

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

Case No. 13-R-3567.—Decided May 29, 1946

Mr. John L. Cockrill, of Chicago, Ill., for the Company.

Mr. R. R. Martinez, of Chicago, Ill., for the Union.

Mr. Jerome J. Dick, 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 Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Wilson & Co., Inc., Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Josef L. Hektoen, Trial Examiner. The hearing was held at Chicago, Illinois, on April 30, 1946. 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. At the hearing the Company moved to dismiss the petition. For reasons stated in Section IV, *infra*, this motion is denied. All parties were afforded 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 & Co., Inc., is a Delaware corporation with its principal office and place of business at Chicago, Illinois. The Company operates 8 meat packing plants in as many States and about 90 branch houses throughout the United States. The Company's packinghouse at Union Stockyards

in Chicago, Illinois, is the only plant involved in this proceeding. At this plant the Company purchases, assembles, and slaughters livestock; and processes, manufactures, and distributes various meat products and by-products thereof. The Company purchases and slaughters about 40,000,000 pounds of livestock monthly at its Chicago plant. This livestock is purchased principally through commission men doing business in Chicago. Approximately 18 percent of the hogs, 17 percent of the sheep, 6 percent of the calves, and 2 percent of the cattle slaughtered are purchased by the Company directly from sources outside the State of Illinois. About 86 percent of the products at the Chicago plant is shipped to sources 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 is a labor organization affiliated with the Congress of Industrial Organizations, 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 certain of its employees until the Union has been certified by the Board in an appropriate unit.

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 Union seeks a unit composed of all schochtim employed at the Company's Chicago plant. The Company contends that the schochtim do not comprise an appropriate unit because they are independent contractors and not "employees" within the meaning of the Act.

The schochtim, whose qualifications are passed upon by a Board of Rabbis, slaughter and examine animals in accordance with the Jewish code. If meat products are acceptable under the Jewish law, a certification in the form of a tag is attached thereto, and the Company can then market them as kosher products. The Company deals with the Board of Rabbis with respect to certain conditions surrounding the employment of the schochtim. But the schochtim are paid a salary by the Company, punch a time clock, and are covered by a company insurance plan which benefits all employees. In addition, social security and withholding taxes are deducted by the Company from their salaries. Although the ritual pursuant to which the schochtim perform their duties is necessarily outside the Company's control, it is clear from the foregoing facts that the

Company stands in the position of their employer. We find, therefore, that the schochtim are "employees" of the Company within the meaning of the Act.¹ Moreover, their special training, skills, and common interests impel the conclusion that they constitute an appropriate unit.²

We find that all schochtim employed by the Company at its Chicago plant, excluding 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 representation which has arisen be resolved by an election by secret ballot among 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.

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 & Co., Inc., Chicago, Illinois, 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 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 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 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.

¹ See *Matter of Swift & Company*, 57 N. L. R. B. 1411; *Matter of New York Butchers Dressed Meat Company, Division of Armour & Company*, 56 N. L. R. B. 1066.

² See *Matter of Swift & Company, supra*, *Matter of New York Butchers Dressed Meat Company, Division of Armour & Company, supra*