

In the Matter of UNITED BUTCHERS ABATTOIR, INC. and UNITED PACKINGHOUSE WORKERS OF AMERICA, C. I. O.

*Case No. 10-R-1315.—Decided December 30, 1944*

*Mr. Albert D. Maynard*, of Atlanta, Ga., for the Board.

*Messrs. I. Heiman and A. Steve Clay*, of Atlanta, Ga., for the Company.

*Mr. Tom R. Jones*, of Atlanta, Ga., for the Union.

*Mr. I. P. Reagan*, of Atlanta, Ga., for the Intervenor.

*Mr. Erwin A. Peterson*, 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, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of United Butchers Abattoir, Inc., Atlanta, Georgia, herein called the Company, the National Labor Relations Board by the Regional Director for the Tenth Region (Atlanta, Georgia) issued a Notice of Hearing, on November 15, 1944. On November 21, 1944, the Board by its Regional Director for the Tenth Region issued an order postponing the Notice of Hearing *sine die*. On November 29, 1944, the Company, the Union, the Amalgamated Meat Cutters and Butcher Workmen of North America, A. F. of L., herein called the Intervenor, and counsel for the Board entered into a stipulation agreeing upon a statement of facts to serve as a basis of the Board's decision and expressly waived their right to a hearing and to the taking of testimony and submission of evidence before a Trial Examiner. The stipulation provides as follows:

IT IS HEREBY STIPULATED AND AGREED by and among United Butchers Abattoir, Inc., hereinafter called the Company, United Packinghouse Workers of America, C. I. O., hereinafter called the Union, Amalgamated Meat Cutters & Butcher Workmen of North America, A. F. of L., hereinafter called the Intervenor, and

Albert D. Maynard, Attorney, National Labor Relations Board, Tenth Region, that:

1. Upon a Petition for Certification of Representatives, filed by the Union alleging that a question affecting commerce has arisen, concerning the representation of employees of the Company, the National Labor Relations Board, by the Regional Director for the Tenth Region, acting pursuant to authority granted in Section 9 (c) of the National Labor Relations Act, hereinafter called the Act, Article 3, Section 3 of National Labor Relations Board Rules and Regulations, Series 3, as amended, issued its notice of hearing on the 15th day of November, 1944, service of which is acknowledged by all the parties hereto.

2. The correct name of the Company is "United Butchers Abattoir, Inc." The Company is a Georgia corporation having its principal place of business at 1200 Howell Mill Road, N. W., Atlanta, Georgia. There the Company is primarily engaged in the slaughtering of livestock and principally serves its stockholders who are local wholesale meat dealers and sausage manufacturers. The Company also slaughters livestock of other customers but this constitutes less than one percent of the total volume of business done. The Company is now principally engaged in slaughtering beef cattle and it receives for this service \$1.50 per head, plus certain inedible portions of the cattle, such as cracklings, tallow, cattle switches, and blood. The Company does not receive the hides as will be more fully hereinafter demonstrated. Nor does the title to the livestock pass to the Company and the edible parts are each stamped with the name of the owner, placed in the cooler and available for the owner. The owner calls at the place of business of the Company to secure delivery of its products.

3. A different procedure is followed with respect to the hides. The Company does not receive title to these hides but does dispose of them as the agent for the owners. The hides are salted down and when sales are consummated the Company delivers the hides to the railroad carrier with shipping directions. All shipments have been made to tanneries located beyond the State of Georgia. The sale is generally consummated with a broker who maintains offices in the City of Atlanta. The value of the hides shipped outside of the State of Georgia by the Company is estimated as being about \$10,000.00 per month.

4. The Company's operations are not maintained under the supervision of representatives of the United States Veterinarian of the Pure Food and Drug Administration of the Department of Agriculture. All cattle which are slaughtered are slaughtered for local consumption.

5. A portion of the cattle slaughtered consists of livestock purchased by the Company's customers from points beyond the State of Georgia. For example, of the livestock slaughtered by the Company for Star Provision Company, the amount actually secured by the Star Provision Company from points outside the State of Georgia is valued at \$107,557.00 for the past seven months. Within that same period, the Company slaughtered cattle for the Star Provision Company purchased within the State of Georgia of a value of approximately \$121,768.00.

6. The Company has also slaughtered some cattle for other stockholders, which cattle was purchased outside the State of Georgia; and during the current year, A. Jacob Zimmerman has delivered thirty carloads of cattle of an approximate value of \$120,000; I. Gilner eleven carloads of an approximate value of \$38,500.00; Jack M. Moore, two carloads of an approximate value of \$8,000.00; and J. Moore twenty carloads of an approximate value of \$80,000.00. Of the cattle presented for slaughter, approximately 20% was purchased outside the State of Georgia. The total value of all cattle slaughtered by the Company during the last seven-month period was valued at approximately \$1,250,000. The total value of all tallow, blood, cracklings, and cattle switches sold by the Company on a yearly basis exceeds the approximate value of \$57,000, no part of which is shipped to points outside the State of Georgia.

7. The Union and the Intervenor are each labor organizations within the meaning of Section 2 (5) of the Act.

8. On September 16, 1944, the Union, by letter dated September 16, 1944, notified the Company that is represented a majority of the employees of the Company and requested exclusive recognition in behalf of said majority. The Company refused or failed to recognize the Union.

