

sation of a particular employer's operations.²⁰ This is especially true in operations, such as here, where vital services are supplied by comparatively limited personnel. The crucial fact in this case is that our colleagues' new standard places a major portion of the newspaper industry outside of the Board's jurisdiction, regardless of how many employees are involved, with the resultant dangers to the flow of commerce.

We can offer only two possible reasons for the action taken herein by our colleagues. At best, it would seem that the adoption of a dollar volume test for newspaper companies is predicated upon an undocumented and, as we have already shown, an unfounded assumption that large newspapers in terms of gross receipts have a pronounced impact upon interstate commerce while smaller newspapers do not. At worst, it would appear that the sole consideration for this test as for others is an effort to restrict the Board's jurisdiction so that more of the Federal authority to regulate labor relations is administratively reallocated to the State governments. In our separate opinions in *Breeding*, we pointed out that not only was such an objective one for congressional rather than Board determination, but also its successful achievement was questionable because of the uncertain state of the law regarding the legal authority of the State governments to act in areas where the Board has chosen to withdraw.

In view of the foregoing, we agree to the assertion of jurisdiction over the instant newspaper company, not because its gross income happens to amount to \$500,000 or more annually, but because, as a subscriber to, and member of, an interstate news service, a publisher of syndicated features, and an advertiser of nationally sold products, it is an instrumentality and channel of commerce. We believe that the Board should continue to take jurisdiction of all such newspaper companies, and dissent from the adoption of an arbitrary standard which places 65 percent of the daily newspapers outside the Board's jurisdiction.

²⁰ We think it appropriate to note that our colleagues' implied premise, that the efficacy of a jurisdictional standard is determined by the number of employees in an industry included or excluded thereby, disregards the fact that Congress in enacting the statute specifically rejected the application of such a criterion

ARMOUR & COMPANY *and* CHAUFFEURS, TEAMSTERS, & HELPERS LOCAL No. 47, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS, AFL, PETITIONER. *Cases Nos. 16-RC-1501 and 16-RC-1505. October 26, 1954*

Decision, Order, and Direction of Election

Upon petitions duly filed under Section 9 (c) of the Act and thereafter consolidated, a hearing was held before William H. Renkel, Jr.,

hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organizations named below claim to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The Employer is engaged in the slaughtering of livestock, and the processing, packing, and sale of meat products in many plants throughout the United States, with its principal plant and office located in Chicago, Illinois. This proceeding is concerned with the plant located in Fort Worth, Texas. Under the supervision of a plant manager and a plant superintendent, the Employer conducts its operations in a group of buildings within a fenced enclosure. Products intended for distribution locally are sold and delivered through the division designated as the wholesale market division, a branch house operating under a separate line of supervision which leads directly to the Employer's offices in Chicago, and not related administratively to the production and maintenance operations.

Case No. 16-RC-1501: The Petitioner here seeks a unit of all garage employees in the garage at the Employer's Fort Worth plant. The Employer took no position on this unit request, but the Intervenor¹ opposes the unit, contending that it is inappropriate because of the bargaining history and the similarity of working conditions of garage employees with those of the production and maintenance employees.

Since sometime prior to 1948, the employees sought herein have been represented by the Intervenor in an overall production and maintenance unit. In 1943, the Board certified the Intervenor as the bargaining representative of all production and maintenance employees, and excluded among others all wholesale market employees which group of employees at that time apparently included employees designated as city truck maintenance employees.² The certification did not specifically mention country truck maintenance employees. In 1945, the Intervenor sought and was certified as the representative of a unit of city truckdrivers, garage employees, city truck maintenance employees, and wholesale market employees.³ In this proceeding the Board refrained from granting a self-determination election to this group to determine its desires as to being part of the production and maintenance

¹ United Packinghouse Workers of America, CIO, Local 54.

² 47 NLRB 1236.

