

In the Matter of LEWIS EUGENE WILSON, DOING BUSINESS AS THE WILSON COMPANY and INDUSTRIAL UNION OF MARINE AND SHIP-BUILDING WORKERS OF AMERICA, LOCAL 9, C. I. O.

In the Matter of LEWIS EUGENE WILSON, DOING BUSINESS AS THE WILSON COMPANY and LOS ANGELES METAL TRADES COUNCIL, A. F. L.

Cases Nos. 21-R-2126 and 21-R-2141, respectively.—Decided November 9, 1943

Mr. Arthur J. J. Hagel, of Wilmington, Calif., for the Company.
Katz, Gallagher & Margolis, by *Mr. Ben Margolis*, of Los Angeles, Calif., for the C. I. O.

Mr. Dave Sokol, of Los Angeles, Calif., for the A. F. L.

Mr. A. Sumner Lawrence, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petitions duly filed by Industrial Union of Marine and Ship-building Workers of American, Local 9, C. I. O., herein called the C. I. O., and Los Angeles Metal Trades Council, A. F. L., herein called the A. F. L., alleging that questions affecting commerce had arisen concerning the representation of employees of Lewis Eugene Wilson, doing business as The Wilson Company, Wilmington, California, herein called the Company,¹ the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before William B. Esterman, Trial Examiner. Said hearing was held on October 21, 1943, at Los Angeles, California. The Company, the C. I. O., and the A. F. L., appeared, participated and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity of filing briefs with the Board.

¹ Incorrectly described in the petitions and other formal papers as The Wilson Boat Co., and corrected by stipulation at the hearing.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Lewis Eugene Wilson, an individual doing business as The Wilson Company, has his principal place of business at Wilmington, California, where he is engaged in the construction of tow boats, aircraft rescue boats and plane personnel boats, which are manufactured and delivered to the United States Government within the State of California. In addition to its principal yard or plant at Wilmington, California, the Company also operates two other yards within an average distance of approximately 5 miles therefrom. The annual purchases of lumber, metal and other raw materials currently required by the Company in connection with its boat building operations, will have an estimated value of approximately \$150,000, of which about 80 percent will originate from points outside the State of California. The estimated annual sales of the Company will have a value of about \$300,000. As of October 1, 1943, the Company employed a total of approximately 315 employees.²

II. THE ORGANIZATIONS INVOLVED

Industrial Union of Marine and Shipbuilding Workers of America, Local 9, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

Los Angeles Metal Trades Council is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

Upon the presentation of conflicting claims of representation by the several unions involved prior to the filing of the present petition, the Company stated that it would not recognize either union as bargaining representative of its employees until certified by the Board.

A statement of a Field Examiner, introduced in evidence at the hearing in each of the present cases, indicates that the C. I. O. and the

² While it appears that the business of the Company is a new operation and has been expanding up to the present time, the record indicates that the period of expansion is very nearly at an end and that the present total is within 50 of being the Company's full complement of employees.

A. F. L. severally represent a substantial number of employees of the Company in the unit claimed by each to be appropriate.³

We find that a question affecting commerce has arisen concerning the representation of the employees of the Company within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

IV. THE APPROPRIATE UNIT

The C. I. O. urges as the appropriate unit, either a single plant production and maintenance unit, confined to the Wilmington yard, or three separate units, each limited to a single yard of the Company, and excluding therefrom office employees, watchmen, and supervisory employees having the authority to hire and discharge, or to recommend such action.⁴ The A. F. L. while not disputing the specific categories sought to be included or excluded, contends that the appropriate unit should be coextensive with all operations of the Company and should include all production and maintenance employees at the three yards above mentioned. The Company's position is identical with that of the A. F. L. with the exception of expeditors, whom the Company would exclude, though both unions would include such employees within the appropriate unit.

With respect to the extent of the appropriate unit, it appears that while the three yards herein involved are separately supervised and are to some extent autonomous divisions in the Company organization,⁵ all three yards complement one another so far as production processes are concerned. At yard No. 2, boat parts are manufactured and shipped to yard No. 1, where they are assembled into boats, which boats are thereafter sent to yard No. 3 for completion with outfittings. Aside from the manufacture of life rafts, which operation is carried on completely at yard No. 3, none of the various yards is engaged in a manufacturing process which is complete in itself. While each

³The Field Examiner reported that the C. I. O. had submitted 129 designations, dated between July and September 1943, with one dated January 1942; that of the 129 cards submitted, 58 bore the apparently genuine original signatures of persons whose names are on the Company's pay roll of September 21, 1943, containing the names of 190 employees in the unit claimed appropriate by the C. I. O.

