

In the Matter of PIERCE PACKING COMPANY *and* AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, LOCAL No. 560, A. F. OF L.

Case No. 19-R-1366.—Decided August 25, 1944

Mr. Horace S. Davis, of Billings, Mont., for the Company.

Mr. George W. Wike, of Billings, Mont., for the Union.

Mr. Sidney Grossman, 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, A. F. L., on behalf of Local No. 560, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Pierce Packing Company, Billings, Montana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Maurice M. Miller, Trial Examiner. Said hearing was held at Billings, Montana, on July 19, 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 maintains its principal place of business at Billings, Montana, where it operates 2 plants. One plant is engaged in the slaughtering, processing and packing of meat while the other, with which this proceeding is concerned, is devoted to the handling of

poultry and eggs. The Company estimated that its gross volume of business for the past 3 months in poultry and eggs amounted to forty thousand (\$40,000) dollars per month. About 90 percent of its production of poultry and eggs was disposed of in interstate commerce under orders from Government Agencies and a private firm in Denver, Colorado. Under normal conditions about 10 or 15 percent of such products is shipped outside the State of Montana.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 560, 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 the employees of the poultry and egg department 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 to be appropriate.¹

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 Company and the Union agree generally that the appropriate unit should consist of all employees of the poultry and egg plant, excluding office and supervisory employees. The Union, however, would include the assistant manager on the ground that he is engaged partly in production. The record shows that this employee exercises supervisory functions within our usual definition. We shall therefore exclude him from the unit.

We find that all employees of the poultry and egg plant² of the Pierce Packing Company, Billings, Montana, but excluding the office

¹ The Regional Director reported that the Union submitted 36 membership cards; that the names of 31 persons appearing on the cards were listed on the Company's pay roll of June 28, 1944, which contained the names of 44 employees in the appropriate unit; and that 5 of these cards were signed in January 1944, 24 were signed in June 1944, and 2 were undated.

² Included within the above-described employees are the buyer and the watchman, who, the record shows, are actively engaged in production in addition to the performance of the duties associated with their designated job classifications.

employee, the manager, assistant manager, and all 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 payroll period immediately preceding the date of the 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 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Pierce Packing Company, Billings, Montana, 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 Nineteenth 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 the 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 or not they desire to be represented by Amalgamated Meat Cutters and Butcher Workmen of North America, Local No. 560, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.