

In the Matter of SWIFT AND COMPANY *and* AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, LOCAL #52, A. F. of L.

Case No. 18-R-1256.—Decided September 28, 1945

Mr. C. J. McFarland, of Watertown, S. Dak., and *Messrs. Wm. M. Stark and Neil J. Huff*, of Chicago, Ill., for the Company.
Mr. Max Crowell, of Sioux Falls, S. Dak., for the Union.
Mr. Philip Licari, of counsel to the Board.

DECISION
AND
ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by Amalgamated Meat Cutters & Butcher Workmen of North America, Local #52, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Swift and Company, Watertown, South Dakota, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Stephen M. Reynolds, Trial Examiner. Said hearing was held at Watertown, South Dakota, on May 24, 1945. 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. At the hearing, the Company moved to dismiss the petition. For reasons stated in Section I, *infra*, the motion is granted. 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

Swift and Company, an Illinois corporation having its principal office in Chicago, Illinois, is engaged in purchasing and slaughtering

livestock and in processing and selling meats. In addition, the Company is engaged in the operation of a feed lot in Watertown, South Dakota, which alone is involved in this proceeding.

The Union seeks a unit of all the Company's feed lot employees, but the Company contends that the employees sought are "agricultural laborers" within the meaning of Section 2 (3) of the Act and, therefore, the Board is without jurisdiction to entertain the petition herein.

The Watertown feed lot covers 10 acres of land. It consists of a number of farm buildings, including a grain elevator where grain is stored and ground, several cattle and sheep sheds where livestock is fed and cared for, and other miscellaneous farm buildings where feed is mixed and prepared. The Company purchases livestock which it places on its Watertown feed lot for fattening and conditioning prior to slaughtering. Although the Company disposes of all of its livestock on its Watertown feed lot through two of its meat processing and slaughtering plants,¹ the record shows that the Company operates the lot as though it were a separate project. Thus, the feed lot is geographically separated from the Company's slaughtering and processing plants,² its activities are separately supervised by the Company's chief veterinarian stationed at the Chicago office,³ and all livestock placed on it is bought and disposed of solely at the direction of the Company's Chicago office. Moreover, the Company maintains a separate pay roll and separate personnel files for all Watertown feed lot workers.

During the feeding seasons, the Company employs approximately 12 persons at the Watertown feed lot whose tasks are to prepare and mix feeds, to feed and care for the livestock, and to perform various chores, such as making repairs on the various farm buildings and grinding machinery used in connection with their work. Feed lot personnel also spend a little time in sowing and harvesting a cover crop on .22 acres of land owned by the Company and adjoining the feed lot. Approximately 100 tons of roughage is produced on this land, all of which is fed to the livestock on the feed lot.⁴ Apparently, the Company's feed lot personnel are experienced farm hands. They do the things that farmers do.

From the foregoing facts we are satisfied that the work of the persons engaged on the Watertown feed lot, which is operated by the Company in the nature of a separate enterprise, is essentially

¹ Approximately 700 head of cattle and 7,000 lambs are conditioned each season on this feed lot. All the cattle and about 40 percent of the lamb are slaughtered and processed at the Company's Watertown, South Dakota, plant, and the remainder of the lambs is shipped to the Company's St. Paul, Minnesota, plant.

² The feed lot is approximately 1¼ miles distant from the Company's Watertown plant.

³ The feed lot activities are under the immediate supervision of a manager stationed at Watertown, South Dakota.

⁴ The Company purchases an additional 600 tons of feed each season.

agricultural in character, and that they are "agricultural laborers" within the meaning of the Act.⁵ Accordingly, we shall dismiss the petition.

ORDER

Upon the basis of the above findings of fact and pursuant to Section 2 (3) and Section 9 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of Swift and Company, Watertown, South Dakota, filed by Amalgamated Meat Cutters & Butcher Workmen of North America, Local #52, A. F. of L., be, and it hereby is, dismissed.

⁵ Cf. *N. L. R. B. v. Tovrea Packing Company*, 111 F. (2d) 626 (C. C. A. 9), enf'g 12 N. L. R. B. 1063, cert. denied 311 U. S. 688.