

In the Matter of IOWA PACIFIC BUTTER AND EGG COMPANY and UNITED
PACKINGHOUSE WORKERS OF AMERICA, C. I. O.

Case No. 18-R-1170.—Decided January 30, 1945

Mr. O. A. Dittbrenner, of Ottumwa, Iowa, for the Company.

Mr. Russell Bull, of Des Moines, Iowa, for the CIO.

Messrs. Jasper Rose and Joseph Smith, of Davenport, Iowa, for the
AFL.

Miss Frances Lopinsky, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Packinghouse Workers of America, C. I. O., herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Iowa Pacific Butter and Egg Company, Ottumwa, Iowa, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Clarence A. Meter, Trial Examiner. Said hearing was held at Ottumwa, Iowa, on January 10, 1945. The Company, the CIO, and Amalgamated Meat Cutter and Butcher Workmen of North America, A. F. of L., herein called the AFL, 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

Iowa Pacific Butter and Egg Company, an Iowa partnership, is engaged at its plant in Ottumwa, Iowa, in the processing of poultry

and eggs and the handling of a small amount of butter. The raw materials used by the Company consist mainly of live poultry and shell eggs. During the year 1944, the Company purchased raw materials of a value exceeding one million dollars, less than 1 percent of which was purchased outside the State of Iowa. During the same year, the Company sold and delivered dressed poultry and powdered eggs of a value in excess of one million dollars, approximately 99 percent of which was sold and delivered outside the State of Iowa.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Packinghouse Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Amalgamated Meat Cutter 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 CIO as the exclusive bargaining representative of its employees asserting that its employees are currently represented by the AFL under a contract signed March 13, 1944, between the Company and that organization. The AFL also asserts the said contract as a bar to a present determination of representatives. According to its terms, the contract will expire March 13, 1945. Since the contract will expire very soon after an election can be held herein, we find that it does not bar this proceeding.

A statement of a Board agent and a petition submitted by the AFL, each introduced into evidence at the hearing, indicate that the CIO and the AFL each represents a substantial number of employees in the union hereinafter found 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,

¹ The Field Examiner reported that the CIO submitted 67 authorization cards, 61 of which bore signatures of persons listed on the Company's pay roll of November 23, 1944, which contained the names of 95 employees in the appropriate unit; and that the cards were dated, 66 in November 1944, and 1 in December 1944.

The AFL submitted 58 authorization cards, all of which bore signatures of persons whose names were contained in the aforesaid pay roll. The cards were all dated in November 1944. The AFL submitted at the hearing a petition bearing 56 names, all signed January 10, 1945. The petition recites that the signatories are employees of the Company, members in good standing of the AFL, all of whom authorized the AFL to represent them in collective bargaining. The petition further recites that the authorization therein supersedes any authorization to another organization to act in behalf of the signers.

IV. THE APPROPRIATE UNIT

In accordance with the agreement of the parties, we find that all production and maintenance employees of the Company, excluding clerical employees and all 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 the 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-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

The Company's business is seasonal. During three spring months, the Company hires additional employees to take care of the "flush period" for eggs. During two fall months additional employees are required to take care of the "flush period" for poultry. About 40 percent of the seasonal employees work during both "flush periods." None are hired on a temporary basis; all have a reasonable opportunity to obtain permanent employment with the Company because of a high turnover among the regular employees of the Company. The CIO contends that seasonal employees should be allowed to participate in the election. The Company and the AFL would not have them participate. It appears, however, that the Company and the AFL consider as seasonal employees only persons who have worked less than 30 days for the Company. After an employee has worked 30 days, he acquires seniority with the Company and his name is placed on a rehire list, entitling that employee, according to the practice of the Company, to be called for reemployment in order of seniority. Inasmuch as employees who have not worked more than 30 days for the Company obtain no seniority, and, therefore, enjoy no preference in hiring over persons who have never worked for the Company, we are of the opinion that their interest in the working conditions in the Company's plant is insufficient to warrant their participation in the election. We hold, however, that employees, although not employed at the time of the election, who hold seniority on the Company's hiring lists,² are eligible to participate in the election hereinafter directed.

² According to the rules of the Company persons who have not worked for the Company for 9 months or more lose seniority.

The AFL requests that it be designated on the ballot as "A. F. L." Since this designation is insufficient properly to identify the AFL, the request is hereby denied.

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 Iowa Pacific Butter and Egg Company, Ottumwa, Iowa, 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 Eighteenth 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 (including employees who hold seniority on the Company's hiring lists), 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 United Packinghouse Workers, C. I. O., or by Amalgamated Meat Cutter and Butcher Workmen of North America, A. F. of L., for the purposes of collective bargaining, or by neither.