

In the Matter of WILSON & COMPANY and UNITED PACKINGHOUSE  
WORKERS OF AMERICA, C. I. O.

*Case No. 13-R-2822.—Decided March 28, 1945*

*Mr. M. R. Swanson*, of Chicago, Ill., for the Company.

*Miss Virginia Spence* and *Mr. Refugio Martinez*, of Chicago, Ill.,  
for the C. I. O.

*Miss Aida Casanas*, 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 C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Wilson & Company, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert T. Drake, Trial Examiner. Said hearing was held at Chicago, Illinois, on February 1, 1945. The Company and the C. I. O. 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. At the hearing, the Company moved to dismiss the petition on the ground that the steady-time checkers whom the C. I. O. seeks to represent are supervisory and management employees, and that the unit is therefore inappropriate. Ruling on this motion was reserved for the Board. For reasons hereinafter stated, said motion is hereby denied. 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

Wilson & Company is a Delaware corporation having its principal office and place of business at Chicago, Illinois. It operates 8 packing  
61 N. L. R. B., No. 10.

plants located in as many different States, and about 90 branch houses throughout the United States. We are concerned herein with its plant located at Chicago, Illinois, where the Company is engaged in the purchase and slaughter of livestock, and the processing, manufacturing, and distribution of various meat products and byproducts. During the past 12 months the Company purchased livestock for its Chicago plant valued in excess of \$1,000,000, approximately 50 percent of which was shipped to it from points outside the State of Illinois. During the same period the Company's sales at its Chicago plant exceeded \$1,000,000, more than 50 percent of which represented products shipped to points outside the State of Illinois.

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

## II. THE ORGANIZATION INVOLVED

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

## III. THE QUESTION CONCERNING REPRESENTATION

On December 11, 1944, the C. I. O. requested recognition from the Company as the bargaining representative of certain steady-time checkers employed in the Company's Chicago plant. The Company refused to grant such recognition.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

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 C. I. O. seeks a separate unit of all steady-time checkers employed in the shipping and receiving departments, excluding supervisory employees.<sup>2</sup> The Company contends that the steady-time checkers cannot constitute an appropriate bargaining unit since they

<sup>1</sup> The Field Examiner reported that there are 20 employees in said unit, that the C. I. O. submitted 22 membership cards, 13 of which were dated November 1944 and 9 were dated December 1944.

<sup>2</sup> *Matter of Wilson & Co Inc.*, 45 N. L. R. B. 831, the parties stipulated and the Board found, that an appropriate unit at this Chicago plant consisted of production and maintenance employees in certain named departments, excluding, *inter alia*, various classes of supervisors, craftsmen, clerical and office workers, and steady-time checkers. The petitioner in that case, United Packinghouse Workers of America, Local 25, C. I. O., was certified after an election in January 1943.

exercise supervisory authority and are part of management, and it moves to dismiss the petition on this ground.

The steady-time checkers<sup>3</sup> employed in the shipping department are engaged in checking and weighing products received from other departments in the plant, and in making sure that outgoing cars are properly loaded with specified products. They work on the loading dock and are given loading slips made out by the foreman, specifying how each car shall be loaded and braced. They are under the supervision of a loading superintendent, who also supervises the work of the car loaders. The car loaders do the actual physical operations in loading, while the steady-time checkers perform little physical work but direct the manner in which the cars are loaded. It is the responsibility of the checkers to see that a car is properly loaded, that orders are filled correctly, and that customers receive what is ordered and in the right amount. After the loading work is done they prepare reports from which billings are made by the general accounting staff. The work of the steady-time checkers is for the most part clerical work. If an employee fails to load a car in the manner directed, the checker reports that fact to the foreman, but does not recommend either disciplinary action or discharge. Other employees performing clerical functions who work in or near the loading dock are under the supervision of the chief clerk of plant rather than the loading superintendent, and it is apparent from the testimony of the Company's industrial relations director that the Company regards the steady-time checkers as a group separate and distinct from both production and maintenance employees and plant clerical employees.

The evidence as to the work performed by the steady-time checkers demonstrates that they are not supervisory, managerial, or confidential employees. We find that they are entitled to representation for collective bargaining purposes, and we have, therefore, denied the Company's motion to dismiss the petition.<sup>4</sup> Inasmuch as the employees in question are a homogeneous group of specialized clerks, working together at one location and under common supervision, we conclude that they comprise an appropriate unit.<sup>5</sup>

The parties disagree as to whether certain so-called steady-time checkers in the receiving department should be included in the aforesaid unit. The C. I. O. desires their inclusion but indicates that it would not seriously object to their exclusion. The Company states that these so-called steady-time checkers are only clerical employees having duties similar to those of other receiving clerks who work elsewhere in the plant. The receiving department employees in question

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<sup>3</sup> This name is applied to these employees because they are on a salary basis and are not hourly paid workers.

<sup>4</sup> *Matter of General Motors Corporation*, 52 N. L. R. B. 649.

<sup>5</sup> See *Matter of Swift & Company*, 45 N. L. R. B. 209.

record the weights of goods received through shipment. They work in various localities in the plant, and there is nothing to show that they have frequent contact with the steady-time checkers in the shipping department. They are not under the same supervision as the employees in the shipping department. The C. I. O. has not enrolled as members any of these employees. We conclude that the receiving clerks should be excluded from the bargaining unit.

We find that all steady-time checkers employed by the Company in the shipping department at its Chicago plant, but excluding receiving clerks and 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-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.<sup>6</sup>

#### 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 Wilson & Company, Chicago, Illinois, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) days from the date of this Direction, under the direction and supervision of the Regional Director for the Thirteenth 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

<sup>6</sup> The C. I. O. desires that it be designated on the ballot as United Packinghouse Workers of America, Local 25-B, but that in any certification which may be issued as a result of the election it be designated by the name of its International only. Under these circumstances we shall deny the C. I. O.'s request for the use of the local number on the ballot. We note, moreover, that Local 25-B is not in any way identified in the record.

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 United Packinghouse Workers of America, C. I. O., for the purposes of collective bargaining.