9. A Report on Investigation of Interests of Contending Labor Organizations, form NLRB 318, is attached hereto and made a part hereof.

10. All parties agree that the appropriate unit should be composed of all employees of the Company's establishment at 1200 Howell Mill Road, N. W., Atlanta, Georgia, except for office, sales, clerical employees and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.

11. The Company does not anticipate any substantial increase or decrease in the number of its employees in the next ninety days.

12. The parties hereto waive their right to a hearing and to the taking of testimony and submission of evidence before a Trial Examiner.

13. This stipulation, together with the petition and notice of hearing, shall constitute the entire record herein, subject, however, to the provisions in paragraph 14 as to briefs and oral arguments.

14. The parties reserve their right to file a brief and to argue orally before the Board. All parties agree that within seven days from the date hereof they shall notify the Board of the filing of such briefs and request for argument. Failure to so notify shall be construed as a waiver of those rights. In the event such briefs are filed or argument had, such briefs and argument shall become a part of the record.

15. Upon this stipulation and the record herein as provided in paragraph 13 above and without any further notice or proceedings herein, the Board may make such disposition herein as if a hearing had been held before a Trial Examiner.

16. In the event the Board directs that an election be held among all of the employees of the Company except the office, sales, clerical and supervisory employees, the parties agree that all such employees who were employed during the pay-roll period immediately preceding the date of the Board's direction of election shall be eligible to vote.

17. The Company agrees that in the event that the National Labor Relations Board orders an election, it will cooperate by furnishing the Board with the proper pay roll.

18. By entering into this stipulation, the Company does not concede that it is engaged in commerce within the meaning of the National Labor Relations Act, and the Union and Intervenor do not concede that the petition should be dismissed. However, all parties agree that in the event the Board does issue a decision and direction of election, directing an election among all of the employees of the Company except the office, sales, clerical and supervisory employees, the Company shall cooperate with the Board in holding such election, the parties reserving to themselves the right thereafter to contest any findings of fact or conclusions of law made by the Board on the basis of the record in the above-captioned matter.

19. This stipulation is subject to the approval of the National Labor Relations Board.

20. This stipulation contains the entire agreement as between the parties and there is no verbal agreement of any kind which varies, alters, or adds to this stipulation.

None of the parties has filed a brief or requested oral argument before the Board. The foregoing stipulation is hereby approved.

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

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

United Butchers Abattoir, Inc., a Georgia corporation having its principal office and place of business at Atlanta, Georgia, is primarily engaged in the slaughtering of livestock principally for its stockholders who are local wholesale meat dealers and sausage manufacturers. The Company also slaughters livestock for other customers. Its operations are not maintained under the supervision of representatives of the United States Veterinarian of the Pure Food and Drug Administration of the Department of Agriculture. Consequently, all cattle which are slaughtered are consumed locally. The total value of all cattle slaughtered by the Company during the last 7-month period was valued at approximately \$1,250,000, 20 percent of which was purchased from points outside the State of Georgia. The Company does not own any of the livestock handled by it. Its function is to slaughter the livestock, receiving for this service \$1.50 per head plus certain inedible portions of the cattle. After the cattle are slaughtered, the meat is called for at the Abattoir by the owners. A different procedure, however, is followed with respect to the hides. The hides are salted down and then delivered by the Company to the railroad carrier with shipping directions on behalf of the respective owners. All hides are shipped to tanneries located outside the State of Georgia. The value of the hides so shipped is approximately \$10,000 per month.

In view of the foregoing facts, we are of the opinion, and we find that the Company's operations affect commerce within the meaning of the National Labor Relations Act.<sup>1</sup>

#### 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 Meat Cutters and Butcher Workers of North America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

<sup>1</sup> See *Matter of St. Joseph Stockyards Company*, 2 N. L. R. B. 39; *Matter of Union Stockyards Company of Fargo*, 40 N. L. R. B. 910; see also *Matter of Philadelphia Terminals Auction Co.*, 44 N. L. R. B. 454.

## III. THE QUESTION CONCERNING REPRESENTATION

The parties stipulated that on September 16, 1944, the Union by letter dated September 16, 1944, notified the Company that it represented a majority of the employees of the Company and requested exclusive recognition in behalf of said majority. The Company refused or failed to recognize the Union.

A statement of the Field Examiner for the Board, attached to the stipulation and made a part of the stipulation, indicates that the Union and the Intervenor each 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

In accordance with the stipulation of the parties, we find that all employees of the Company's establishment at 1200 Howell Mill Road, N. W., Atlanta, Georgia, excluding all office, sales, clerical employees, and 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.

## DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Sections 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 United Butchers Abattoir, Inc., Atlanta, Georgia, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days

<sup>2</sup> The Field Examiner reported that the Union submitted 17 application-for-membership cards, and the Intervenor submitted 10 application-for-membership cards. There are approximately 26 employees in the appropriate unit.

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 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 they desire to be represented by United Packinghouse Workers of America, C. I. O., or by Amalgamated Meat Cutters and Butcher Workermen of North America, A. F. of L., for the purposes of collective bargaining, or by neither.