

In the Matter of WILSON & Co., INC. and AMALGAMATED MEAT CUTTERS & BUTCHER WORKMEN OF NORTH AMERICA, LOCAL #170, A. F. of L.

Case No. 18-R-888.—Decided February 22, 1944

Mr. M. R. Swanson, of Chicago, Ill., and *Mr. H. G. Gehler*, of Reinbeck, Iowa, for the Company.

Mr. Ben Dorsey, of Waterloo, Iowa, and *Mr. Sam Twedell*, of Sioux Falls, S. D., for the Union.

Miss Frances Lopinsky, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Amalgamated Meat Cutters & Butcher Workmen of North America, Local #170, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Wilson & Co., Inc., Reinbeck, Iowa, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Clarence A. Meter, Trial Examiner. Said hearing was held at Reinbeck, Iowa, on December 15, 1943. 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. 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 & Co., Inc., is a Delaware corporation, maintaining its principal office and place of business in Chicago, Illinois. It operates a plant at Reinbeck, Iowa, with which this proceeding is solely con-

cerned. At its Reinbeck plant, the Company processes poultry and eggs. During the year ending November 1, 1943, the Company purchased raw materials valued in excess of \$500,000, all of which was secured from sources within the State of Iowa. During that same period, sales of processed products, consisting of dressed poultry and graded and frozen eggs, amounted to more than \$500,000, of which approximately 80 percent was shipped to points outside the State of Iowa. About 5 percent of the processed products of the Company is sold to the United States Army.

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

II. THE ORGANIZATION INVOLVED

Amalgamated Meat Cutters & Butcher Workmen of North America, Local #170, affiliated with the American Federation of Labor is a labor organization 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 its employees until the Union has been certified by the Board in an appropriate unit.

A statement of the Board agent, introduced into evidence at the hearing, and a statement of the Trial Examiner made at the hearing, indicate that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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

All parties agree that all employees of the Company at its Reinbeck, Iowa, poultry and egg plant,² excluding the manager, the plant superintendent and office and clerical employees constitute a unit appropriate for bargaining. The Union would include in this unit

¹ The Regional Director reported that the Union submitted 22 application for membership cards. All the signatures on said cards were the names of persons listed on the Company's pay roll of November 24, 1943, which contained the names of 51 employees in the appropriate unit. The cards were dated either October or November 1943. The Trial Examiner reported that the Union submitted to him 4 additional cards bearing the apparently genuine signatures of persons listed on the said pay roll.

² The poultry and egg processing is carried on in two buildings. The parties agree to treat these as one plant. The Company also maintains a hatchery in Reinbeck which is not involved herein.

the head feeder, the head grader, the truck driver, and the watchmen. The Company contends that they should be excluded, alleging that the two first named are supervisors and that the others have no place in the unit agreed upon.

The head feeder directs the work of four men in the feeding station and keeps all records for that station. He spends approximately 25 percent of his time in working with the men and the balance of his time in supervisory and clerical work. He has the right to hire or discharge, with the approval of the plant superintendent, and his recommendations as to changes in the status of employees carry weight. We find that he is a supervisory employee and shall exclude him from the unit.

The head grader divides chickens into grades and supervises the packing which is done by three men who work under him. He has no authority to hire or discharge but his recommendations in such matters carry weight. Accordingly, we find that the head grader is a supervisory employee and shall exclude him from the unit.

The truck driver buys poultry and eggs from persons in the vicinity and hauls them to the plant. He has authority to determine the price of the products which he buys, and to issue in payment the Company's checks which he signs. During the slack season, about 3 months out of the year, he spends about half of his time doing general maintenance work in the plant. He has no supervisory authority. There are two watchmen who are not armed, uniformed, or militarized. They perform the ordinary duties of night watchmen, fire boilers, help receive poultry at night, and occasionally do janitorial work. Although the driver and the watchmen do not work alongside production and maintenance employees, their interests sufficiently coincide with those of the employees within the agreed unit to make representation with them practicable. To exclude them from the unit would have the probable effect of denying to them the rights of collective bargaining. We shall, therefore, include the truck driver and the watchmen in the unit.

We find that all employees of the Company at its Reinbeck, Iowa, poultry and egg plant, including the truck driver and watchmen but excluding the head feeder, the head grader, the manager, plant superintendent, and all other 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 em-

ployees 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, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Wilson & Co., Inc., Reinbeck, Iowa, 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 Eighteenth 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 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 Amalgamated Meat Cutters & Butcher Workmen of North America, Local #170, affiliated with the American Federation of Labor, for the purposes of collective bargaining.