

MARSHALL-WELLS COMPANY LIMITED } APPELLANT;
 TED }

1956
 *Feb. 24, 27
 *Mar. 28

AND

RETAIL, WHOLESALE AND DEPARTMENT STORE
 UNION, LOCAL NO. 454;

AND

THE LABOUR RELATIONS BOARD . . RESPONDENTS.

ON APPEAL FROM THE COURT OF APPEAL FOR SASKATCHEWAN

Labour—Whether union bargaining committee can include employees of competitor—Whether employer need open books—Trade Union Act, R.S.S. 1953, c. 259, s. 8(1)(c).

The framework of the *Trade Union Act*, R.S.S. 1953, c. 259, shows that the representatives elected or appointed by a trade union to bargain with an employer can be employees of a competitor. It is, therefore, an unfair labour practice under s. 8(1)(c) of the Act for an employer to refuse to bargain with a committee merely because some members thereof are employees of a competitor. There is no compulsion upon an employer to open its books at a bargaining meeting.

APPEAL from the judgment of the Court of Appeal for Saskatchewan (1), refusing to quash an order declaring the appellant guilty of unfair labour practice.

J. L. McDougall, Q.C. for the appellant.

R. C. Carter for the Labour Board.

G. J. D. Taylor for the Trade Union.

The judgment of the Court was delivered by:—

THE CHIEF JUSTICE:—It is sufficient for the disposition of this appeal to state that, in my opinion, the Labour Relations Board did not misconstrue the relevant provisions of *The Trade Union Act* and, therefore, nothing is said as to any other point argued. Sub-section (1)(c) of s. (8), by which it is an unfair labour practice for any employer, or employer's agent,

- (c) to fail or refuse to bargain collectively with representatives elected or appointed (not necessarily being the employees of the employer) by a trade union representing the majority of the employees in an appropriate unit;

*PRESENT: Kerwin C.J., Rand, Locke, Cartwright and Fauteux JJ.

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AND OTHER

is quite clear. The framework of the Act shows that it is anticipated that the representatives elected, or appointed, by a trade union need not be employees of the particular employer and the mere fact that they work for a competitor of the latter does not disqualify them from acting. While difficulties may arise if that situation exists, there is nothing in the Act prohibiting it, and there is no compulsion upon the employer to open its books to a meeting of its representatives with those of the union.

Kerwin C.J.

The appeal should be dismissed with costs.

Appeal dismissed with costs.

Solicitors for the appellant: *Thom, Bastedo, McDougall & Ready.*

Solicitor for the Labour Board: *R. C. Carter.*

Solicitors for the Trade Union: *Goldenberg, Taylor & Tallis.*
