

Moreover, it is destructive of the basic rationale of the *Zia* case because it permits the swamping of the desire of the unrepresented group for representation by the votes of the represented group against representation. Plainly, the Board majority in this case is giving greater weight to votes against representation than it is willing to accord votes for representation. Certainly, such a decision can hardly be justified by holding that it is necessary to avoid undue weighting of the election scales in favor of the union. If there is anything unfair in permitting a union to have its majority status as a representative of employees in an appropriate unit determined on the basis of a simple majority of the valid ballots cast in the election in that unit, then that fact should be called to the attention of Congress, which, no doubt, will be surprised to learn that the basic principle of political democracy, majority rule, results in unfairness when applied to industrial elections.

Swift & Company and Amalgamated Meat Cutters and Food Store Employees Union Local 464, Amalgamated Meat Cutters and Butcher Workmen of North America, AFL-CIO, Petitioner. *Case No. 22-RC-540. April 7, 1960*

SUPPLEMENTAL DECISION, ORDER, AND DIRECTION OF ELECTION

On October 9, 1959, the Board issued a Decision and Direction of Election in the above-entitled proceeding,¹ finding a unit of boners and cutters to be an appropriate residual unit, and holding that these employees were the only employees at the Employer's plant presently unrepresented. Thereafter, on October 23, 1959, the Employer filed a motion for reconsideration, asserting that there were employees in other classifications who were also unrepresented. The Employer urged, *inter alia*, that the residual unit should be enlarged accordingly. While the Employer's motion was pending before the Board, the Regional Director, on October 30, 1959, conducted an election among the employees in the boners and cutters unit and on November 9, 1959, issued a certification of representatives.

On February 5, 1960, the Board issued a notice to all parties to show cause in writing, on or before February 15, 1960, why the Board should not vacate the Decision and Direction of Election, and the certification in this matter; why the Board should not broaden the unit found appropriate in the original decision to include all cutters

¹ Unpublished.

and boners and all other unrepresented employees; and why the Board should not direct an election in such a broader unit, assuming the Petitioner establishes a sufficient showing of interest in such unit. Thereafter, on February 15, 1960, the Employer filed a reply to the Board's notice. No other party responded.

Upon reconsideration of this case, the Employer's motion, the Employer's reply to the Board's notice to show cause, and the entire record herein, we find, as contended by the Employer, that the boners and cutters do not constitute the only unrepresented employees, and that a unit limited to these classifications would not be appropriate. We further find that drivers are the only employees falling within a general production and maintenance classification who are presently represented. Accordingly, we shall vacate the Decision and Direction of Election of October 9, 1959, insofar as it finds a unit of boners and cutters to be appropriate, and we shall also vacate the election and the certification. Further, we shall direct an election among the following employees of the Employer whom we find constitute an appropriate unit for purposes of collective bargaining within the meaning of Section 9(b) of the Act:²

All production and maintenance employees at the Employer's New Brunswick, New Jersey, establishment, excluding salesmen, drivers, guards, watchmen, office clerical and professional employees, and supervisors as defined in the Act.³

[The Board vacated the Decision and Direction of Election in Case No. 22-RC-540 insofar as it finds a unit of boners and cutters to be appropriate and directs an election in such unit, and vacated the election conducted in this case on October 30, 1959, and the certification of representatives issued on November 9, 1959.]

[Text of Direction of Election omitted from publication.]

MEMBERS BEAN and FANNING took no part in the consideration of the above Supplemental Decision, Order, and Direction of Election.

² The unit found appropriate is larger than that sought by the Petitioner, and neither the exact size of the unit nor the exact interest of the Petitioner in the unit is clear from the record before us. Accordingly, we instruct the Regional Director not to proceed with the election herein directed until he shall have first determined that the Petitioner has made an adequate showing of interest among the employees in the appropriate unit.

In the event the Petitioner does not wish to participate in an election in such a unit, we shall permit it to withdraw its petition upon notice to the Regional Director within 5 days from the date of issuance of this direction.

³ In its reply to the Board's notice of February 5, 1960, the Employer urged that shipping and receiving employees be excluded from the unit. Such employees are normally included in production and maintenance units, and we perceive no adequate reason for excluding them from the unit found appropriate herein. Accordingly, we include them. *The Babcock & Wilcox Company*, 116 NLRB 1542, 1544.