The Field Examiner further reported that the A. F. L. had submitted 131 designations dated between August and September 1943, with one undated; that of the 131 cards submitted, 79 bore the apparently genuine original signatures of persons whose names appear on the Company's pay roll of September 21, 1943, containing 248 names of employees within the unit claimed appropriate by the A. F. L.

⁴The C. I. O. claimed in its petition an appropriate unit limited to yard number 1, the permanent main yard of the Company. Subsequently at the hearing, the C. I. O. stated that each of the three yards should constitute a separate unit. It does not appear, however, that the C. I. O. has specifically abandoned its original contention for a single yard unit.

⁵There is testimony in the record indicating that men are hired and discharged at yard No. 3 without prior consultation with the over-all management, though the testimony also shows, that final approval and administrative clearance takes place at yard No. 1, where the Company maintains a centralized management for all three yards.

yard has a separate superintendent with whom grievances are discussed in their initial stages, the Company has an over-all official in charge of labor relations, and maintains the same labor policies in all three of its yards, each of which contains employee classifications in common with the other yards. All employees in the three yards, other than office employees, are paid on an hourly basis and enjoy the same wages, hours, and working conditions.

So far as interchange of employees is concerned, it appears that while there have not been many permanent transfers of employees between yards, such transfers do occur in the interest of promoting greater harmony between individual employees, their supervisors, and fellow workers. In addition thereto, it appears that there are temporary transfers, including about 20 employees who formerly worked at plant No. 1, and are now employed at plant No. 3 in connection with outfitting work, but who, nevertheless, are retained on the Company pay roll as employees of plant No. 1. Moreover, although the record does not indicate that the C. I. O. has representation among the Company's employees beyond the single yard originally claimed as the appropriate unit, the A. F. L. submitted claims of authorization covering the employees of all 3 yards of the Company. Under the circumstances, we find that a single unit covering all 3 yards of the Company is appropriate for the purposes of collective bargaining.⁶

There remains for consideration the question of including or excluding expeditors from the appropriate unit. The record shows that expeditors are divided into two classes known as internal and external expeditors, respectively. The duty of internal expeditors, who are employed under the works manager in charge of production, is to assure the delivery of required materials to the job from the storeroom or from various locations in the yard. Internal expeditors, who bear a substantial resemblance to stock chasers, are distinguishable from external expeditors, who are attached to the purchasing department and have the duty of telephoning to various vendors to speed the delivery of materials to the plant. There is nothing in the record to indicate that internal expeditors have any supervisory powers. We find that internal expeditors have substantial interests in common with the production employees. On the other hand, we find that external expeditors, because of their lack of association with production employees and their connection with a department not directly engaged in production, have no substantial interests in common with the employees within the production unit. We shall, accordingly,

⁶ See *Matter of Carl G. Hedblom and Byron G. Hedblom, copartners d/b/a General Ship and Engine Works*, 49 N. L. R. B. 1290; *Matter of Fickett-Brown Manufacturing Company*, 51 N. L. R. B. 34; *Matter of Metal Office Furniture Company*, 51 N. L. R. B. 993.

include internal expeditors and exclude external expeditors from the appropriate unit.⁷

We find that all production and maintenance employees employed by the Company at its three yards, including internal expeditors, but excluding office employees, watchmen, external expeditors, and all supervisory employees having the right 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 our 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 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Lewis Eugene Wilson, doing business as The Wilson Company, Wilmington, California, 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 Twenty-first 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 payroll period immediately preceding the date of this Direction, including employees who did not work during said payroll 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 Industrial Union of Marine and Shipbuilding Workers of America, Local 9, C. I. O., or by Los Angeles Metal Trades Council, A. F. L., for the purposes of collective bargaining, or by neither.

⁷ See *Matter of Chemical Construction Company*, 50 N. L. R. B. 223.