinghouse at Atlanta, Georgia, which is the sole plant involved in this proceeding. The Company purchases monthly for its packinghouse in Atlanta, Georgia, approximately 1,700,100 pounds of cattle, hogs, and sheep, of which 75 percent originates from points outside the State of Georgia. The Company ships all of its finished products from its packinghouse in Atlanta, Georgia, to points within the State, except for a monthly shipment of 60,000 pounds of tallow and grease to points outside the State of Georgia.

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

#### II. THE ORGANIZATIONS INVOLVED

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

Amalgamated Meatcutters & Butcher Workmen of North America, Local 442, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

On July 25, 1944, the U. P. W. A. advised the Company that it represented a majority of the Company's employees at the packinghouse in Atlanta, Georgia, and wished to be recognized as the exclusive bargaining representative of such employees. On August 3, 1944, the Company replied that it would not recognize the U. P. W. A. until certified by the Board in an appropriate unit.

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

<sup>2</sup>The Field Examiner reported that the U. P. W. A. submitted 81 authorization cards and the A. F. L. submitted 31 authorization cards, all of which were dated between May

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 U. P. W. A. and the A. F. L. seek a unit composed of "all employees of Upchurch Packing Company, Division of Armour and Company, Atlanta, Georgia, except for foremen, machinist foremen, clerical and office employees, and supervisory employees with the right to hire and fire." The Company agrees, except that it would exclude the following employees, whereas both unions seek their inclusion:

*Scaler.*<sup>3</sup>—This employee works in the department known as "All Killing, Selected Meats, and Casing Operations." Her main duties are to operate the scales used in weighing the carcasses and hides of all animals slaughtered and processed in this department, as well as to prepare tabulations of their weights. In connection with her work she stamps the carcasses with the city inspection stamper and occasionally exposes the arteries of some of the carcasses with a knife. She is an hourly paid employee under the supervision of the foreman of this department, and there is no evidence that she is in any manner closely identified with management. We shall, therefore, include her.

*Packer and Stenciler.*<sup>4</sup>—This employee works in the department known as "Pork Cutting Operations and Beef Boning." His duties mainly consist of packing hams, stenciling the weights on the boxes containing such hams, and carrying them to the storage house. He is an hourly paid employee and is under the supervision of the foreman of this department. We shall include him.

*Order Filler Leader and Beef Order Filler and Scaler.*<sup>5</sup>—These two employees work in the shipping department. Each works with one to five men in filling orders for meats. Thus, they weigh the meat to be shipped out, pack it, and prepare it for loading on the trucks. They, together with all other workers in the shipping department, are paid on a salary basis. It appears that these two employees act as leadmen and may effectively recommend disciplining or discharging employees working with them. We shall, therefore, exclude them.

and August 1944. He further reported that there were 115 employees in the alleged appropriate unit. Pursuant to a stipulation by the parties, the Trial Examiner on September 19, 1944, received further evidence of U. P. W. A.'s interest among the Company's watchmen and engineers. The Trial Examiner reported that the U. P. W. A. submitted 7 additional authorization cards, of which 4 contained the names of persons listed as watchmen on the Company's pay roll of September 14, 1944, and 3 contained the names of persons listed as engineers on the same pay roll.

<sup>3</sup> Sarah Whitfield now occupies this position.

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

<sup>5</sup> Daniel D. Phillips and T. A. Phillips now occupy these positions.

*Lead mechanic.*<sup>6</sup>—This employee works in the garage department. His duties consist of keeping several trucks in repair. In connection with his work he is entrusted with the responsibility of buying all supplies necessary for the maintenance of such trucks, as well as representing the Company in any transaction involving the repairs of such trucks. He has one employee under his supervision and can effectively recommend disciplining or firing him. He is under the supervision of the Company's superintendent. We shall exclude him from the unit.

*Stockroom clerk.*<sup>7</sup>—This employee works in the miscellaneous department. He operates the storerooms for the Company. He is the custodian of all supplies, such as paper, knives, and other equipment. He, at the direction of the management, releases supplies to the employees requesting them. In connection with his work he keeps records of all incoming and outgoing supplies. His clerical functions are emphasized by the fact that he is under the supervision of the purchasing agent and employment manager. We shall accordingly exclude him.<sup>8</sup>

*Watchmen.*—The Company employs three watchmen in the miscellaneous department and one night watchman in the "Sausage, Cooked Hams, and Smoked Meats Department." These watchmen are neither armed nor uniformed. Their duties are confined to performing functions usually associated with their classification. Thus, they patrol the Company's premises, guarding it against theft and fire. They also make routine reports respecting the infractions of rules and regulations promulgated by the Company. The night watchman,<sup>9</sup> in addition to performing the above-named duties, also keeps the fire going in the smokehouse, watches over the cooking of meats, and takes the temperature in the various cooling rooms. We are persuaded by the entire record, despite some testimony to the contrary, that they are neither supervisory nor managerial employees. We shall include them.<sup>10</sup>

*Engineers.*—There are three engineers employed in the "Powerhouse and Mechanical Department." Their duties consist of firing the boilers and maintaining proper steam pressure, operating the refrigeration units, and controlling temperatures in the cooling rooms by proper adjustments of the control valve. At times, they also make minor mechanical repairs on the machinery used in the above-mentioned operations. Their work requires no particular technical or

<sup>6</sup> M Bennett now occupies this position.

<sup>7</sup> Noah Pearson now occupies this position.

<sup>8</sup> See *Matter of Brown Shoe Company, Inc.*, 57 N. L. R. B. 1687.

<sup>9</sup> H M Haney now occupies this position.

<sup>10</sup> See *Matter of Swift and Company*, 58 N. L. R. B. 12.

engineering skill, and they are under the supervision of a foreman who is in charge of this department. We shall include them.

*Assistant foreman.*<sup>11</sup>—This employee works in the "Sausage, Cooked Hams, and Smoked Meats Department." He works with 10 to 15 employees who are engaged in sausage packing. The record discloses that while he is an hourly paid employee, he receives approximately 20 percent more an hour than the other employees working with him. Apparently he has the power to hire and discharge. We shall exclude him.

We find, in substantial accordance with the agreement of the parties and our foregoing determinations, that all employees of Upchurch Packing Company, Division of Armour and Company, Atlanta, Georgia, including the scaler, the packer and stenciler, watchmen, and engineers, but excluding clerical and office employees, the store-room clerk, the lead mechanic, the order filler leader, the beef order filler and scaler, the machinist foreman, assistant foreman, 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, 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.<sup>12</sup>

#### 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 Upchurch Packing Company, Division of Armour and Company, Atlanta, Georgia, 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 Tenth

<sup>11</sup> H. J. Rainwater now occupies this position

<sup>12</sup> The A. F. L.'s request to appear on the ballot as "Butcher Workmen, A. F. of L.," is hereby granted.

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 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 (C. I. O.), or by Butcher Workmen, A. F. of L., for the purposes of collective bargaining, or by neither.