

In the Matter of ARMOUR FERTILIZER WORKS, DIVISION OF ARMOUR AND COMPANY and UNITED GAS, COKE, AND CHEMICAL WORKERS OF AMERICA, AFFILIATED WITH THE CONGRESS OF INDUSTRIAL ORGANIZATIONS

*Case No. 15-R-1448.—Decided February 4, 1946*

*Mr. Charles J. Begero*, of Jacksonville, Fla., for the Company.

*Mr. K. G. Ingle*, of Montgomery, Ala., for the Union.

*Mr. James Zett*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Gas, Coke, and Chemical Workers of America, affiliated with the Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armour Fertilizer Works, Division of Armour and Company, Montgomery, Alabama, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George S. Slyer, Trial Examiner. The hearing was held at Montgomery, Alabama, on October 9, 1945. 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. The Company moved to dismiss the petition for lack of jurisdiction. The motion is denied for reasons indicated in Section I, *infra*. 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

Armour Fertilizer Works, Division of Armour and Company, is a corporation organized under the laws of Illinois and engaged in

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the manufacture, sale, and distribution of commercial fertilizer. This proceeding is concerned with the Company's Montgomery, Alabama, plant. A general office is maintained in Atlanta, Georgia, for the regional area of the corporation in which the Montgomery, Alabama, plant is located. The Company purchased for use at its Montgomery plant 32,000 tons of raw materials in the 12-month period ending June 30, 1945, 18 percent of which was shipped by rail into the State of Alabama from other States. During the same period, the Company distributed and shipped from its Montgomery plant, mostly by rail, 30,000 tons of fertilizer, 1 percent of which was shipped out of the State of Alabama. The balance was shipped to distributors "up to, but not beyond, the State lines of Mississippi and Georgia," as testified by the Division Sales Manager of the Company.

Recently the Board, under facts substantially identical to those in the instant proceeding, held that the corporation's Birmingham, Alabama, plant was within the purview of the Act.<sup>1</sup> We find, contrary to the contentions of the Company, that in the operation of its Montgomery plant, it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

The United Gas, Coke and Chemical Workers of America 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 employees and denies the applicability of the Act to its Montgomery plant operations.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union 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

Substantially in accordance with the stipulation of the parties at the hearing, we find that all production and maintenance employees

<sup>1</sup> *Matter of Armour Fertilizer Works, Division of Armour and Company*, 60 N. L. R. B. 444.

<sup>2</sup> The Field Examiner reported that the Union submitted 34 authorization cards. There are approximately 40 employees in the appropriate unit

of the Company at its Montgomery, Alabama, plant, excluding master mechanics, clerical employees, full-time watchmen, cook-janitress, foremen, and all or 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 an election by secret ballot among 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 Armour Fertilizer Works, Division of Armour and Company, Montgomery, Alabama, 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 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 or not they desire to be represented by United Gas, Coke, and Chemical Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.