

In the Matter of MAXWELL BROTHERS, INC. and UNITED CONSTRUCTION WORKERS, AFFILIATED WITH UNITED MINE WORKERS OF AMERICA

Case No. 10-R-1271.—Decided November 7, 1944

Messrs. A. O. B. Sparks and Charles M. Cork, of Macon, Ga., for the Company.

Mr. Belton Youngblood of Birmingham, Ala., and *Mr. J. H. Beard*, of Jasper, Ala., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Construction Workers, affiliated with United Mine Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Maxwell Brothers, Inc., Macon, Georgia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Arthur C. Joy, Trial Examiner. Said hearing was held at Macon, Georgia, on October 10, 1944. The Company and the Union 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 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

Maxwell Brothers, Inc., is an Illinois corporation operating a plant at Macon, Georgia, where it is engaged in the manufacture of wooden boxes and crates. The Company purchases raw materials for use at its Macon plant valued at about \$700,000 annually, about \$200,000

worth of which is shipped to it from points outside the State of Georgia. During the same period the Company produces at its Macon plant about 20,000,000 board feet of boxes and crates about 75 percent of which is shipped 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 ORGANIZATION INVOLVED

United Construction Workers, affiliated with United Mine Workers of America, is a labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On July 18, 1944, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the employees at the Macon plant. The Company did not reply to this request.

A statement of the Regional Director, introduced into evidence at the hearing, states that the Union has submitted evidence to him that it represents a substantial number of employees in the unit hereinafter found to be appropriate.

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

We find, in substantial agreement with the parties, that all employees at the Macon, Georgia, plant of the Company, excluding regular watchmen, clerical employees, the plant superintendent, foremen, and any 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 means of 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.

The Company employs two part-time watchmen, one of whom works only Sundays and the other from 5 to 7 p. m. daily as watchmen. Both of them, in addition, perform regular production or maintenance duties in the plant on a regular daily schedule. We find that they are eligible to vote in the election.

We find, in agreement with the parties, that prisoners of war temporarily employed by the Company, are ineligible to participate in the 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Maxwell Brothers, Inc., Macon, 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 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 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 Construction Workers, affiliated with United Mine Workers of America, for the purposes of collective bargaining.