In the Matter of The Provision Company Division of Wilson & Co.,
Inc. and Amalgamated Meat Cutters and Butcher Workmen of
North America

Case No. 10-R-1169.—Decided May 29, 1944

Mr. M. R. Swanson, of Chicago, Ill., and Mr. W. E. Hiers, of Columbus, Ga., for the Company.

Mr. Wilson W. Rowland and Mr. Howard Anthony, of Columbus, Ga., for the Union.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Amalgamated Meat Cutters and Butcher Workmen of North America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Provision Company Division of Wilson & Co., Inc., Columbus, Georgia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George S. Slyer, Trial Examiner. Said hearing was held at Columbus, Georgia, on April 28, 1944. 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 Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an 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

The Company is engaged in the slaughter of livestock and the processing of meat and meat food products. The Company's pur56 N. L. R. B., No. 183.

chases of livestock and supplies exceed \$100,000 a year, 35 percent of which is received from without the State of Georgia; a similar amount of finished products is shipped out of that State.

The Company admits that it is engaged in commerce within the

meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Amalgamated Meat Cutters and Butcher Workmen of North America, affiliated with the American Federation of Labor, is a labor organization 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 certain of the Company's employees until the Union has been certified by the Board in an appropriate unit.

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.

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

The parties agree that the unit may consist of all production and maintenance employees, excluding superintendents, foremen with authority to hire or discharge, armed watchmen, and clerical employees. The parties are unable to agree as to dock checkers and truck drivers, the Union seeking to include them in the unit, and the Company seeking to exclude them.

The dock checkers check outgoing shipments, and also load and drive trucks. At least one checker also works as a mechanic at times. While the Company would exclude dock checkers who spend their entire time at that work, the record reveals that the Company does not have any such category of employee at the present time. Since the precise duties of any category would constitute one of the determinative factors in our decision as to their inclusion or exclusion, we shall make no finding at present concerning any full-time dock checkers whom the Company might employ in the future. We see no

¹The Field Examiner reported that the Union submitted 182 membership application cards , and that there are about 230 employees in the alleged appropriate unit.

reason for excluding from the unit the dock checkers presently employed.

The truck drivers are variously engaged in local, county, and long distance driving. At times they assist in loading and unloading trucks, and in preparing future shipments, in the plant. No labor organization other than the Union seeks to represent these truck drivers. We shall include them in the unit.

We find that all production and maintenance employees of the Company, including dock checkers and truck drivers, but excluding armed watchmen, clerical employees, superintendents, foremen, and 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 the employees in the appropriate unit who were employed during the pay-1oll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.²

A dispute arose as to the supervisory status of Jack Ellis, Melvin Day, and C. G. Martin, with the Union asserting that they are not supervisory employees and the Company assuming the contrary position. These three individuals are foremen with authority to recommend changes in the status of employees under them. Consequently they fall within our normal definition of supervisory employees, and are ineligible to participate in the election.

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, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Provision Company Division of Wilson & Co., Inc., Columbus, Georgia, an election by secret ballot shall be conducted as early as possible, but not

² The Union seeks the use of the April 28, 1944, pay roll as determinative of eligibility to participate in the election. We see nothing in the record requiring deviation from our usual eligibility basis. The request is denied.

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 the 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 any 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 Amalgamated Meat Cutters and Butcher Workmen of North America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.