

In the Matter of WILSON & Co., INC., EMPLOYER and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, A. F. L., LOCAL 390, PETITIONER

In the Matter of WILSON & Co., INC., EMPLOYER and AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, A. F. L., LOCAL 657, PETITIONER

Cases Nos. 10-R-1784 and 10-R-1858, respectively.—Decided August 12, 1946

Mr. M. W. Mevers, of Chicago, Ill., for the Employer.

Mr. Robert Ackerman, of Philadelphia, Pa., for the Meat Cutters.

Mr. John L. Burke, of Miami, Fla., for the Teamsters.

Mr. Martin T. Camacho, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

Upon separate amended petitions duly filed in these cases the National Labor Relations Board consolidated the cases, and hearing thereon was held at Miami, Florida, on June 19, 1946, before John C. McRee, Trial Examiner. At the hearing the Employer moved to have the Board dismiss the petitions on the ground that no evidence was introduced at the hearing to show that either the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. L., Local 390, herein called the Teamsters or the Amalgamated Meat Cutters & Butcher Workmen of North America, A. F. L., Local 657, herein called the Meat Cutters represents any employees in the respective bargaining units sought in this proceeding. The Trial Examiner reserved ruling thereon. For the reasons stated in *Matter of O. D. Jennings & Company*,¹ this motion is hereby denied. The Employer also moved at the hearing to have the petitions dismissed on the ground that it is not engaged in commerce within the meaning of the National Labor Relations Act. The Trial Examiner likewise reserved ruling thereon. This motion is also denied for reasons stated in Section I, *infra*. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

¹ 68 N. L. R. B. 516.

69 N. L. R. B., No. 180.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Wilson & Co., Inc., is a Delaware corporation with its principal office and place of business in Chicago, Illinois. It is engaged in the purchase, slaughtering, processing, sale, and distribution of meat and meat products and produce. In the conduct of its business it operates various branch houses throughout the United States. The Miami Branch House with which this proceeding is concerned is engaged in the purchase and sale and in the processing and distribution of meat, meat products and produce. For the fiscal year 1945 its total purchases of beef, pork, veal, lamb, smoked meats, sausage, meat products and produce amounted to over \$1,000,000, 75 percent of which originated from outside the State of Florida. Most of the remaining 25 percent consisted of smoked products partially processed at the Employer's branch house in Jacksonville, Florida. The pork used in these products is shipped to the Jacksonville Branch House from outside the State of Florida. Except for approximately 1.542 percent, the total sales of the Miami Branch House are made within the State of Florida.

From the foregoing facts, we find, contrary to the contention of the Employer, that it is engaged in commerce within the meaning of the National Labor Relations Act.²

II. THE ORGANIZATIONS INVOLVED

Both Petitioners are labor organizations affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

The parties stipulated at the hearing that both the Meat Cutters and the Teamsters wrote to the Employer requesting recognition as the exclusive bargaining representative of its employees in the respective units hereinafter found appropriate; that the Employer declined to recognize either union.

We find that questions affecting commerce have arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

² *Matter of Wilson & Company, Inc.*, 67 N. L. R. B. 1037, and cases therein cited.

IV. THE APPROPRIATE UNIT

A. Chauffeurs and truck drivers unit (Case No. 10-R-1784)

We find, in substantial accord with the Employer and the Teamsters, that all chauffeurs and truck drivers at the Employer's Miami Branch House, excluding office and clerical employees, shipping clerk and assistant shipping clerk, sales manager and salesmen, and all supervisory employees³ 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.

B. Production and maintenance unit (Case No. 10-R-1858)

We find in substantial accord with the Employer and the Meat Cutters that all the production and maintenance employees at the Employer's Miami Branch House, excluding office and clerical employees, shipping clerk and assistant shipping clerk, sales manager and salesmen, and all supervisory employees⁴ 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.

DIRECTION OF ELECTIONS

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Wilson & Co., Inc., Chicago, Illinois, separate elections 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 Tenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of National Labor Relations Board Rules and Regulations—Series 3, as amended, among the employees in the respective units 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

³ All the parties are in accord that the branch manager, departmental managers and assistant departmental managers are to be excluded as supervisory employees.

⁴ See footnote 3, *supra*.

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 elections, (1st) to determine whether or not the employees in the chauffeurs' and truck drivers' unit at the Employer's Miami Branch House, described in Section IV, above, desire to be represented by International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. L., Local 390, for the purposes of collective bargaining; (2nd) to determine whether or not the employees in the production and maintenance unit at the Miami Branch House, described in Section IV, above, desire to be represented by the Amalgamated Meat Cutters and Butcher Workmen of North America, A. F. L., Local 657, for the purposes of collective bargaining.