³ 64 NLRB 413.

nance unit, as the Intervenor had requested, saying that it found separate units appropriate and would leave to the convenience of the parties their contract negotiations covering these employees. At the same time, the Board found a separate unit of country truck maintenance employees appropriate.

Shortly after these certifications in 1945, the Employer merged the city truck maintenance employees from the wholesale market division and the country truck maintenance employees from the country truck division and the garage employees into the plant's single garage group servicing all truck and automotive equipment. Since the reorganization of the two truck maintenance operations into a single garage operation, the Intervenor has represented them as part of the production and maintenance unit.

In 1948, the Intervenor was certified in a consent-election proceeding as bargaining representative of the production and maintenance employees including the city and country truck maintenance employees.⁴ Nevertheless, the Petitioner argues that the Board has not found such a unit appropriate as the certification of 1948 was based upon a consent election.

The garage employees are under the immediate supervision of the garage foreman who reports to the person in charge of transportation. The garage is a single building located within the fenced enclosure where several classifications of employees work; mechanics, lubrication men, tire and service employees, a refrigerator man, a parts clerk, and a truck hostler or spotter. These employees maintain and service all of the Employer's automotive equipment including trucks, tractors, and gasoline scoops. Although this group of employees is on a separate payroll, they receive the same benefits as the other employees. Some were formerly production and maintenance employees. Occasionally, mechanics are required to perform repair work in the plant if a breakdown occurs on automotive equipment, and at times they are required to go out on the road and tow in a truck or repair it on the road. There is no evidence that these garage employees are highly skilled or that they have served an apprenticeship. They enjoy the same conditions of employment as the production and maintenance employees.

From the foregoing, it is clear that the garage employees herein involved are not craftsmen within the contemplation of the recent *American Potash* case,⁵ and, for that reason, the severance requested can not be justified on a craft basis. Nor can the severance be justified on a departmental basis, for the garage employees herein, although apparently within a separate department in the Employer's plant, are not "employees identified with traditional trades or occupations distinct

⁴ Case No. 16-RM-9, not reported in printed volumes of Board Decisions and Orders.

⁵ *American Potash & Chemical Corporation*, 107 NLRB 1418

from that of other employees . . . who have a common special interest in collective bargaining for that reason.”⁶ Accordingly, we shall dismiss the petition in Case No. 16-RC-1501.

Case No. 16-RC-1505: The Petitioner also seeks to represent the wholesale market employees who include the city truckdrivers. This is substantially the same group of employees as was certified by the Board on October 19, 1948,⁷ with the exception that since the merger of truck maintenance employees referred to above, there is no longer a city truck maintenance classification. This group of employees is presently under a contract between the Employer and the Intervenor which will terminate on September 15, 1954, unless automatically renewed. Neither the Employer nor the Intervenor contends that the unit sought is inappropriate, and they offered to consent to an election concerning this group. The Petitioner stated that it desired to exclude janitors from the unit, but advanced no reason for the exclusion. The janitors perform the usual janitorial duties. We shall include them in the unit hereinafter found appropriate.

We find that the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9 (b) of the Act:

All city truckdrivers and wholesale market employees, including the janitors at the Employer's Fort Worth, Texas, operation, excluding market office and clerical employees, receiving and shipping employees, salesmen, country truckdrivers, garage employees, production and maintenance employees, and all supervisors as defined in the Act.

[The Board dismissed the petition in Case No. 16-RC-1501.]

[Text of Direction of Election omitted from publication.]

⁶ *Ibid.*

⁷ Case No. 16-RC-236, not reported in printed volumes of Board Decisions and Orders.

ADVERTISERS PRODUCTION SERVICES, INC. and NEW YORK AUXILIARY UNION OF THE INTERNATIONAL STEREOTYPERS' & ELECTROTYPERS' UNION, LOCAL 1-100, AFL, PETITIONER. *Case No. 2-RC-6780. October 26, 1954*

Decision and Direction of Election

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Louis Aronin, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.