

In the Matter of WILSON AND Co., INC., EMPLOYER *and* AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, A. F. OF L., PETITIONER

In the Matter of WILSON AND Co., INC., EMPLOYER *and* INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCALS 38-38A, A. F. OF L., PETITIONER

Cases Nos. 17-RC-238 and 17-RC-292, respectively

SUPPLEMENTAL DECISION
AND
CERTIFICATION OF REPRESENTATIVES

March 25, 1949

On December 27, 1948, the Board issued its Decision and Direction of Elections¹ in the above-entitled cases, directing that elections by secret ballot be conducted among certain employees of the Employer. The elections were conducted on January 21, 1949, under the direction and supervision of the Regional Director for the Seventeenth Region (Kansas City, Missouri).

Upon the conclusion of the elections, a Tally of Ballots was furnished the parties in each of these cases in accordance with the Rules and Regulations of the Board. In Case No. 17-RC-238, the Tally shows that, of the approximately 1,189 eligible voters, 1,063 cast valid ballots, of which 160 were for the Amalgamated, 771 were for the Packinghouse Workers, and 132 were against both participating labor organizations. Thirty ballots were challenged. In Case No. 17-RC-292, the Tally shows that, of the approximately 19 eligible voters, 16 cast valid ballots, of which 14 were for the Operating Engineers and 2 were for the Packinghouse Workers. There were no challenged ballots.

On January 27, 1949, the so-called "Neither Committee" objected to the conduct of the elections on the grounds that (1) the "Neither Committee," although a proper party to this proceeding, was not permitted to have observers at the elections, and (2) tallies of ballots

¹ 80 N. L. R. B. 1466.

82 N. L. R. B., No. 42.

were not furnished the "Neither Committee" in accordance with the Board's Rules and Regulations. However, the Regional Director, in his Report on Objections dated February 7, 1949, found that the objections did not raise substantial and material issues with respect to the conduct of the elections. He recommended that the Board overrule the objections.

No exceptions having been taken thereto by the parties,² we adopt the foregoing findings of the Regional Director that the objections do not raise substantial or material issues with respect to the conduct of the elections. We hereby overrule the objections.

In the Decision and Direction of Elections, previously referred to, the Board made no final determination as to the appropriate unit or units.

Upon the entire record in these cases, the Board makes the following:

SUPPLEMENTAL FINDINGS OF FACT

We find that each of the following groups of employees of Wilson and Co., Inc., at its 27 and Y Streets plant, Omaha, Nebraska, constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act, as amended:

(a) All employees in the boiler and engine room, including engineers, firemen, temperature men, and oilers, but excluding all salaried and clerical employees, watchmen, guards, production employees, and all supervisors as defined in the Act.

(b) All production and maintenance employees, including weekly and hourly paid scalers, checkers, gang leaders, weekly and hourly paid yard drivers, restaurant employees, garage employees and truck drivers, but excluding office and clerical employees, wholesale market employees, boiler and engine room employees, watchmen, assistant foremen, foremen, superintendents, and all other supervisors as defined in the Act.

² Counsel for the "Neither Committee" filed a letter in the nature of exceptions to the Regional Director's Report on Objections, in which the "Neither Committee" reiterated its objections mentioned above. The "Neither Committee" did not seek to intervene at the hearing, nor did it participate in any manner in this proceeding before the issuance of the Decision and Direction of Elections. Although it allegedly represents a group of employees, the "Neither Committee" does not purport to be, nor to function as, a collective bargaining representative. Section 203.61 of the Board's Rules and Regulations permits exceptions to a Report on Objections to be filed by the "parties" to the representation proceeding. We do not consider the "Neither Committee" to be a party to this proceeding within the definition of "party" in Section 203.8 of the Rules and Regulations, and therefore we shall not entertain the aforesaid exceptions. See *Matter of Times Square Stores Corporation*, 79, N. L. R. B. 361; *Matter of Westinghouse Electric Corporation*, 78 N. L. R. B. 315; *Matter of The Nashville Corporation*, 77 N. L. R. B. 145; and *Matter of Shell Oil Company, Inc.*, 66 N. L. R. B. 510.

As a majority of the employees in voting group (a) selected the Operating Engineers and a majority in voting group (b) selected the Packinghouse Workers, we shall certify these organizations, respectively, as the collective bargaining representatives of the employees in units (a) and (b) hereinabove found appropriate.

CERTIFICATION OF REPRESENTATIVES

IT IS HEREBY CERTIFIED that the following organizations have been designated and selected by a majority of the employees of Wilson and Co., Inc., at its 27 and Y Streets plant, Omaha, Nebraska, in the units hereinabove found appropriate in the section entitled "Supplemental Findings of Fact," as their representatives for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, as amended, the said organizations are the exclusive representatives of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment:

(a) International Union of Operating Engineers, Locals 38-38A, A. F. of L., has been designated and selected by a majority of all employees in Unit (a).

(b) Local 62, United Packinghouse Workers of America, C. I. O., has been designated and selected by a majority of all employees in Unit (b).

MEMBERS HOUSTON and MURDOCK took no part in the consideration of the above Supplemental Decision and Certification of Representatives.